

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between August 03, 2021, 12:00 a.m., and August 16, 2021, 11:59 p.m. are included in this, the September 01, 2021, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 01, 2021. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through December 30, 2021, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R357-1	Filing ID 53834

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-1. Rural Fast Track Program
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2020 General Session, S.B. 95 passed and repealed the Rural Fast Track Program. Thus, the purpose of this rule filing is to repeal the rule in its entirety.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The rule is repealed because the program was discontinued.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule is due to the program being discontinued.
B) Local governments:
There is no aggregate anticipated cost or savings to local governments. The repeal of this rule is due to the program being discontinued.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule is due to the program being discontinued.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to non-small businesses. The repeal of this rule is due to the program being discontinued.

E) Persons other than small businesses, non-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 aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule is due to the program being discontinued.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons. The repeal of this rule is due to the program being discontinued.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule filing will have no impact on businesses. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. 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:

Section 63N-3-104		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:	10/08/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	08/06/2021
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R357. Governor, Economic Development.

[R357-1. Rural Fast Track Program.

R357-1-1. Authority.

(1) Subsection 63N-3-104 permits the administrator to make rules governing the following aspects of the Rural Fast Track Program:

- (a) The content of the application form;
- (b) Who qualifies as an employee; and
- (c) The verification procedure.

R357-1-2. Definitions.

(1) "Administrator" means the Director of the Governor's Office of Economic Development or the Director's designee.

(2) "Office" means the Utah Governor's Office of Economic Development (GOED).

(3) "Baseline employment number" means the same as the term is used in part R357-1-5(4)(a) of this section.

(4) "Full Time Employee" (FTE) means an employee who works at least 30 hours per week at the location of the Rural Fast Track project.

(5) "In business" means the business was legally formed, and is measured from the date upon which a business or company was formed or created as shown on articles of incorporation, certificate of existence, state registration, or other similar, legally sufficient document.

(6) "Leisure and Hospitality" has the same meaning as the definition in the North American Industry Classification System (NAICS) Codes.

(7) "New incremental job" means a Full Time Employee position created in addition to the baseline employment number.

(8) "Production agriculture" means the act of cultivating land and rearing crops and livestock.

(9) "Professional services" means services that are provided by a certified member of a professional body, e.g. accounting, legal, or medical.

(10) "Profitability" means a positive net income as demonstrated on tax returns for the most recent two years for which tax returns are available.

(a) If net income shown on tax returns is less than \$1, the applicant company may still demonstrate profitability by providing receipts to ORD that show capital improvements made in company infrastructure for the corresponding tax years.

(b) Qualifying capital investment receipts plus net income must be greater than \$1 to demonstrate profitability. Accelerated depreciation may not be used in this calculation.

(11) "Resort community" means a municipality in which the transient room capacity as defined in Utah Code Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population.

(12) "Retail" means a business or person that sells goods to an end user or consumer.

(13) "Small company" means the same as the definition for small business as set forth by the United States Small Business Administration's Table of Small Business Size Standards Match to North American Industry Classification System (NAICS) codes.

(14) "Specialized vehicle" means a vehicle which is used exclusively for business purposes, and has been modified or specialized through the addition of equipment, and other permanently attached tools, and performs specific and specialized functions.

(15) "Unique project" means a project that adds a new product, service, or process distinct and separate from any project for which the applicant company has previously received funding under this program.

~~(16) "Value added agriculture" is a process which results in a change in the physical state or form of an agricultural product in a manner that enhances its value and expands the customer base of the product, e.g. milling wheat into flour or making strawberries into jam.~~

~~R357-1-3. Content of the Application.~~

- ~~(1) An application shall include the following information:~~
- ~~(a) Company name;~~
- ~~(b) Federal tax ID number;~~
- ~~(c) Primary North American Industry Classification System (NAICS) Code for the applicant's business;~~
- ~~(d) Mailing and street address;~~
- ~~(e) Telephone number;~~
- ~~(f) Date that company was created;~~
- ~~(g) The following additional information shall be provided in a form prescribed by the Office:~~
- ~~(i) The number of full time employees employed by the applicant for the prior two calendar years; and~~
- ~~(ii) Wages paid to all of the applicant's employees for the prior two calendar years.~~
- ~~(iii) Articles of incorporation, certificate of existence, state registration, or other document showing the date the business was legally formed;~~
- ~~(iv) Applicant Company must demonstrate profitability for the previous 2 years, through the submission of Applicant's State and Federal tax returns for the previous two tax cycles;~~
- ~~(v) If net income from tax returns is less than \$1;~~
- ~~(vi) Receipts for capital improvements during tax years for which Applicant provided tax returns;~~
- ~~(vii) Letter of Support from local Economic Development Director (EDD) or elected official over economic development in the county, tribe, or city where the business is located;~~
- ~~(viii) A report issued by the Department of Workforce Services documenting the number of employees at the company and the total wages paid to employees of the company for the past 2 calendar years; and~~
- ~~(ix) If an applicant is seeking a grant pursuant to Utah Code Section 63N-3-104(5)(d), the applicant shall submit a detailed project description that demonstrates what the project is, how the project will benefit the company and how many new full-time employees applicant will hire as a result of the project.~~
- ~~(x) Any other information as requested by Office of Rural Development (ORD), or the Governor's Rural Partnership Board (GRP), or the Office.~~

~~R357-1-4. Application and Approval Procedure.~~

- ~~(1) Pre Application~~
- ~~(a) All companies must fill out and submit a pre application that shall be reviewed, and approved by GOED staff, before proceeding to a full application.~~
- ~~a. The Pre Application process will be used to determine eligibility and sufficiency of documentation.~~
- ~~(2) Full Application~~
- ~~(a) If applicant is approved to proceed to a full application, full applications shall undergo a comprehensive internal review by ORD and may be sent to the Governor's Rural Partnership Board (GRP) executive committee for endorsement.~~
- ~~(b) Applications may also be reviewed and endorsed by the Governor's Office of Economic Development (GOED) Board.~~
- ~~(c) All applications must have final approval from the administrator.~~

~~(3) Company may not commence performance on the contract until the Rural Fast Track contract agreement is completely executed without prior written permission from the administrator.~~

~~R357-1-5. Employees.~~

- ~~(1) When counting FTEs, if an FTE has its employment with Applicant terminated for any reason before completion of the applicable Rural Fast Track Disbursement Period, another employee otherwise meeting the requirements described above may be promptly hired to fill the terminated FTE's position and complete the year of qualifying full-time employment. In such case, applicant and the office would count the combined contribution of these two (2) full time employees as one (1) FTE.~~
- ~~(a) A replacement employee must be hired within 60 days of the first employee's termination date for the position to remain qualifying for FTE purposes during a given Rural Fast Track Disbursement Period.~~
- ~~(2) At the time of application, the ORD Business Analyst shall establish the company's baseline employment number.~~
- ~~(a) The baseline employment number is the highest total number of Full Time Employees at any time during the previous 24 month period.~~
- ~~(3) A new incremental job may be filled by an existing employee if a new employee fills the position vacated by the current employee.~~
- ~~(4) Applicant Company must demonstrate at least one new incremental job above the baseline through documentation provided by the Department of Workforce Services.~~

~~R357-1-6. Grants, Loans, and Other Financial Assistance Pursuant to Utah Code Section 63N-3-104(5).~~

- ~~(1) Applications for grants, loans, and other financial assistance may be approved up to \$50,000 if the applicant passes the verification and approval process described below.~~
- ~~(2) All financial assistance granted pursuant to this section shall be awarded as post performance reimbursements.~~
- ~~(3) Awards will be made on a dollar for dollar matching basis up to \$50,000 with the applicant providing matching funds;~~
- ~~(a) Awards will not be made for equipment or other qualifying items that are replacing existing items, but replacement costs may be considered as part of the total project cost;~~
- ~~(b) Applications for specialized vehicles may be approved on a dollar for dollar matching basis up to \$25,000 with the applicant providing matching funds.~~
- ~~(4) Payment under this part shall be made only after qualifying expenditures are verified and a site visit is completed by ORD staff.~~
- ~~(5) Any subsequent applications by a company having received a Rural Fast Track award may only be considered for another grant if the second application is for a unique project and at least 18 months have passed after the most recent award was granted.~~
- ~~(6) ORD staff may require additional information during the grant process.~~
- ~~(7) Items that are not eligible for grants, loans, or other financial assistance under 63N-3-104(5) include the following:~~
- ~~(a) Laptop or desktop computers and other standard office equipment;~~
- ~~(b) Non-specialized vehicles;~~
- ~~(c) Bare ground;~~
- ~~(d) Retail, except in eligible L and H counties or resort communities; and~~

~~(e) Other items as identified by GOED, ORD, or GRPB on a case-by-case basis.~~

~~(f) The above ineligible items may be approved in exceptional circumstances with the written approval of the administrator.~~

R357-1-7. Verification.

~~(1) Following completion of the applicant project the ORD may conduct a site visit to the applicant company location. During that site visit ORD shall visually inspect the physical property to determine the completion of the project.~~

~~(2) Applicant shall provide to ORD documentation of all expenses related to applicant project, including, but not limited to receipts, invoices, loan documents, etc.~~

~~(3) Applicant shall provide documentation from the Department of Workforce Services demonstrating at least one new incremental job over the baseline job number.~~

~~(4) Applicant shall provide documentation detailing the salary paid to the new incremental job.~~

~~KEY: economic opportunity, job creation, rural economic development, Rural Fast Track Program~~

~~Date of Enactment or Last Substantive Amendment: July 22, 2016~~

~~Notice of Continuation: March 31, 2017~~

~~Authorizing, and Implemented or Interpreted Law: 63N-3-104]~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R357-5	Filing ID 53838
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Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-5. Motion Picture Incentive Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This proposed rule amendment establishes that a project must have a minimum budget of \$100,000 to qualify for a community film incentive and makes nonsubstantive

changes to comply with Executive Order 2021-12. Also, during the 2021 General Session, H.B 348 passed and changed the Governor's Office of Economic Development (GOED) to the Governor's Office of Economic Opportunity (Go Utah) and modified the statute so that the references in rule and the Agreed-Upon Procedures need to be updated.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule filing amends references of Development to Opportunity; amends statute references so that they are correct; makes nonsubstantive changes to comply with the Office of Administrative Rules' Rulewriting Manual for Utah as required by Executive Order 2021-12; amends Section R357-5-105 to establish that a project must have a minimum budget of \$100,000 to qualify for a community film incentive; and amends reference of GEOD to Go Utah the Agreed-Upon Procedures referenced in rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. These changes merely make technical changes and codify a procedure the office has historically used.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

E) Persons other than small businesses, non-small businesses, state, or local government entities

NOTICES OF PROPOSED RULES

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because participation in the program is optional.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will have no negative impact on businesses. The purpose of this rule filing is to make technical changes and establish that a project must have a minimum budget of \$100,000 to qualify for a community film incentive. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. 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:

Section 63N-8-104		
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Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references

	First Incorporation
Official Title of Materials Incorporated (from title page)	Agreed-Upon Procedures
Publisher	Go Utah
Date Issued	07/28/2021

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:	10/08/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	08/13/2021
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R357. Governor, Economic ~~[Development]~~ Opportunity.**R357-5. Motion Picture Incentive Rule.****R357-5-101. Authority.**

(1) ~~[Subs]~~Section 63N-8-104~~(4)~~ requires the ~~[e]~~Office to make rules establishing the standards that a motion picture company and digital media company must meet to qualify for a motion picture incentive and the criteria for determining the amount of the motion picture incentive.

