

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or section Number:	R105-5	Filing ID: 57190
Effective date:	05/21/2025	

Agency Information

1. Title catchline:	Attorney General, Administration	
Building:	Utah State Capitol	
Street address:	350 N. State Street, Suite #230	
City, state	Salt Lake City, Utah	
Mailing address:	350 N. State Street, Suite #230	
City, state and zip:	Salt Lake City, Utah 84114	
Contact persons:		
Name:	Phone:	Email:
Paul Tonks	385-266-4104	phtonks@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:	R105-5. White Collar Crime Registry
4. Purpose of the new rule or reason for the change:	Section 77-42-107 requires the Utah Attorney General's Office to make rules necessary to implement Title 77, Chapter 42 "Utah White Collar Crime Offender Registry."
5. Summary of the new rule or change:	The purpose of this rule is to establish procedures to efficiently administer the Utah White Collar Crime Offender Registry.
6A. The agency finds that regular rulemaking would:	<input type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input checked="" type="checkbox"/> place the agency in violation of federal or state law.
B. Specific reasons and justifications for this finding:	Previous rule R105-3 expired on May 20, 2025. Section 77-42-107 requires the Utah Attorney General's Office to make rules necessary to implement Title 77, Chapter 42 "Utah White Collar Crime Offender Registry."

Fiscal Information

7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A. State budget:
There is no anticipated cost or savings because the registry has already been implemented.
B. Local governments:
There is no anticipated cost or savings because the registry has already been implemented.
C. Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings because the registry has already been implemented.
D. Persons other than small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
There is no anticipated cost or savings because the registry has already been implemented.
E. Compliance costs for affected persons:
There is no anticipated cost or savings because the registry has already been implemented.
F. Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There is no anticipated cost or savings because the registry has already been implemented. Derek Brown, Utah Attorney General.

Citation Information

8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 77-42-107(1)

Agency Authorization Information

Agency head or designee and title:	Paul Tonks, Assistant Attorney General	Date:	05/21/2025
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R105. Attorney General, Administration.

R105-5. White Collar Crime Registry.

R105-5-1. Purpose.

The purpose of this rule is to establish procedures to efficiently administer the Utah White Collar Crime Offender Registry. These rules are made pursuant to the rulemaking authority granted by Utah Code Ann. Section 77-42-107(1).

R105-5-2. Definitions.

(1) Attorney General: The Attorney General of the State of Utah and any Assistant Attorney General.

(2) Attorney General's Office: The Office of the Attorney General of the State of Utah, and its employees acting within the scope of their employment.

(3) Conviction: A conviction occurs, for purposes of this Rule, as soon as a plea is entered and accepted by the court, or a trial concludes with a verdict of guilty. The Registry shall note cases in which an Offender has been convicted but is still awaiting sentencing or has appealed the conviction, so long as the appeal is pending.

(4) Dates: When a day of the month or a date that is specified in this rule falls on a weekend or an official state holiday, the deadline shall be the end of the next regular business day.

(5) Harassment: Harassment is any action that is designed to intimidate, humiliate, coerce, or threaten an individual, including stalking an individual. Persons who use the Registry are prohibited from harassing any Offender listed on the Registry, or any person related to any Offender. Persons who use the Registry are also prohibited from engaging in indirect harassing behavior against an Offender through harassing contact with any person who employs any Offender, any person who provides housing to any Offender, or any person who is a religious or spiritual advisor to any Offender. For example, a person using the Registry may not coerce or threaten a landlord in an effort to cause the landlord to cease renting to an Offender. However, it is not harassment for a person who uses the Registry to accurately inform any person that an Offender is listed on the Registry, or to provide information on the Registry to any person. It is not harassment for a person who uses the Registry to suggest, advise, or recommend to any person that they not invest money with an Offender, or that they take action to recover money they may have invested with an Offender.

(6) Offender: Any person who has been convicted of a crime listed in Section 77-42-105, who is required to register pursuant to Section 77-42-106(2) and who is not exempted from that requirement pursuant to Section 77-42-106(3).

(7) Presiding Officer: The initial Presiding Officer for administrative proceedings shall be the current Director of the Markets and Financial Fraud Division, unless otherwise designated by the Attorney General in a particular proceeding.

(8) Potential Offender: Any person whom the Attorney General has reason to believe may be an Offender, during the period of time when the Attorney General's Office is investigating whether the person qualifies for listing on the Registry.