R357-5-102. Definitions.

The definitions ~~[below]~~in this rule are in addition to or serve to clarify the definitions found in ~~[Utah Code]~~Section 63N-8-102.

(1) "Cast" means performers appearing in a particular film with featured or speaking roles.

(2) "Community Film Incentive Program" means a production where a motion picture company has a maximum budget of under \$500,000.

(3) "Crew" means those involved in the production of a film who are not defined as cast or extras.

(4) "Deferred Payment" means, tax credits in amounts over \$2,000,000 paid in installments over a specified number of years but not to exceed three years.

(5) "Extras" means an extra or background actor is a performer in a production, who appears in a non-speaking or non-singing ~~[silent]~~capacity, usually in the background.

(6) "Independent Utah CPA" means~~[r]~~ a Certified Public Accountant ~~[(CPA)]~~holding an active license in the state ~~[of Utah]~~that is independent of the production and production activities.

(7) "Made-For-Television" means feature length motion pictures specifically made-for-television or streaming platforms.

(8) "Motion Pictures" means a production that is originally intended for commercial distribution and does not include:

- (a) news;
- (b) commercials;
- (c) live broadcasts;
- (d) digital media products;
- (e) live sporting events;
- (f) live coverage of theatrical or entertainment events; or
- (g) programs that solicit funds.

(9) "Principal photography", "Producing" or "Production" means the filming of major and significant portions of a film that involves the ~~[main]~~lead actors~~[r]~~ and actresses.

(10) "Rural Utah" means ~~[at]~~each count~~[ies]~~y outside of Davis County, Salt Lake County, Utah County, and Weber County.

(11) "Significant Percentage of cast and crew from Utah" means:

(a) For productions that have less than \$500,000 dollars left in state: that at least 85% of the cast and crew are Utah residents excluding extras~~[r]~~;

(b) For productions that have more than \$500,000 dollars left in state: that at least 75% of the cast and crew are Utah residents excluding extras and five principal cast members.

(12) "State-approved production" means a production that is:

(a) approved by the ~~[e]~~Office and ratified by the Governor's Office of Economic ~~[Development]~~Opportunity Board; and

(b) ~~[all or a portion]~~any of the production is produced in the state.

(13) "Total budget for the project" means the total budget for ~~[D]~~dollars left in state of pre-production, production and post-production.

(14) "Television series" means a group of episodes of a production released on television or streaming platforms.

(15) "Treatment" means: A written description of the production.

(16) "UFC" means: the Utah Film Commission, a sub-entity of the Utah Governor's Office of Economic ~~[Development]~~Opportunity.

(17) "Utah Resident" means a person who has lived in Utah for ~~[the entire year]~~(at least 183 days~~[r]~~) even if temporarily outside of Utah for an extended length of time, maintains a permanent home in Utah, and is subject to ~~[State of]~~Utah personal income tax.

R357-5-103. Motion Picture Incentive Applications: Procedures and Minimum Requirements for a Motion Picture Company.

(1) A motion picture company's application may be approved for a motion picture incentive award only if ~~[at]~~each of the following requirements are met in addition to those listed throughout Title 63N~~[r]~~, Economic Opportunity Act, Chapter 8, Motion Picture Incentives:

(a) the motion picture company is producing ~~[all or a portion]~~any of a motion picture in ~~[the state of]~~Utah;

(b) the motion picture is a state~~[r]~~-approved production;

(c) the motion picture company guarantees UFC access to production's behind the scenes footage, interviews and still photography or allow the ~~[e]~~Office to produce its own;

(d) the motion picture company guarantees the production will display the Utah logo as outlined in the incentive agreement and provide a screen~~[r]~~shot of the logo as it appears in the credits;

(e) the motion picture company has obtained financing for 100% of the anticipated ~~[D]~~dollars left in state for the project, and the applicant provides proof of financing in a form specified in the application documents~~[r]~~;

(f) the motion picture company must retain financing as set forth in ~~[s]~~Subsection (1)(e) for the life of the contract with the ~~[S]~~state;

(g) the motion picture company intends to report at least \$500,000 dollars left in state if applying for a film incentive ~~[pursuant to]~~under Subsection R357-5-5(1) or a maximum of under \$500,000 if applying for an incentive ~~[pursuant to]~~under Subsection R357-5-5(2); and

(h) if a production has initiated principal photography prior to the Office's receipt of a completed application or will not commence principal photography for more than 90 days from date of application, the application for incentive may be denied.

(2) The motion picture incentive application shall not be construed as a property right and neither the Office nor the Board is required to approve an application.

(3) ~~[In order to]~~To receive state approval for an incentive application, a production must, in the ~~[S]~~state's sole discretion, reflect positively on the image of ~~[state of]~~Utah.

~~—————(a) In determining whether or not a production reflects positively on the image of the state[of Utah], the Office and Board may take into consideration:~~

~~(i)a whether and to what extent the motion picture promotes Utah as a tourist destination;~~

~~(i)b general standards of decency and respect for the diverse beliefs and values of Utahns; and~~

NOTICES OF PROPOSED RULES

(~~[(iii)]~~(c) any other factors related to the production or the motion picture company that may reasonably affect the image of the state~~[of Utah]~~.

(4) The Office and Board may consider the relative merit of applications, and the need to reserve its allocations for future applications.

(a) Factors that contribute to the relative merit include~~;~~ but are not limited to~~;~~:

(i) the overall strength and viability of the script of the production;

(ii) the industry reputation of the production or motion picture company;

(iii) the record of the motion picture company in matters of safety and responsible filmmaking;

(iv) the existence of any legal action or the likelihood of any legal action in relation to either the production or the motion picture company; and

(v) anticipated:

(A) number of jobs in Utah;

(B) number of production days in Utah;

(C) dollars left in state;

(D) local cast and crew wages; and

(E) new state revenue that the film contributes in ~~[the State of]~~ Utah~~;~~.

(b) Applications shall be made in the form prescribed by the Office, including required attachments or additional information.

(i) Incomplete applications will not be considered received until the application is deemed complete by the UFC.

(ii) A script is required as part of the application.

(iii) A treatment may only be submitted where a script for a project type is not possible, for example when the project is a documentary. The Utah Film Commission will determine in its sole discretion if a treatment can be substituted for a script.

(5) A production company may file more than one application if it has more than one production in the state, but a separate application must be filed for each production.

(6) Applications will be subject to submission deadlines, which will be posted on the Utah Film Commission Website and are available in other formats upon request.

(7) If the applicant fails to submit a completed application prior to the submission deadline, the application may be considered with the next round of submissions.

(8) Submitting an application does not guarantee approval of a film incentive.

(9) ~~[All]~~ Film incentives are subject to and contingent upon the amount of available funding and~~[for]~~ tax credit allocation available in the Motion Picture Restricted account~~;~~.

(10) Lack of state approval shall not be construed as prohibiting a production or prohibiting a motion picture company from filming in Utah.

(11) A production's eligibility for an incentive ends upon approval or denial by the Office. A production may reapply, subject to compliance with program statutes and rules.

R357-5-104. Motion Picture Incentive Applications: Award for a Motion Picture Production.

(1) Upon receipt of a completed application, the Office will align each project into incentive categories as set forth in Section R357-5-105.

(2) In calculating dollars left in the state, the Office may limit the following expenditures:

(a) ~~[all]~~ salary above \$500,000 for one individual;

(b) marketing and distributions expenditures;

(c) any value beyond the depreciated amount for capital expenditures, rentals, and any purchases made where the item is used for only a portion of its useful life; and

(d) any per diem value beyond 100~~[-percent]~~% of the current federal rate for the area.

R357-5-105. Film Categories and Conditions.

(1) Utah Motion Picture Incentive Program.

(a) The Utah Motion Picture Incentive Program will have an incentive cap of 20% of the dollars left in state, unless a higher cap is awarded pursuant to ~~[s]~~ Subsection (1)(c).

(b) Incentives will only be awarded if the motion picture company meets criteria listed in ~~[statute,]~~ Section R357-5-103;

(c) An additional cap of up to 5% may be granted if the motion picture company:

(i) Motion picture company has at least \$1,000,000 in qualified dollars left in state~~;~~; and

(ii) 75% of ~~the~~;

~~(A) cast and crew are Utah residents excluding extras and five principal cast members~~;~~; or~~

~~[(iii)](B) [75% of]~~ production days occur in rural Utah.

(2) Community Film Incentive Program.

(a) The Community Film Incentive Program will provide a maximum of a 20% post-performance cash rebate or tax incentive for dollars left in state by a community film production~~;~~;

(b) Community Film Incentive Program incentives will only be awarded if the motion picture company meets criteria listed in ~~[statute,]~~ Section R357-5-103~~;~~ has a minimum budget of \$100,000 and a maximum budget of under \$500,000, and meets the criteria found on the Utah Film Commission Website~~;~~;

(c) Applications for the Community Film Incentive Program will be reviewed monthly.

(d) Awards will be made to motion picture companies based upon the criteria outlined in the Community Film Incentive Program application provided by UFC.

(3) For applications made under ~~[either]~~ Subsections (1) or (2), the motion picture company must provide ~~[all]~~ any information and documentation to show measur~~[e]~~able outcomes as outlined in the application for any incentive listed in this section [R357-5-105].

R357-5-106. Funding -- Post-Performance Compliance.

~~[(1) A motion picture company may qualify for issuance of either a Post-Performance Refundable Tax Credit or Post-Performance Cash award based on the method outlined in their contract if all of the following requirements are met in addition to those listed throughout 63N-8:~~

~~(a) The motion picture company adheres to the Agreed-Upon Procedures version 1.0 dated November 1, 2019 which will be posted on the Utah Film Commission Website and hereby adopted and incorporated by reference;~~

~~(1) A motion picture company may qualify for issuance of either a Post-Performance Refundable Tax Credit or Post-Performance Cash award:~~

~~(a) based on the method outlined in their contract; and~~

~~(b) the motion picture company adheres to the Agreed-Upon Procedures version 1.1 dated July 28, 2021 posted on the Utah Film Commission Website and hereby adopted and incorporated by reference.~~

R357-5-107. Funding -- Post-Performance Refundable Tax Credit.

(1) Post-performance refundable tax credits are non-transferable and can only be issued to the state-approved motion picture that submits the motion picture incentive application and is approved by the [a]Office with advice from the Board.

(2) Post-performance refundable tax credits in amounts over \$2,000,000 may be paid in deferred payments over multiple years as authorized by the [a]Office within the approved [b]Board motion for the tax credit.

(a) [All]Deferred payments for tax credits over \$2,000,000 are subject to available tax credit allocation as authorized by the legislature.

(b) Each annual installment of the deferred payment amount shall be outlined in the tax credit agreement.

(c) A deferred payment plan cannot exceed three years.

R357-5-108. Request for Incentive Amendment.

(1) A motion picture company may request an incentive amendment only under the conditions prescribed by the Office.

(2) Amendments will be reviewed and approved by the UFC on a case by case basis with a written explanation for the approval or denial provided to the applicant.

KEY: economic development, motion picture, digital media, new state revenue

Date of Enactment or Last Substantive Amendment: 2021[January 1, 2020]

Notice of Continuation: March 11, 2021

Authorizing, and Implemented or Interpreted Law: 63N-8-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.):	R357-19	Filing ID 53835
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Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-19. Business Resource Centers

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

During the 2021 General Session, H.B. 348 passed and repealed the Utah Business Resource Centers Act. Thus, the purpose of this rule filing is to repeal the rule in its entirety.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The rule is repealed because the program was discontinued.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule is due to the program being discontinued.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments. The repeal of this rule is due to the program being discontinued.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule is due to the program being discontinued.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to non-small businesses. The repeal of this rule is due to the program being discontinued.

E) Persons other than small businesses, non-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 aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule is due to the program being discontinued.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons. The repeal of this rule is due to the program being discontinued.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule filing will have no impact on businesses. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. 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:

Section		
63N-3-307		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 10/01/2021

10. This rule change MAY become effective on: 10/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	08/06/2021
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R357. Governor, Economic Development.

[R357 19. Business Resource Centers.

R357 19 1. Authority.

(1) Subsection 63N 3 307(3) requires the Office to make rules establishing matching fund exceptions; criteria for the approval, creation, and oversight of each business resource center and its staff, including a non state funded satellite business resource center; metrics to report the performance of economic development output in each region serviced by a business resource center; and criteria for approving and overseeing business plans.

R357 19 2. Definitions.

(1) This rule adopts the definitions found in Utah Code Section 63N 3 303.

R357 19 3. Matching Funds Exceptions.

(1) A Business Resource Center (BRC) must with its annual state funding proposal provide documentation detailing matching funds used to cover the center's operating expenses. This documentation should be in the form of a spreadsheet that details matching funds and lists funding sources and other relative financial information and should include the following:

- (a) Past use of funds awarded from the State of Utah.
- (b) Budget Expected use of funds.
- (c) Expenses Include sources of matching funds. At a minimum, matching funds should be designated as (1) host institution funding, (2) other State funding, (3) all other funding.

~~(d) An explanation of whether matching funds will be cash or in kind. In kind contributions should listed by type.~~

~~(2) Exceptions to the requirement that a host institution contribute 50% of a business resource center's operating costs may be granted in the following circumstances:~~

~~(a) The host institution may provide more than 50% of the BRC's operating costs through cash or in kind contributions.~~

~~(b) A host institution may enter into a partnership or agreement with another local entity to contribute cash, employee's services, or facilities for the operation of the BRC where the purposes and goals of the third party are consistent with those of the host institution and the host institution retains control and oversight over the BRC. In this circumstance the contributions of the third party may be considered toward meeting the 50% matching funds requirement.~~

R357-19-4. Criteria for the Approval, Creation, and Oversight of Business Resource Centers:

~~(1) An existing Business Resource Center shall:~~

~~(a) Be the access point to coordinated business assistance through partnerships with governmental entities, academia and other business resources in a local area;~~

~~(b) In rural counties, utilize the connection between the Business Expansion and Retention Initiative (BEAR) and the services of the BRC to initiate, facilitate, and document more referrals to the BRC's associated service providers;~~

~~(c) Initiate business education programs, including programs in coordination and collaboration with public, private, and governmental institutions;~~

~~(d) Provide research, development, or training programs for new businesses;~~

~~(e) Develop programs to aid business clients in finding the resource they need;~~

~~(f) Work with the host institution in providing academic resources, including faculty and student participation and support for the programs, events, and daily operations of the BRC, as appropriate;~~

~~(g) Develop programs for outreach to entrepreneurs in rural areas of the state as appropriate;~~

~~(h) Develop, maintain, and report metrics to determine effectiveness of efforts;~~

~~(i) Partner with and house the federal, state, and local business service providers;~~

~~i. Potential business service providers are further defined in the BRC's agreement with the Office.~~

~~(2) An entity establishing a new Business Resource Center shall:~~

~~(a) Provide a physical office space in a regional area or county where no BRC currently exists to serve as an access point to coordinated business assistance through partnerships with governmental entities, academia and other business resources in a local area;~~

~~i. Money awarded by the Office cannot be used to lease office space;~~

~~(b) In rural counties, utilize the connection between BEAR and the services of the BRC to facilitate, initiate, and document referrals to the BRC's associated service providers;~~

~~(c) Initiate and encourage business education programs, including programs in coordination and collaboration with public, private, and governmental institutions;~~

~~(d) Provide research, development, or training programs for new businesses;~~

~~(e) Develop programs to aid business clients in finding the resource they need;~~

~~(f) Work with the host institution in providing academic resources, including faculty and student assistance, as appropriate;~~

~~(g) Develop programs for outreach to entrepreneurs in rural areas of the state as appropriate;~~

~~(h) Develop, maintain, and report metrics to determine effectiveness of efforts;~~

~~(i) Partner with and house on an as needed or regularly scheduled basis federal, state, and local business service providers, as listed below;~~

~~(j) Enter into agreements and provide letters of commitment from service providers that their services will be available at the newly established BRC according to a regular schedule and/or on an as needed basis. These service providers should include~~

~~(3) An existing or new Business Resource Center may:~~

~~(a) Provide a needs assessment relating to new or existing businesses in conjunction with other public or private economic development programs or initiatives;~~

~~(b) Provide business incubator space or services, or both, to businesses based on criteria established by the Office in consultation with the board;~~

~~(c) Participate with local business leaders and government officials to assist in formulating economic development direction or strategy for their communities;~~

~~(d) Develop and establish web-based access to virtual business resource center services over the Internet to assist in establishing and growing businesses in the state, and particularly in those situations where traveling to the Business Resource Center site is not possible or practical.~~

~~(4) The Office will facilitate a quarterly meeting with all BRC directors to discuss overall goals and progress.~~

R357-19-5. Metrics.

~~(1) Each Business Resource Center must report the metrics listed below on a quarterly basis:~~

~~(a) Number of businesses/people served. (This will be the primary metric to measure BRC activity. This is the number of unique individuals who were served through the BRC and its partner agencies.)~~

~~(b) Total attendance at outreach/networking/training/other events.~~

~~(c) Virtual activity/ online tracking/usage, as appropriate~~

~~(d) Number of incubator clients~~

~~(2) The metrics reports must be received by the Governor's Office of Economic Development on or before the second Friday of each financial quarter at 5pm.~~

~~(3) The Office may withhold payment of a BRC's invoiced expenses until required metrics are reported.~~

~~(4) The Office will monitor the progress towards all metrics and goals detailed in the annual proposal and established in the contract.~~

R357-19-6. Criteria for Approving Business Plans and Awarding Funding:

~~(1) A BRC seeking state funding shall provide an annual proposal with a business plan detailing how that funding will be used during the fiscal year.~~

~~(2) BRC funds provided by the Office shall only be used for approved activities and expenses.~~

~~(3) The Office shall determine the amount granted to each BRC in the following manner:~~

~~(a) larger amounts may be granted to BRCs that serve a larger geographic area.~~

NOTICES OF PROPOSED RULES

~~(b) BRCs that serve a larger population size may receive larger amounts~~

~~(c) Award amounts may be determined and influenced by types of services and the overall service packages offered by the BRC. A more comprehensive service model may receive larger award amounts.~~

~~i. Examples of a more comprehensive service models would be those that include the following:~~

~~A. Diverse programs to help businesses with varying needs;~~

~~B. Business education programs, including programs in collaboration with public, private, governmental and educational institutions;~~

~~C. Academic resources, including faculty and student assistance~~

~~(d) Award amounts may be determined and influenced by the amount the BRC has been utilized when considering overall geographic and population size that the BRC potentially services. BRCs that demonstrate a higher amount of overall use in relation to the service area size and population size may receive larger award amounts.~~

~~i. Demonstration of past use can be shown through:~~

~~A. Reports highlighting overall economic output for the area serviced;~~

~~B. The number of business serviced on a year over year basis;~~

~~C. Measured output of businesses serviced;~~

~~D. The existence of research, development, or training programs for new or existing businesses, industries, or high technology business located in its region;~~

~~E. Needs assessments relating to new or existing businesses, industries, or high technology business in conjunction with other public or private economic development programs or initiatives;~~

~~F. Develop and implement with local business leaders sound, coordinated, and measurable economic development programs for their communities;~~

~~G. Developing and certifying non state funded satellite BRCs.~~

~~(e) Award amounts may be determined and influenced by how past awards have been used and if past award amounts have not been fully expended.~~

~~(f) Award amounts may be influenced by the amount of additional funds from other sources the BRC will receive in the same fiscal year that the award will be used.~~

~~(g) Award amounts can be increased for BRCs that demonstrate an expansion of current services into areas not currently served by another BRC.~~

~~(h) Consider other criteria in determining the appropriate award amount including the recommendations of an advisory group as established in 63N-3-306.~~

~~(4) The Office will establish an agreement via contract with BRCs who are awarded funding during each fiscal year.~~

~~(5) The Office will disburse all funds on a post performance or reimbursement basis only.~~

~~(6) Invoice documentation will be reviewed by the Office to verify fidelity to the BRC's business plan.~~

KEY: ~~Business Resource Center, institution of higher education, economic development~~

Date of Enactment or Last Substantive Amendment: ~~February 22, 2017~~

Authorizing, and Implemented or Interpreted Law: ~~63N-3-307(3)]~~

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R357-20

Filing ID
53769

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R357-20. Education Computing Partnerships

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this rule filing is to repeal the rule in its entirety. During the 2019 General Session, S.B. 127 passed and moved the STEM Action Center to the now Department of Cultural and Community Engagement. Thus, this rule is repealed and the Department of Cultural and Community Engagement will file a new rule under the correct authority.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The rule is repealed because the program is now under the Department of Cultural and Community Engagement.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule is due to the program being moved to a different state agency.