(9) Prosecutor: Any Assistant Utah Attorney General, County Attorney, Assistant County Attorney, District Attorney, Assistant District Attorney, or other individual who is authorized by law to prosecute any of the offenses listed in Section 77-42-105. A law enforcement agency may designate any Prosecutor within the agency as the person responsible for fulfilling the requirements of this Rule regarding any Offender or group of Offenders; in the absence of any such designation, it is the responsibility of the Prosecutor who obtained the conviction to comply with this Rule.

(10) Registry: The White Collar Crime Registry, as authorized by Utah Code Title 77, Chapter 42.

(11) Registry Coordinator: The Registry Coordinator is the person who is responsible for maintaining the Registry. The Attorney General shall designate a Registry Coordinator, whose name will be listed as part of the information about the Registry provided at <http://www.attorneygeneral.utah.gov>

(12) Repeat Offender: For purposes of Section 77-42-106(1) a person shall be deemed to have been convicted more than once and hence subject to being listed for additional time on the Registry only if all of the following conditions are met:

(a) Each conviction was the result of a separate legal proceeding;

(b) Each conviction is based upon factually distinct behavior, such as different fraudulent schemes affecting different investors;

(c) Although a person may be convicted in a single proceeding of having committed multiple offenses from among the list in Section 77-42-105 or may be convicted of multiple counts of the same offense, such a proceeding still constitutes a single conviction; and

(d) It is irrelevant whether the events for later convictions take place before or after earlier convictions, so long as they constitute separate factually distinct behavior.

(13) Review Officer: A Review Officer is an individual who makes initial determinations concerning whether a Potential Offender should be listed as an Offender on the Registry, and whether an Offender who is listed on the Registry should be removed from the Registry. The Attorney General shall designate one or more Review Officers from time to time. Individuals may obtain the name of the Review Officer in a particular case by sending an email to whitecollar@utah.gov, or by checking the information about the Registry provided at <http://www.attorneygeneral.utah.gov>, or by mailing a written request to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.

(14) Victim: Any person identified as a victim, including persons to whom restitution is owed regardless of whether they testified or were identified at trial.

R105-5-3. Operation of the Registry.

- (1) The Registry shall be maintained and updated by the Registry Coordinator.
- (2) All communications concerning the operation of the Registry or the accuracy of information contained in the Registry, and all forms, information, and notices that are permitted or required to be sent to the Attorney General's Office under this Rule shall be sent to the Registry Coordinator by email to whitecollar@utah.gov or by mail to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.
- (3) All written communications from the Attorney General's Office to any Offender or Potential Offender shall be mailed to the likely best address in this order:
 - (a) The current address provided by the Offender or Potential Offender;
 - (b) The last known address provided by the Prosecutor; or
 - (c) Any other address discovered by the Attorney General's Office.
- (4) The Attorney General's Office may communicate with any person by email instead of mail if that person has provided the Attorney General's Office with an email address and has either stated in writing that use of the email address instead of mail is acceptable, or has used the whitecollar@utah.gov email address to communicate with the Attorney General's Office.
- (5) The Registry Coordinator shall have authority to determine that Potential Offenders are Offenders, to list Offenders on the Registry (including determining what information will be included in the listing), to correct errors in the Registry, to remove an Offender from the Registry, and to take any other acts necessary to maintain the Registry. The Registry Coordinator shall work with the Review Officer or Officers in making these determinations.
- (6) The Registry Coordinator may seek advice and assistance from the Attorney General or anyone employed by the Attorney General's Office in exercising the authority granted under this Rule.
- (7) The Attorney General's Office will generally update the Registry monthly on or before the 15th day of the month. Updates will include changes that have received final approval from the Registry Coordinator prior to the 1st day of the month. Any changes receiving approval after the 1st day of the month will generally be included in the following month's update.
- (8) The Registry can be accessed from this URL: <http://www.attorneygeneral.utah.gov>.
- (9) All forms referenced in this Rule can be obtained from this URL: <http://www.attorneygeneral.utah.gov>.

R105-5-4. Information to be Supplied by the Prosecutor.

- (1) Within 45 business days of any conviction of an Offender, the Prosecutor shall provide the Registry Coordinator with the information requested on form 105-5-4, to the extent that such information is available to the Prosecutor. The completed form and attached documentation may be emailed in PDF format to: whitecollar@utah.gov or mailed to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.
- (2) The Attorney General finds all of the information regarding the Offender requested on Form 105-5-4 to be potentially relevant identifying information, however the Attorney General reserves the right not to post information provided on that form if the Attorney General determines that it is not helpful for identifying an Offender in a particular case.
- (3) The Prosecutor shall provide additional information to the Registry Coordinator or any Review Officer upon request.