B) Local governments:			
There is no aggregate anticipated cost or savings to local governments. The repeal of this rule is due to the program being moved to a different state agency.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule is due to the program being moved to a different state agency.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no aggregate anticipated cost or savings to non-small businesses. The repeal of this rule is due to the program being moved to a different state agency.			
E) Persons other than small businesses, non-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 aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule is due to the program being moved to a different state agency.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for affected persons. The repeal of this rule is due to the program being moved to a different state agency.			
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):			
Go Utah has coordinated with the STEM Action Center and they will recodify a rule under the correct authority. This rule filing will have no impact on businesses. Dan Hemmert, Executive Director			
6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.			

Citation Information

7. 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:

Section 9-11-114		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:	10/08/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	08/06/2021
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R357. Governor, Economic Development.**[R357-20. Education Computing Partnerships.****R357-20 1. Authority.**

(1) Utah Code Annotated 63N-12-214(4) requires the STEM Action Center in consultation with the Utah State Board of Education makes rules for the administration of the grant program and awarding of grants; and to define outcome-based measures appropriate to the type of grant awarded under this part of the Utah Code.

R357-20 2. Definitions.

(1) This rule adopts the definitions found in Utah Code Section 63N-12-201 et seq.

(2) "USBE" means Utah State Board of Education.

R357-20 3. Grant Requirements and Review Process.

(1) The STEM Action Center, in consultation with the USBE, will determine the maximum amount of the award during any application cycle.

(2) The number of awards in each grant cycle can vary.

(3) The STEM Action Center, in consultation with the USBE, shall determine applicant eligibility criteria during any application cycle and all criteria will be posted in the applications for that grant cycle.

(4) The STEM Action Center, with input from the established review committee and the USBE and in accordance with statute, will determine allowed and disallowed costs during any application period and a list of all allowable and disallowed costs will be included in the application for each grant cycle.

(5) Applicants may request funds for activities that represent a critical component of a full pathway, as long as they indicate where the activities or efforts fit into a pathway, or are envisioned to fit within a pathway.

(6) Hardware and capital infrastructure funding requests may not exceed 10% of the total budget request. Hardware and capital infrastructure shall be defined by the grant agreement received by a successful applicant.

(7) The STEM Action Center Board, with recommendations by the STEM AC staff and in consultation with the USBE, shall have final funding approval rights for all successful applicants.

(8) Eligible applicants shall include Local Education Agencies and individual schools.

(9) Fiscal agents may sub-contract with partners that are approved for funding and they shall use their organization's approved procurement procedures and policies for sub-contract awards.

(10) The type of grants (one year versus multiple years; pilot versus scale and replication) are allowed and can vary with each application cycle and clear indications of what type of grant is and are available will be provided on the STEM Action Center's website or wherever the application is made available.

(11) The competitive application process will include a Request for Grants solicitation, subsequent review and recommended selection for funding by an independent committee and final awards

to be made by the STEM Action Center, in consultation with the USBE and with approval of the STEM Action Center Advisory Board. Awards will be administered by the STEM Action Center, using an established Grant Agreement process that has been approved by the State Procurement office.

(12) The review committee, with the organizational representation defined in 63N-12-214, shall consist of four K-16 education representatives (with equal representation from elementary and secondary), two higher education representatives, one USBE representative, one Talent Ready Utah representative and three industry representatives. The STEM Action Center, in consultation with USBE, shall select the representatives for the review committee.

R357-20 4. Outcome Based Measures.

(1) The measures can be quantitative and/or qualitative in nature

(2) The STEM Action Center, with input from the review committee, shall define the outcome-based measures for each application cycle and make such measures available online or in the application for each grant cycle.

(3) The STEM Action Center shall provide evaluation, monitoring and reporting support for the grants through its third party evaluation partners (Utah Valley University and the University of Utah).

KEY: STEM action center, computing partnerships, pathways
Date of Enactment or Last Substantive Amendment: July 14, 2017

Authorizing, and Implemented or Interpreted Law: 63N-12-214]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R434-100

Filing ID
53847

Agency Information

Agency information:		
1. Department:	Health	
Agency:	Family Health and Preparedness, Primary Care and Rural Health	
Room no.:	4163	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142005	
City, state and zip:	Salt Lake City, UT 84114-2005	
Contact person(s):		
Name:	Phone:	Email:
Ashley Moretz	801-350-1546	amoretz@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

R434-100. Physician Visa Waivers

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The Conrad State 30/J-1 Visa Waiver Program exists to help recruit physicians to underserved areas. When physicians come to the US to complete their graduate medical education (GME), they come on a J-1 Visa. This visa allows them to complete their training, but then requires them to return to their home country for two years before applying for a work visa. Physicians can waive this requirement by obtaining a waiver through the Conrad State 30/J-1 Visa Waiver Program.

The Office of Primary Care and Rural Health (OPCRH) is designated by the Governor of the and United States Department of State to act as the State Department of Health Agency to review and recommend waiver applications for approval. Each year, Utah is allocated up to 30 waivers from the home country return requirement for international medical graduates who studied in the U.S. and are willing to work in an underserved area for 3 years.

Over the past 4 years, Utah has only used an average of 6 of the allocated 30 waivers per year and has never used its full allocation. As a result, OPCRH is proposing amendments to this rule governing the J-1 visa waiver program in Utah. The proposed amendments will reduce potential barriers to Utah health care institutions attracting the best possible physicians, and might contribute to increase uptake of the program, which is one tool to reduce Utah's ongoing healthcare professional shortages.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The current rule limits each health care facility to no more than two requests per federal fiscal year; this limit is proposed for elimination since it arbitrarily limits the number of physicians per facility in the absence of competition for the state's full annual allocation of waivers. The requirement that facilities document their recruitment efforts to hire a qualified United States citizen for at least one immediate prior year for the position the J-1 visa waiver physician seeks to fill is also proposed for elimination, as it presents a barrier to Utah's health facilities attracting the best available physicians. The current requirement that applicants work as a primary care physician located within a federally designated primary care Health Professional Shortage Area would be expanded to include Medically Underserved Areas/Populations (MUA/P), since this will expand the range of potential facilities that may employ J-1 visa waiver physicians.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

None--State government will not receive or be required to expend any funds as a result of the amendment.

B) Local governments:

None--Local governments will not receive or expend any additional funding as a result of the required match.

C) Small businesses ("small business" means a business employing 1-49 persons):

None--Small businesses will not receive or be required to expend any funds as a result of the amendment.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

None--Non-small businesses will not receive or be required to expend any funds as a result of the amendment.

E) Persons other than small businesses, non-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*):

None--Non-small businesses will not receive or be required to expend any funds as a result of the amendment.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

None--Participation in the program is voluntary for health care providers.

G) 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 fiscal impact to business because businesses will not receive or be required to expend any funds as a result of the amendment. Nathan Checketts, Interim Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Interim Executive Director of the Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.			

Citation Information

7. 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:		
Section 26-1-18		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	10/01/2021

10. This rule change MAY become effective on:	10/08/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Nathan Checketts, Interim Executive Director	Date:	08/13/2021
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R434. Health, Family Health and Preparedness, Primary Care and Rural Health.**R434-100. Physician Visa Waivers.****R434-100-1. Authority and Purpose.**

(1) Sections 1182(e) and 1184 of Title 8 of U.S. Code ~~III of the Immigration and Nationality Act~~ and 22 CFR 41.63 provide that the state may request a waiver of the federal two[-]year home residence requirement on behalf of J-1 visa physicians each fiscal year if they work in a medically underserved area of the state and if the waiver is in the public interest. Section 26-1-18 authorizes the Utah Department of Health to implement this program.

(2) This rule establishes the criteria to determine whether it is in the public interest to request a J-1 visa waiver for an applicant. It establishes the procedures for the submission, review, and disposition of applications.

R434-100-2. Definitions.

As used in this rule:

(1) "Department" means the Utah Department of Health.

(2) "Health care facility" means a doctor's office, local health department, clinic, or licensed health care facility where a J-1 visa waiver physician may work under the supervision of the sponsoring physician.

(3) "Primary care physician" means a physician who specializes in general internal medicine, family medicine, general pediatrics, obstetrics and gynecology, or psychiatry.

(4) "Principal" means any person who owns 10% or more beneficial or equitable interest in the health care facility.

(5) "Subspecialty care physician" means a physician who specializes in a specialty other than general internal medicine, family medicine, general pediatrics, obstetrics and gynecology, or psychiatry.

R434-100-3. Maximum Number of Visa Waivers.

~~[(4)]~~ The Department may recommend J-1 visa waivers up to the maximum number of eligible J-1 visa waivers that have been granted in a federal fiscal year. If the maximum number of J-1 visa waivers have been granted, the Department shall consider pending applications in the following federal fiscal year in the order each was received.

~~[(1)]~~ ~~Each health care facility may make up to two requests per federal fiscal year.~~

R434-100-4. Physician Eligibility.

A physician is eligible to apply for a J-1 visa waiver recommendation if ~~he~~ the physician:

(1) is enrolled in or has completed a minimum three[-]-year postgraduate training program in the United States accredited by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association Bureau of Professional Education before applying[~~prior to submitting an application~~];

(2) has passed the examination requirements for licensure as a physician or surgeon or osteopathic physician or surgeon in Utah, pursuant to rule established by the Division of Occupational and Professional Licensing; and

(3) has the specialty training and previous work experience that corresponds to the health care facility's recruitment descriptions.

R434-100-5. Requests.

The health care facility or the physician must submit to the Department a written request for the J-1 visa waiver.

(1) The request must include from the health care facility:

(a) the special[ity] of physician that the facility has been unable to recruit;

~~[(b)] documentation of its recruitment efforts to hire a qualified United States citizen for at least one immediate prior year for the position the J-1 visa waiver physician seeks to fill;~~

~~[(c)]~~(b) documentation that it implements a sliding fee scale, payment schedule, or similar method that demonstrates that it provides discounts to medically indigent patients; and

~~[(d)]~~(c) an assurance letter that the health care facility and its principals are not under investigation for, under probation for, or under restriction for:

(i) Children's Health Insurance Program, Medicaid, or Medicare fraud;

(ii) violations of Division of Occupational and Professional Licensing statute or rules; or

(iii) other violations of law that may indicate that it may not be in the public interest that a waiver of the two-year home residency requirement be granted.

(2) The request must include from the physician:

(a) a completed application that includes ~~[all]~~ professional experience, education, licenses and certificates, specialty or specialties, research, honors, professional memberships, and three professional references;

(b) a copy of ~~[all]~~ IAP-66 forms "Certificate of Eligibility for Exchange Visitor (J-1) Status" and INS forms I-94 for the physician and the physician's~~[his or her]~~ spouse and children; and

(c) the case number issued by the United States Department of State indicating payment of the federal fee required to apply for the visa waiver.

(3) The request must also include:

(a) a copy of the complete contract between the J-1 visa waiver physician and the health care facility;

(b) any required processing fees; and

(c) other information requested by the Department as may be reasonably necessary to determine whether it is in the public interest that a waiver of the two-year home residency requirement be granted.

R434-100-6. Contract Requirements.

To obtain a state recommendation that the visa waiver is in the public interest, the contract that the applicant submits must meet the following criteria:

(1) The contract must be for employment at a health care facility:

(a) to work as a primary care physician located within a federally designated primary care Health Professional Shortage Area or

Medically Underserved Area/Population (MUA/P), or to work as a subspecialty care physician serving medically needy population;

(b) that has been operating for at least one year;

(c) whose principals are free from default on any federal or state scholarship or loan repayment program offered by the National Health Service Corps or by the state under Title 26, Chapter 46, Rural Physician Loan Repayment Program;

(d) that it or its principals are not under investigation for, under probation for, or under restriction for:

(i) Medicaid or Medicare fraud;

(ii) violations of Division of Occupational and Professional Licensing statute or rules; or

(iii) other violations of law that may indicate that it may not be in the public interest that a waiver of the two-year home residency requirement be granted.

(e) that accepts ~~[all]~~ Medicaid, Medicare, Children's Health Insurance Program, Primary Care Network and Utah Medical Assistance Program eligible patients; and

(f) that implements a sliding fee scale, payment schedule, or similar method that demonstrates that it provides discounts to medically indigent patients.

(2) The contract must provide:

(a) that the physician agrees to meet the requirements set forth in section 214(k) of the Immigration and Nationality Act, 8 USC 1184(k);

(b) the specific address of the health care facility where the physician will practice medicine;

(c) a description of the geographic area that will be served by the physician;

(d) that the physician agrees to work an annual full-time equivalency of 40 hours in patient care per week;

(e) for an obligation committing both parties to three years of employment; and

(f) that the physician agrees to begin employment at the health care facility within ninety (90) days of the waiver being granted.~~;~~

(3) The contract shall not contain a ~~[non]~~competition~~[]~~ clause or other provision that would discourage or inhibit the physician from working anywhere in the state upon termination of his employment with the health care facility.

R434-100-7. Application Deferral.

(1) The Department may defer processing of a request if the health care facility or any of its principals is under investigation or awaiting trial for possible:

(a) Medicaid or Medicare fraud;

(b) violations of Division of Occupational and Professional Licensing statute or rules; or

(c) other violations of law that may indicate that it may not be in the public interest that a waiver of the two[-]-year home residency requirement be granted.

(2) The Department may defer processing of a request if the health care facility or any of its principals is under probation or has entered a plea in abeyance for any alleged violation of the elements listed in ~~[s]~~Subsection (1).

(3) A physician applicant may seek to obtain a J-1 visa waiver as an employee of another health care facility if the Department has deferred processing of a request under ~~[s]~~Subsections (1) or (2).

(4) If a health care facility for which a request has been deferred desires the Department to remove the deferral, it must notify the

NOTICES OF PROPOSED RULES

Department and provide documentation that the reason for the deferral no longer exists.

R434-100-8. Program Improvement.

The Department may require the health care facility and J-1 visa waiver physician to provide information regarding the performance, commitment to the medically underserved area, service obligation fulfillment, and any other information regarding their experience under the J-1 visa waiver as is reasonably necessary for the administration of the program.

KEY: waivers, underserved, physicians

Date of Enactment or Last Substantive Amendment:
2021[September 30, 2008]

Notice of Continuation: April 24, 2020

Authorizing, and Implemented or Interpreted Law: 26-1-18

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R590-76	Filing ID 53844

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-76. Health Maintenance Organizations and Limited Health Plans
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being repealed as a result of Executive Order 2021-12. The rule is being repealed because it is no longer necessary due to more specific regulations being enacted in subsequent rules and statutes.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The rule is being repealed because the Department of Insurance uses more specific regulations enacted in other rules and statutes. Sections R590-76-3, R590-76-4, R590-76-5, and R590-76-8 are all regulated under Rule R590-277. Section R590-76-6 is regulated under Section 31A-21-201. Section R590-76-7 is regulated under Rule R590-237. Sections R590-76-9, R590-76-10, and R590-76-11 are no longer necessary.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget. The provisions in the rule being repealed are regulated under other rules and statutes.

B) Local governments:

There are no anticipated costs or savings to local governments. The provisions in the rule being repealed are regulated under other rules and statutes.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses. The provisions in the rule being repealed are regulated under other rules and statutes.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no anticipated costs or savings to non-small businesses. The provisions in the rule being repealed are regulated under other rules and statutes.

E) Persons other than small businesses, non-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 are no anticipated costs or savings to any other persons. The provisions in the rule being repealed are regulated under other rules and statutes.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The provisions in the rule being repealed are regulated under other rules and statutes.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. 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:

Title 31A,
Chapter 8

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 10/01/2021

10. This rule change MAY become effective on: 10/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/13/2021
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R590. Insurance, Administration.

~~**R590-76. Health Maintenance Organizations and Limited Health Plans.**~~

~~**R590-76-1. Authority.**~~

~~This rule is issued pursuant to the authority set forth in Title 31A, Chapter 8, Health Maintenance Organizations (HMOs) and Limited Health Plans.~~

~~**R590-76-2. Purpose.**~~

~~The purpose of this rule is to implement Chapter 8 of Title 31A to assure the availability, accessibility and quality of services provided by HMOs and to provide reasonable standards for terms and provisions contained in HMO group and individual contracts and evidences of coverage.~~

~~**R590-76-3. Applicability and Scope.**~~

~~(1) This rule applies to all organizations defined in 31A-8-101(5). In the event of conflict between the provisions of this regulation and the provisions of any other regulation issued by the commissioner, the provisions of this regulation shall be controlling. This rule also applies to all HMO contracts covering individuals and groups issued or renewed and effective on or after January 1, 2003.~~

~~(2) Sections 4 and 5 of this rule do not apply to an HMO contract subject to R590-277, Managed Care Health Benefit Plan Policy Standards.~~

~~**R590-76-4. HMO Definitions.**~~

~~A group or individual contract and evidence of coverage delivered or issued for delivery to any person in this state by an HMO required to obtain a certificate of authority in this state shall contain definitions respecting the matters set forth below. The definitions shall comply with the requirements of this section. Definitions other than those set forth in this regulation may be used as appropriate providing~~

that they do not contradict these requirements. As used in this regulation and as used in the group or individual contract and evidence of coverage:

_____ (1) "Coinsurance" is the enrollee's cost sharing amount expressed as a percentage of covered charges.

_____ (2) "Copayment" means, other than coinsurance, the amount an enrollee must pay in order to receive a specific service that is not fully prepaid.

_____ (3) "Deductible" means the amount an enrollee is responsible to pay out of pocket before the HMO begins to pay the costs or provide the services associated with treatment.

_____ (4) "Directors" mean the executive director of Department of Health or his authorized representative, and the director of the Health Division of the Utah Insurance Department.

_____ (5) "Eligible dependent" means any member of an enrollee's family who meets the eligibility requirements set forth in the contract.

_____ (6) "Emergency care services" means services for an emergency medical condition as defined in 31A-22-627(3).

_____ (a) Within the service area, emergency care services shall include covered health care services from non-affiliated providers only when delay in receiving care from the HMO could reasonably be expected to cause severe jeopardy to the enrollee's condition.

_____ (b) Outside the service area, emergency care services include medically necessary health care services that are immediately required because of unforeseen illness or injury while the enrollee is outside the geographical limits of the HMO's service area.

_____ (7) "Evidence of coverage" means a certificate or a statement of the essential features and services of the HMO coverage that is given to the subscriber by the HMO or by the group contract holder.

_____ (8) "Facility" means an institution providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings which operate within their specific licensure requirements.

_____ (9) "Grievance" means a written complaint submitted in accordance with the HMO's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the HMO relative to the enrollee.

_____ (10) "Group contract" means a contract for health care services by which its terms limit eligibility to enrollees of a specified group.

_____ (11) "Group contract holder" means the person to which a group contract has been issued.

_____ (12) "Incidental coverage" means a contract or endorsement offered by an HMO that provides limited health plan benefits as defined in Subsection 31A-8-101(3)(a).

_____ (13) "Individual contract" means a contract for health care services issued to and covering an individual. The individual contract may include coverage for dependents of the subscriber.

_____ (14) "Medical necessity" or "medically necessary" means:

_____ (a) Health care services or products that a prudent health care professional would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

_____ (i) in accordance with generally accepted standards of medical practice in the United States;

_____ (ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

_____ (iii) not primarily for the convenience of the patient, physician, or other health care provider; and

_____ (iv) covered under the contract; and

_____ (b) when a medical question of fact exists medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

_____ (i) For interventions not yet in widespread use, the effectiveness shall be based on scientific evidence.

_____ (ii) For established interventions, the effectiveness shall be based on:

_____ (a) scientific evidence;

_____ (b) professional standards; and

_____ (c) expert opinion.

_____ (15) "Out of area services" means the health care services that an HMO covers when its enrollees are outside of the service area.

_____ (16) "Physician" means a duly licensed doctor of medicine or osteopathy practicing within the scope of the license.

_____ (17) "Primary care physician" means a physician who supervises, coordinates, and provides initial and basic care to enrollees, and who initiates their referral for specialist care and maintains continuity of patient care.

_____ (18) "Scientific evidence" means:

_____ (a) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

_____ (b) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes.

_____ (c) Scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

_____ (19) "Service area" means the geographical area within a 40-mile radius of the HMO's health care facility.

_____ (20) "Subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the HMO, or in the case of an individual contract, the person in whose name the contract is issued.

R590-76-5. Requirements for HMO Contracts and Evidence of Coverage.

_____ (1)(a) Individual contracts. Each subscriber shall be entitled to receive an individual contract and evidence of coverage in a form that has been filed with the commissioner.

_____ (b) Group contracts. Each group contract holder shall be entitled to receive a group contract that has been filed with the commissioner.

_____ (c) Group contracts, individual contracts and evidences of coverage shall be delivered or issued for delivery to subscribers or group contract holders within a reasonable time after enrollment, but not more than 90 days from the effective date of coverage.

_____ (2) HMO information. The group or individual contract and evidence of coverage shall contain the name, address and telephone number of the HMO, and where and in what manner information is available as to how services may be obtained. A telephone number within the service area for calls, without charge to members, to the HMO's administrative office shall be made available and disseminated to enrollees to adequately provide telephone access for enrollee services, problems or questions. The group or individual contract and evidence of coverage may indicate the manner in which the number will be disseminated rather than list the number itself.

_____ (3) Eligibility requirements. The group or individual contract and evidence of coverage shall contain eligibility requirements

indicating the conditions that shall be met to enroll. The forms shall include a clear statement regarding coverage of dependents and newborn children.

(4) Benefits and services within the service area. The group or individual contract and evidence of coverage shall contain a specific description of benefits and services available within the service area.

(5) Emergency care benefits and services. The group or individual contract and evidence of coverage shall contain a specific description of benefits and services available for emergencies 24 hours a day, 7 days a week, including disclosure of any restrictions on emergency care services. No group or individual contract and evidence of coverage shall limit the coverage of emergency services within the service area to affiliated providers only.