R105-5-5. Information to be Supplied by the Offender or Potential Offender.

- (1) When requested by the Attorney General's Office, an Offender or Potential Offender shall provide the designated Review Officer with the information requested on Form 105-5-5 located at this URL: <http://www.attorneygeneral.utah.gov>. The form and attached documentation may be emailed in PDF format to: whitecollar@utah.gov or mailed to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.
- (2) Each Offender or Potential Offender shall provide current address and phone number contact information to the Attorney General's Office, and shall update that information within 30 days of a change of address or phone number.
- (3) When requested, an Offender or Potential Offender shall provide the Attorney General's Office with a photograph that is in the format required for a passport photograph.
- (4) When requested, an Offender or Potential Offender shall appear at the Attorney General's Office in order to have his or her physical characteristics verified or his or her photograph taken.
- (5) An Offender or Potential Offender shall provide such additional information as may be requested by the Attorney General's Office at any time in order to either identify any Offender or Potential Offender (including a convicted co-conspirator) or to determine whether any Offender or Potential Offender should be listed on (or remain listed on) the Registry.

R105-5-6. Adding an Offender to the Registry -- Notice to the Offender.

- (1) When the Attorney General's Office learns of a Potential Offender from any source, it shall attempt to contact the Prosecutor and ask the Prosecutor to provide the information requested on Form 105-5-4.
- (2) When the Attorney General's Office has received Form 105-5-4 with attachments, the Attorney General may determine from the information provided that the Potential Offender is an Offender who qualifies for listing on the Registry. Alternatively the Attorney General's Office may forward the Prosecutor's Form 105-5-4 to the Potential Offender with the Prosecutor's name, contact information and certification redacted.
- (3) If requested by the Attorney General, the Potential Offender shall provide the information requested on Form 105-5-5, and shall provide any additional information requested by the Attorney General's Office.
- (4) If the Attorney General's Office determines that a Potential Offender is an individual who should be listed on the Registry as an Offender, the Attorney General shall provide written notice to the Potential Offender at least 15 days before the first day of the month in which the person is to be listed as an Offender.

R105-5-7. Accuracy of the Registry.

Any person may challenge the accuracy of any information contained in the Registry, may assert that an individual who is not listed in the Registry is a Potential Offender, or that an Offender listed in the Registry should be removed. Such challenges should be directed to the Registry Coordinator by sending an email to: whitecollar@utah.gov or mailing a letter to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320. An Attorney General's Office employee will typically respond within 30 days of receipt

of the challenge, and will inform the individual whether the Registry Coordinator has approved or denied the requested change, and if approved, when the change will be incorporated into the Registry.

R105-5-8. Removal of an Offender from the Registry by Passage of Time.

(1) An Offender who believes that he or she qualifies for removal from the Registry due to the passage of time shall provide notice of the same to the Review Officer assigned to that Offender. To facilitate timely removal, such notice should be provided no more than 120 nor less than 60 days prior to the first date on which the Offender is eligible to be removed.

(2) The Review Officer shall review the notice and determine whether the Offender is eligible to be removed due to the passage of time. The Attorney General's Office may require the Offender to provide additional documentation and information prior to making that determination.

(3) If the Review Officer determines that the Offender is eligible to have his or her name removed, the Offender's name shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry following the first date on which Review Officer makes that determination.

(4) If the Review Officer determines that the Offender is not eligible for removal from the Registry due to the passage of time, the Review Officer shall inform the Offender in writing and shall briefly explain the basis for that decision.

(5) The Review Officer shall decide whether the Offender is eligible for removal from the Registry within 60 days of receiving notice, unless the Review Officer believes that additional time is necessary to investigate, in which case the Review Officer shall provide the Offender with a written explanation of the reason why additional time is necessary and an estimate of the date by which a decision shall be rendered.

R105-5-9. Removal of an Offender from the Registry by Court Order.

(1) An Offender may be removed from the Registry by petitioning the court where the Offender was convicted, and following the procedure set forth in Subsections 77-42-108(1) through (11).

(2) Once the Attorney General's Office has received a copy of the order directing removal, the Offender shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry.

R105-5-10. Removal of an Offender from the Registry by Direct Petition.