(6) Out-of-area benefits and services. Other than emergency care, if benefits and services are covered outside the service area, a group or individual contract and evidence of coverage shall contain a specific description of that coverage.

(7) Copayments, coinsurance, and deductibles. The group or individual contract and evidence of coverage shall contain a description of any copayments, coinsurance, or deductibles that must be paid by enrollees.

(8) Limitations and exclusions. The group or individual contract and evidence of coverage shall contain a description of any limitations or exclusions on the services or benefits, including any limitations or exclusions due to preexisting conditions or waiting periods.

(9) Claims procedures. The group or individual contract and evidence of coverage shall contain procedures for filing claims that include:

- (a) any required notice to the HMO;
- (b) any required claim forms, including how, when and where to obtain them;
- (c) any requirements for filing proper proofs of loss;
- (d) any time limit of payment of claims;
- (e) notice of any provisions for resolving disputed claims, including arbitration; and
- (f) a statement of restrictions, if any, on assignment of sums payable to the enrollee by the HMO.

(10) Enrollee grievance procedures and arbitration. In compliance with R590-76-8(4), the group or individual contract and evidence of coverage shall contain a description of the HMO's method for resolving enrollee grievances, including procedures to be followed by the enrollee in the event any dispute arises under the contract, including any provisions for arbitration.

(11) Extension and conversion of coverage. A group contract, and evidence of coverage shall contain a conversion provision which provides each enrollee the right to a conversion policy and/or extend coverage to a contract as set forth in Chapter 22 of Title 31A, Part VII.

(12) Coordination of benefits. The group or individual contract and evidence of coverage may contain a provision for coordination of benefits that shall be consistent with that applicable to other carriers in the jurisdiction. Any provisions or rules for coordination of benefits established by an HMO shall not relieve an HMO of its duty to provide or arrange for a covered health care service to an enrollee because the enrollee is entitled to coverage under any other contract, policy or plan, including coverage provided under government programs.

(13) Description of the service area. The group or individual contract and evidence of coverage shall contain a description of the service area.

(14) Entire contract provision. The group or individual contract shall contain a statement that the contract, all applications and any amendments thereto shall constitute the entire agreement between the parties. No portion of the charter, bylaws or other document of the HMO shall be part of the contract unless set forth in full in the contract or attached to it. However, the evidence of coverage may be attached to and made a part of the group contract.

(15) Term of coverage. The group or individual contract and evidence of coverage shall contain the time and date of occurrence upon which coverage takes effect, including any applicable waiting periods, or describe how the time and date of occurrence upon which coverage takes effect is determined. The contract and evidence of coverage shall also contain the time and date of occurrence upon which coverage will terminate.

(16) Cancellation or termination. The group or individual contract and evidence of coverage shall contain the conditions upon which cancellation or termination may be effected by the HMO, the group contract holder or the subscriber.

(17) Renewal. The group or individual contract and evidence of coverage shall contain the conditions for, and any restrictions upon, the subscriber's right to renewal.

(18) Reinstatement of group or individual contract holder. If an HMO permits reinstatement of a group or individual, the contract and evidence of coverage shall include any terms and conditions concerning reinstatement. The contract and evidence of coverage may state that all reinstatements are at the option of the HMO and that the HMO is not obligated to reinstate any terminated contract.

(19) Conformity with State Law. A group or individual contract and evidence of coverage delivered or issued for delivery in this state shall include a provision that states that any provision not in conformity with Chapter 8 of Title 31A, this regulation or any other applicable law or regulation in this state shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the applicable laws and regulations of this state.

(20) Definitions. All definitions used in the group or individual contract and evidence of coverage shall be in alphabetical order.

R590-76-6. Unfair Discrimination.

An HMO shall not unfairly discriminate against an enrollee or applicant for enrollment on the basis of the age, sex, race, color, creed, national origin, ancestry, religion, marital status or lawful occupation of an enrollee, or because of the frequency of utilization of services by an enrollee. An HMO shall not expel or refuse to re-enroll any enrollee nor refuse to enroll individual members of a group on the basis of an individual's or enrollee's health status or health care needs, except for a policy which contains a lifetime policy maximum and such maximum has been reached. However, nothing shall prohibit an HMO from setting rates, establishing a schedule of charges in accordance with actuarially sound and appropriate data, or appropriately applying policy provisions in compliance with the Utah Insurance Code.

R590-76-7. HMO Services.

(1) Access to Care.

(a) An HMO shall establish and maintain adequate arrangements to provide health services for its enrollees, including:

- (i) reasonable proximity to the business or personal residences of the enrollees so as not to result in unreasonable barriers to accessibility;
- (ii) reasonable hours of operation and after hours services;

NOTICES OF PROPOSED RULES

~~_____ (iii) emergency care services available and accessible within the service area 24 hours a day, 7 days a week; and~~

~~_____ (iv) sufficient providers, personnel, administrators and support staff to assure that all services contracted for will be accessible to enrollees on an appropriate basis without delays detrimental to the health of enrollees.~~

~~_____ (b) If a primary care physician is required in order to obtain covered services, an HMO shall make available to each enrollee a primary care physician and provide accessibility to medically necessary specialists through staffing, contracting or referral.~~

~~_____ (c) An HMO shall have written procedures governing the availability of services utilized by enrollees, including at least the following:~~

~~_____ (i) well patient examinations and immunizations;~~

~~_____ (ii) treatment of emergencies;~~

~~_____ (iii) treatment of minor illness; and~~

~~_____ (iv) treatment of chronic illnesses.~~

~~_____ (2) Basic health care services. An HMO shall provide, or arrange for the provision of, as a minimum, basic health care services, which shall include the following:~~

~~_____ (a) emergency care services;~~

~~_____ (b) inpatient hospital services, meaning medically necessary hospital services including:~~

~~_____ (i) room and board;~~

~~_____ (ii) general nursing care;~~

~~_____ (iii) special diets when medically necessary;~~

~~_____ (iv) use of operating room and related facilities;~~

~~_____ (v) use of intensive care units and services;~~

~~_____ (vi) x ray, laboratory and other diagnostic tests;~~

~~_____ (vii) drugs, medications, biologicals;~~

~~_____ (viii) anesthesia and oxygen services;~~

~~_____ (ix) special nursing when medically necessary;~~

~~_____ (x) physical therapy, radiation therapy and inhalation therapy;~~

~~_____ (xi) administration of whole blood and blood plasma; and~~

~~_____ (xii) short term rehabilitation services;~~

~~_____ (c) inpatient physician care services, meaning medically necessary health care services performed, prescribed, or supervised by physicians or other providers including diagnostic, therapeutic, medical, surgical, preventive, referral and consultative health care services;~~

~~_____ (d) Outpatient medical services, meaning preventive and medically necessary health care services provided in a physician's office, a non-hospital based health care facility or at a hospital. Outpatient medical services shall include:~~

~~_____ (i) diagnostic services;~~

~~_____ (ii) treatment services;~~

~~_____ (iii) laboratory services;~~

~~_____ (iv) x ray services;~~

~~_____ (v) referral services;~~

~~_____ (vi) physical therapy, radiation therapy and inhalation therapy; and~~

~~_____ (vii) preventive health services, which shall include at least a range of services for the diagnosis of infertility, well child care from birth, periodic health evaluations for adults, screening to determine the need for vision and hearing correction, and pediatric and adult immunizations in accordance with accepted medical practice;~~

~~_____ (e) Coverage of inborn metabolic errors as required by 31A-22-623 and Rule R590-194, Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism, and benefits for diabetes as required by 31A-22-626 and Rule R590-200, Diabetes Treatment and Management.~~

~~_____ (3) Out-of-area benefits and services. Other than emergency care, if the contract provides out-of-area services, they shall be subject~~

~~to the same copayment, coinsurance, and deductible requirements set forth in R590-76-5(7).~~

~~_____ (4)(a) An HMO may offer a contract or endorsement that provides incidental coverage.~~

~~_____ (b) An incidental coverage contract or endorsement is exempt from the basic health care services and emergency care requirements set forth in this rule.~~

~~_____ (c) An HMO offering an incidental benefit contract or endorsement may offer all of the basic health care services.~~

R590-76-8. Other HMO Requirements.

~~_____ (1) Provider lists.~~

~~_____ (a) An HMO shall provide its subscribers with a list of the names and locations of all of its providers no later than the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon reenrollment.~~

~~_____ (b) Upon notification to an HMO that a provider is no longer affiliated, the HMO shall within 30 days:~~

~~_____ (i) notify enrollees who are receiving ongoing care; and~~

~~_____ (ii) update any applicable web site provider lists.~~

~~_____ (c) Subject to the approval of the commissioner, an HMO may provide its subscribers with a list of providers or provider groups for a segment of the service area. However, a list of all providers shall be made available to subscribers upon request.~~

~~_____ (d) Provider lists shall contain a notice regarding the availability of the listed primary care physicians. The notice shall be in not less than 12 point type and be placed in a prominent place on the list of providers. The notice shall contain the following or similar language:~~

~~_____ "Enrolling in (name of HMO) does not guarantee services by a particular provider on this list. If you wish to receive care from specific providers listed, you should contact those providers to be sure that they are accepting additional patients for (name of HMO)."~~

~~_____ (2) Description of the services area. An HMO shall provide its subscribers with a description of its service area no later than the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon request thereafter. If the description of the service area is changed, the HMO shall provide at such time a new description of the service area to its affected subscribers within 30 days.~~

~~_____ (3) Copayments, coinsurance, and deductibles. An HMO may require copayments, coinsurance, or deductibles of enrollees as a condition for the receipt of health care services. Copayments, coinsurance, and deductibles shall be the only allowable charge, other than premiums, insurers may assess to subscribers, unless otherwise allowed by law.~~

~~_____ (4) Grievance procedure. A grievance procedure in compliance with 31A-22-629 and Rule R590-203, Health Care Benefit Plans Grievance and Voluntary Independent Review Procedures Rule, to resolve an adverse benefit determination, shall be established and maintained by an HMO to provide reasonable procedures for the prompt and effective resolution of written grievances.~~

~~_____ (5) Provider contracts. All provider contracts must be on file and available for review by the commissioner and the director of the Utah Department of Health.~~

R590-76-9. Quality Assurance.

~~_____ (1) Quality assurance plan.~~

~~_____ (a) Each HMO shall develop a quality assurance plan. The plan shall be designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.~~

~~_____ (b) Certification of quality assurance plan.~~

~~(i) A new HMO shall arrange and pay for a review and certification of its quality assurance plan no later than 18 months after receiving a Certificate of Authority and commencing operation.~~

~~(ii) An existing HMO shall arrange a pay for a review and certification of its quality assurance plan every three years unless required sooner by the certifying entity.~~

~~(iii) Reviews shall be conducted by the National Committee of Quality Assurance (NCQA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Accreditation HealthCare Commission (URAC), formerly known as the Utilization Review Accreditation Commission, Health Insight, or other entities as approved by the commissioner. Reviews conducted for the federal government shall satisfy these requirements if the requirements of this subsection are met.~~

~~(iv) Each HMO shall arrange for the directors to receive a copy of the review findings, recommendations, and certification, or notice of non-approval, of the quality assurance plan. This material shall be sent directly from the certifying entity to the directors. Certification status and review materials will be maintained as a protected record by the directors.~~

~~(v) Each HMO shall implement clinical and procedural requirements made by the certifying entity after the findings are received by the HMO.~~

~~(c) Each year on or before July 1, an HMO shall file to the directors a written report of the effectiveness of its internal quality control. The report must include a copy of the HMO's quality assurance plan.~~

~~(2) Quality assurance audits. The commissioner may audit an HMO's quality control system. Such audit shall be performed by qualified persons designated by the commissioner.~~

~~(a) The HMO shall comply with reasonable requests for information required for the audit and necessary to:~~

~~(i) measure health care outcomes according to established medical standards;~~

~~(ii) evaluate the process of providing or arranging for the provision of patient care;~~

~~(iii) evaluate the system the HMO uses to conduct concurrent reviews and preauthorized medical care;~~

~~(iv) evaluate the system the HMO uses to conduct retrospective reviews of medical care; and~~

~~(v) evaluate the accessibility and availability of medical care provided or arranged for by the HMO.~~

~~(b) Information furnished shall only be used in accordance with 31A-8-404.~~

~~(3) Internal peer review. The HMO shall show written evidence of continuing internal peer reviews of medical care given. The program must provide for review by physicians and other health professionals; have direct accountability to senior management; and have resources specifically budgeted for quality assessment, monitoring, and remediation.~~

R590-76-10. Reporting Requirements and Fee Payments.

~~Section 31A-3-103 and 31A-4-113 apply to organizations. Both types of entities shall submit their annual reports on the National Association of Insurance Commissioner's (NAIC) blanks that have been adopted for HMOs. In addition, all HMOs shall submit the information asked for in the annual statistical report required by the Utah Department of Health. The annual statement blank will be filed with the Insurance Department and the Utah Department of Health by March 1 each year.~~

R590-76-11. Financial Condition.

~~(1) Qualified assets. In determining the financial condition of any organization, only the following assets may be used:~~

~~(a) assets as determined to be admitted in the Accounting Practices and Procedures Manual published by the NAIC; and~~

~~(b) other assets, not inconsistent with the foregoing provisions, deemed by the commissioner available for the provision of health care, at values determined by him/her.~~

~~(2) Investments. Investments of organizations shall be consistent with Title 31A, Chapter 18.~~

~~(3) Liability insurance. Evidence of adequate general liability and professional liability insurance, or a plan for self-insurance approved by the commissioner, must be maintained by the organization. Organizations may only contract with providers of health services that have liability insurance.~~

R590-76-12. Severability.

~~If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

KEY: HMO insurance

Date of Enactment or Last Substantive Amendment: December 23, 2019

Notice of Continuation: August 20, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.):	R590-88	Filing ID 53841
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

R590-88. Prohibited Transactions Between Producers and Unauthorized Multiple Employer Trusts

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The rule is being repealed as a result of Executive Order 2021-12. During the review of this rule, the Department of Insurance determined that this rule is unnecessary.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being repealed because it is unnecessary. Entities wishing to organize a multiple employer trust are required to register with the US Department of Labor rather than the state.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated cost or savings to the state budget. Only one entity ever registered a multiple employer plan with the state, and that entity voluntarily surrendered its license in 2012. Also, the licensing chapter for this type of entity was repealed during the 2016 General Session in H.B. 36, Insurance Revisions.

B) Local governments:

There is no anticipated cost or savings to local governments. The option to organize a multiple employer plan is still available through the US Department of Labor, should an entity meet the required criteria and wish to do so.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The option to organize a multiple employer plan is still available through the US Department of Labor, should an entity meet the required criteria and wish to do so.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The option to organize a multiple employer plan is still available through the US Department of Labor, should an entity meet the required criteria and wish to do so.

E) Persons other than small businesses, non-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 to any other persons. The option to organize a multiple employer plan is still available through the US Department of Labor, should an entity meet the required criteria and wish to do so.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. There are currently no entities in Utah to which this rule applies; repealing the rule will have no affect and require no compliance.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information**7. 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:**

Section 31A-2-201	Section 31A-23a-402	
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Public Notice Information**9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)**

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:

10/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/13/2021
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R590. Insurance, Administration.**~~R590-88. Prohibited Transactions Between Producers And Unauthorized Multiple Employer Trusts.~~****~~R590-88-1. Purpose and Authority.~~**

~~It is the responsibility of the Utah State Insurance Department to assist with the maintenance of a fair and honest insurance market and to protect the residents of this state against acts by persons attempting to evade the insurance laws of the state. The insurance market is subject to regulation to prevent, among other things, unfair competition from persons and entities not authorized to conduct an insurance business.~~

~~This rule is issued pursuant to the authority vested in the commissioner under Sections 31A-2-201, and 31A-23a-402.~~

~~R590-88-2. Background.~~

~~In the State of Utah entities representing themselves as Multiple Employer Trusts (METs) under the Employee Retirement Income Security Act of 1974 (ERISA) are undertaking contractual obligations to provide life, accident and health, disability, or other related insurance type benefits. In many cases these programs are not insured by an insurer licensed in the State of Utah. These programs and entities appear to be providing insurance benefits, although a MET may not refer to such benefits as "insurance."~~

~~METs are not licensed to provide insurance benefits under Section 31A-4-103. METs do not submit reports of financial condition to the Utah State Insurance Department or remit premium taxes on business written. Furthermore, most METs do not meet certain minimum capital and surplus requirements of the Utah insurance laws which are designed to provide protection against an insolvency. A MET may offer certain annuity or insurance type benefits to persons because of their status as employees. These benefits include those common to the following types of insurance: medical, surgical, hospital, sickness, accident, disability, death, retirement income, income deferral.~~

~~METs are required to file annual reports with the United States Department of Labor. The annual report should state the extent to which a MET's annuity or insurance type benefits are provided by an insurance carrier.~~

~~R590-88-3. Definitions.~~

~~(A) Multiple Employer Trust (MET) An entity is herein referred to as a Multiple Employer Trust (MET) if that entity is providing insurance type benefits to employees of more than one employer, and that entity is not an insurance company authorized to do business in the state of Utah.~~

~~(B) Unauthorized Multiple Employer Trust An entity purporting to be a Multiple Employer Trust (MET) is hereby defined as an Unauthorized Multiple Employer Trust if:~~

~~(1) The MET has not received an opinion letter from the United States Department of Labor recognizing the entity as a qualified trust under ERISA, or~~

~~(2) The benefits offered are not fully insured by an insurer licensed to do business in the State of Utah and no opinion letter recognizing the entity as a qualified ERISA plan has been issued from the U.S. Department of Labor.~~

~~(C) An unauthorized MET is defined to be an unauthorized insurer. Any claimed multiple employer trust which does not fulfill the requirements of a multiemployer plan as defined by ERISA, 29 U.S.C. 1001 et seq., as amended, is also defined to be an unauthorized MET and consequently an unauthorized insurer.~~

~~(D) All other definitions are the same as are provided in Chapter 1, Title 31A.~~

~~R590-88-4. Prohibited Transactions.~~

~~When the Insurance Department finds evidence that a person (as defined in Section 31A-1-301) is engaging, or has engaged, in one or more of the following practices, that person's actions will be treated as prima facie evidence that the person has shown himself to be incompetent, untrustworthy, and/or a source of injury to the public pursuant to Section 31A-23a-111. These practices are:~~

~~(A) Accepting commissions, salaries, or any other remuneration for placing business with or soliciting membership in an unauthorized MET, whether or not the arrangement involves a formal contract or is called a commission.~~

~~(B) Using the status or title as a licensed insurance producer in any way in connection with placement of business with an unauthorized MET. This shall include, but not be limited to:~~

NOTICES OF PROPOSED RULES

- ~~(1) Using a producer's letterhead;~~
~~(2) Using a producer's office;~~
~~(3) Using customer lists or contracts developed as a producer;~~
 and
~~(4) Representing in any manner that the person placing this business is a licensed insurance producer.~~

R590-88-5. Sanctions.

Producers found to be engaging in, or to have engaged in, the prohibited transactions with unauthorized METs set forth under Section 4 of this rule are subject to one or more of the following sanctions:

- ~~(A) Revocation or suspension of the producer's license and/or the imposition of a fine pursuant to Section 31A-23a-111; and~~
~~(B) Recovery of any claims or losses pursuant to Section 31A-15-105; and~~
~~(C) Any other sanctions provided by law including those found in Section 31A-2-308.~~

R590-88-6. Inquiries.

In the event any person wishes to determine if a particular entity is a licensed insurer in the State of Utah, an inquiry should be made to the Insurance Department. Inquiries should be addressed as follows: Commissioner of Insurance, Utah State Insurance Department, State Office Building, 450 North State Street, Room 3110, Salt Lake City, Utah 84114, Attention: Producer Licensing Division. Inquiries may also be made by telephone to the Insurance Department at (801) 538-3800.

R590-88-7. Severability.

If any provision or clause of this rule or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: 1989

Notice of Continuation: December 16, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-101; 31A-2-201; 31A-2-211

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R592-8	Filing ID
		53842

Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

Contact person(s):

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in an August 9, 2021, meeting by a vote of 5 to 0.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards and to make the language of this rule more clear. It also updates the proposed Section R592-8-6 to use the Department's current language. It does not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add, remove, or change regulations.

B) Local governments:

There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

E) Persons other than small businesses, non-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 to any other persons. The changes are clerical in nature and do not add, remove, or change regulations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. Any affected persons are already required to comply with the provisions of this rule, and the changes do not add, remove, or change regulations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. 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:

Section 31A-2-404	Section 31A-23a-204	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 10/01/2021

10. This rule change MAY become effective on: 10/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/13/2021
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R592. Insurance, Title and Escrow Commission.

R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing.

R592-8-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Sections 31A-2-404 and 31A-23a-204[which authorizes the Commission to make rules for the administration of the provisions in this title related to title insurance and Section 31A-23a-204 which authorizes the Commission to make a rule to exempt attorneys with real estate experience from the three year licensing requirement to license an agency title insurance producer].

R592-8-2. Purpose and Scope.

- (1) The purpose[s] of this rule ~~are~~ is to:
- (a) ~~to~~ delegate to the [C]ommissioner preliminary approval or denial of a request for an attorney exemption;
- (b) ~~to~~ provide a description of the types of acceptable real estate experience that ~~could~~ may be used by an attorney seeking ~~to qualify for the~~ an exemption;
- (c) ~~to~~ provide a process to apply for a request for an attorney exemption; and
- (d) ~~to~~ provide a process to appeal a denial of a request for an attorney exemption.
- (2) This rule applies to ~~all attorneys~~ an attorney seeking an exemption under ~~the provisions of~~ Section 31A-23a-204.