(1) An Offender who believes that he or she qualifies for removal from the Registry under the provisions of Section 77-42-108(12) shall petition the Attorney General by submitting Form 105-5-9 and all required supporting documents to the Review Officer assigned to that Offender's case.

(2) The Review Officer shall review the petition and determine whether the Offender is eligible to be removed due to compliance with Section 77-42-108(12). The Attorney General's Office may require the Offender to provide additional documentation and information prior to making that determination.

(3) If the Review Officer determines that the Offender is eligible to have his or her name removed, the Offender's name shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry following the first date on which The Review Officer makes that determination.

(4) If the Review Officer determines that the Offender is not eligible for removal from the Registry due to compliance with Section 77-42-108(12), the Review Officer shall inform the Offender in writing and shall briefly explain the basis for that decision.

(5) The Review Officer shall decide whether the Offender is eligible for removal from the Registry within 60 days of receiving the petition, unless the Review Officer believes that additional time is necessary to investigate, in which case the Review Officer shall provide the Offender with a written explanation of the reason why additional time is necessary and an estimate of the date by which a decision shall be rendered.

R105-5-11. Administrative Procedures.

(1) All administrative proceedings conducted in connection with this Rule shall be conducted by the Presiding Officer and shall be initially designated as informal proceedings pursuant to Section 63G-4-202. The Presiding Officer may convert any informal proceeding to a formal proceeding.

(2) In the event of an appeal of the Presiding Officer's decision, the Agency Designee to conduct the review shall be the Presiding Officer's immediate superior, unless otherwise designated by the Attorney General in a particular proceeding.

(3) The following parties may commence an administrative proceeding:

(a) The Attorney General may issue a Notice of Agency Action in order to enforce compliance with any requirement of this Rule.

(b) A Prosecutor, Offender, Potential Offender, or Victim may file a Request for Agency Action in order to challenge any action or inaction by the Attorney General under this Rule.

(c) No other person shall have a right to initiate an administrative proceeding under this Rule.

(4) Parties that receive a Notice of Agency Action shall respond in writing within 15 business days. Failure to respond in writing shall be deemed to be a grounds for default, and a default may be issued by the Presiding Officer. The Attorney General's Office may, in its discretion, file a response to any Request for Agency Action. Any such response shall be filed and mailed or emailed to the party requesting agency action within 15 business days of receipt of the Request for Agency Action. Other than as set forth herein, no additional pleadings or responses are permitted unless authorized by the Presiding Officer in a particular proceeding. The deadlines set forth in this subsection may be extended by the Presiding Officer upon a showing of good cause by any party.

(5) The Presiding Officer shall decide the informal adjudicative proceeding on the basis of the Notice of Agency Action or Request for Agency Action, any attached documentation, and any responses submitted. No hearings are permitted unless the Presiding Officer converts the proceeding from an informal to a formal proceeding.

R105-5-12. Unlawful Acts.

(1) Failure to provide required information: An Offender who fails to provide any information required or requested under this Rule will be deemed to have not properly "Registered" as required by Section 77-42-105 and as defined in Section 77-42-102(6). An Offender's failure to register may be brought to the attention of a judge, prosecutor, Adult Probation and Parole officer, the Utah Board of Pardons, and others. In addition, a failure to provide information may violate various laws.

(2) Intentionally providing inaccurate information: An Offender who intentionally provides any false, misleading, or incomplete information required or requested pursuant to this Rule will be deemed to have not properly "Registered" as required by Section 77-42-105 and as

defined in Section 77-42-102(6). Such a failure to register may be brought to the attention of a judge, prosecutor, Adult Probation and Parole officer, the Utah Board of Pardons, and others. In addition, intentionally providing false, misleading, or incomplete information may violate various laws.

(3) Using a link or other method to intentionally circumvent the disclaimer page: It is unlawful to intentionally circumvent the disclaimer page for the Registry so as to be able to access the Registry without agreeing to the disclaimer language. In particular, it is unlawful to imbed in a website, post, email, text (SMS), or otherwise use a URL that allows any person to circumvent the disclaimer page and go directly to the Registry. Such unlawful action may expose the responsible persons to criminal or civil liability, including injunctive and declaratory relief.

(4) Harassment of Offenders or their families: Harassment, as defined in this Rule, may violate criminal laws, and may be actionable under civil law, including injunctive and declaratory relief, depending upon the specific nature of the harassment.

KEY: attorney general, white collar crime registry

Date of Last Change: May 21, 2025

Authorizing, and Implemented or Interpreted Law: 77-42-107(1)

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