R592-8-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-23a-10. Additional terms are defined as follows ~~In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-23a-102, the following definitions shall apply for the purposes of this rule~~:

- (1) "Attorney" means a person licensed, ~~and~~ in good standing, with the Utah State Bar.
- (2) "Real estate experience" includes:
- (a) law firm transactional experience consisting of any ~~or all~~ of the following:
- (i) real estate transactions, ~~including~~ drafting documents, reviewing and negotiating contracts of sale, ~~including~~ real estate purchase contracts (REPC), commercial transactions, residential transactions;
 - (ii) financing and securing construction and permanent financing;
 - (iii) title review, due diligence, consulting and ~~negotiations~~ negotiating with title companies, researching and drafting ~~opinions of~~ title opinions, coordinating with title companies, pre-closing;
 - (iv) zoning, development, construction, homeowners' associations, subdivisions, condominiums, planned unit developments;
 - (v) conducting closings; and
 - (vi) estate planning, ~~and~~ probate-related transactions and conveyances.
- (b) law firm litigation experience consisting of any ~~or all~~ of the following:
- (i) foreclosures;
 - (A) judicial and non-judicial;
 - (B) homeowner association (HOA) lien foreclosure;
 - (ii) ~~either side of~~ homeowner vs. HOA litigation;
 - (iii) state construction registry litigation, ~~and~~ mechanics lien filing and litigation;
 - (iv) real estate disputes or litigation involving:
 - (A) a real estate contract;
 - (B) a boundary line;
 - (C) a right[s] of way, an easement, or both ~~and/or easement~~;
 - (D) a zoning issue;
 - (E) a property tax issue;
 - (F) a title issue or claim;
 - (G) a landlord/tenant issue an issue between a landlord and a tenant; and
 - (F) an estate ~~and~~ or probate litigation, or both, involving real property assets, claims, and disputes.
 - (c) non-law firm experience consisting of any ~~or all~~ of the following:
 - (i) real estate agent, broker, developer, investor;

- (ii) mortgage broker;
- (iii) general contractor;
- (iv) professor or instructor teaching real estate licensing, real estate contracts, or real estate law;
- (v) lender involved with any ~~or all~~ of the following real estate lending activities:
 - (A) lending;
 - (B) escrow; or
 - (C) foreclosure;
- (vi) private lender;
- (vii) in-house counsel involved in real estate transactions for bank, mortgage lender, credit union, title company, or agency title insurance producer;
- (viii) employment with or counsel to a government agency involved in regulation of real estate, such as HUD, FHA, zoning, tax assessor, county recorder, insurance department, and ~~F~~ federal or state legislatures;
- (ix) escrow officer;
- (x) title searcher; or
- (xi) surveyor; and
- (d) other experience with real estate not included in Subsections (a), (b), and (c) ~~above~~.

R592-8-4. Delegation of Authority.

The Commission hereby grants to the commissioner its preliminary concurrence ~~to the~~ for approval or denial of a request for an attorney exemption ~~requested by an attorney pursuant to~~ under Section 31A-23a-204 ~~to the Utah Insurance Commissioner~~.

R592-8-5. Request for Exemption Process.

- (1) An individual title licensee, who is an attorney ~~as defined in this rule desiring to obtain~~ seeking an agency title insurance producer license under ~~the exemption provided in~~ Subsection 31A-23[A]a-204(1)(c), shall make a request for exemption to the Commissioner in accordance with the requirements of this subsection.
- ~~(2) The applicant will~~ submit a letter addressed to the Commission:
- (a) requesting an exemption from the licensing time period requirements in Subsection 31A-23a-204(1)(a)(4); and
 - (b) providing the following information:
 - (i) the applicant's name, mailing address, ~~and~~ email address, telephone number, and title license number;
 - (ii) a description of the applicant's real estate experience; and
 - (iii) a statement explaining why the applicant feels ~~that~~ the experience qualifies the applicant for the exemption.
- ~~(3)2~~ The [C]ommissioner ~~will~~ shall review the request for exemption within five business days of its receipt, and:
- (a) request additional information from the applicant, if necessary;
 - (b) preliminarily approve the request for exemption; or
 - (c) preliminarily disapprove the request for exemption.
- ~~(4)3~~ The [C]ommissioner ~~will~~ shall report monthly to the Commission ~~all~~ any preliminarily approved or denied requests for exemption received and reviewed ~~since the previous Commission meeting~~.
- ~~(5)4~~ The Commission ~~will~~ shall concur or ~~non~~ not concur with the [C]ommissioner's preliminary approval or denial of a request for exemption.
- ~~(6)5~~ If the [C]ommissioner's preliminary denial of a request for exemption is concurred with by the Commission, the [C]ommissioner will:
- (a) notify the applicant of the denial; and

(b) inform the applicant of the applicant's right to a hearing.

([7]6) If the ~~[Commissioner's]~~Commission concurs with the commissioner's preliminary approval of a request for exemption~~is concurred with by the Commission~~, the ~~[C]~~commissioner will expeditiously notify the applicant to submit an electronic license application and pay ~~the any~~ required fee~~s and~~ or assessment~~s~~.

([8]7) If the Commission does not concur with the commissioner's preliminary approval or preliminary denial, the applicant shall be informed of the applicant's right to a hearing.

R592-8-6]- Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R592-8-7. Enforcement Date.

~~The Commission will begin enforcing this rule on the rule's effective date.~~

R592-8-8]. Severability.

~~[If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.]If any provision of this rule, Rule R592-8, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: attorney exemption application process

Date of Enactment or Last Substantive Amendment: 2021~~[March 10, 2014]~~

Notice of Continuation: June 10, 2019

Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-102; 31A-23a-204

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R592-9	Filing ID 53845
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Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room no.:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact person(s):	

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R592-9. Title Insurance Recovery, Education, and Research Fund Assessment Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in an August 9, 2021, meeting by a vote of 5 to 0.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards and to make the language of this rule more clear. The change also removes large sections of this rule because they already properly appear in Rule R590-102, Insurance Department Fee Payment Rule, making their inclusion here duplicative and redundant, and it updates the proposed Section R590-9-7 to use the Department's current language. It does not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add, remove, or change regulations.

B) Local governments:

There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and do not add, remove, or change regulations.

E) Persons other than small businesses, non-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 to any other persons. The changes are clerical in nature and do not add, remove, or change regulations.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. Any affected persons are already required to comply with the provisions of the rule, and the changes do not add, remove, or change regulations.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information**7. 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:**

Section 31A-2-404	Section 31A-41-202	
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Public Notice Information**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 10/01/2021

10. This rule change MAY become effective on: 10/08/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/13/2021
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R592. Insurance, Title and Escrow Commission.**R592-9. Assessment for Title Insurance Recovery, Education, and Research Fund[Assessment Rule].****R592-9-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Sections 31A-2-404 and 31A-41-202[which requires the Title and Escrow Commission to determine the amount of required assessments from individual title insurance producers and agency title

insurance producers to provide funding for the recovery, education, and research fund].

R592-9-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) ~~[to]~~ establish the amount[s] for an individual title insurance producer assessment[s]; and

(b) ~~[to]~~ establish the amount[s] for an agency title insurance producer assessment[s].

(2) This rule applies to:

(a) an agency title insurance producer; and

(b) an individual title insurance producer[all individual title insurance producer applicants and licensees and all agency title insurance producer license applicants and licensees and any unlicensed person doing the business of title insurance].

R592-9-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-41-102.

R592-9-4. Establishing Assessment Amounts.

(1) The Commission adopts the Annual Title Recovery, Education, and Research Fund assessment set forth in Rule R590-102, Insurance Department Fee Payment Rule[Prior to July 1 of each year, the Commission shall establish the assessment amounts for:

(a) an initial producer license for an individual title insurance producer applicant;

(b) a renewal license for a licensed individual title insurance producer;

(c) an initial agency license for a title insurance agency applicant; and

(d) an annual assessment for a licensed agency title insurance producer.

(2) Annual licensed agency title insurance producer assessment amounts shall be established for the following four premium bands of title insurance premiums:

(a) Band A: \$0 to \$1 million;

(b) Band B: more than \$1 million to \$10 million;

(c) Band C: more than \$10 million to \$20 million; and

(d) Band D: more than \$20 million.

(3) The individual title insurance producer and agency title insurance producer assessment amounts shall be adopted by motion of the Commission.

(4) The adopted assessment amounts shall be posted on the Insurance Department's web page].

R592-9-4[5]. Individual Title Insurance Producer Assessment.

(1) An individual title insurance producer assessment shall be paid in accordance with Rule R590-102, Insurance Department Fee Payment Rule[Beginning July 1, 2009:

(a) A person applying for an initial individual title insurance producer license or a licensed individual title insurance producer adding an additional title insurance line of authority shall pay an assessment not to exceed \$20.00 at the time of application; and

(b) a licensee renewing an individual title insurance producer license shall pay an assessment not to exceed \$20.00 at the time of application.

(2) An individual title insurance producer assessment will be paid in accordance with R590-102, Insurance Department Fee Payment Rule].

R592-9-5[6]. Agency Title Insurance [Agency—]Producer Assessment.

(1) An agency title insurance producer assessment shall be paid in accordance with Rule R590-102, Insurance Department Fee Payment Rule[Beginning July 1, 2008, a person applying for an initial title insurance agency license shall pay an assessment of \$1,000 at the time of application.

(2) Beginning January 1, 2009, a licensed title insurance agency shall pay an annual assessment.

(3) An agency's placement in one of the four assessment bands will be determined by an agency's title insurance written premium volume for the preceding calendar year as of December 31 of that calendar year.

(4) An agency title insurance producer's annual assessment will be paid in accordance with R590-102, Insurance Department Fee Payment Rule.

R592-9-6. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R592-9-7. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date].

R592-9-8[7]. Severability.

[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]If any provision of this rule, Rule R592-9, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: title insurance recovery assessment

Date of Enactment or Last Substantive Amendment: 2021[June 25, 2009]

Notice of Continuation: June 10, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-308; 31A-41-202

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R592-10

Filing ID
53843

Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room no.:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W

NOTICES OF PROPOSED RULES

City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R592-10. Title Insurance Regulation Assessment for Agency Title Insurance Producers and Title Insurers
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in an August 9, 2021, meeting by a vote of 5 to 0.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards and to make the language of this rule more clear. It also updates the proposed Section R592-10-8 to use the Department's current language. It does not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add, remove, or change regulations.
B) Local governments:
There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add, remove, or change regulations.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and do not add, remove, or change regulations.
E) Persons other than small businesses, non-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 to any other persons. The changes are clerical in nature and do not add, remove, or change regulations.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for any affected persons. Any affected persons are already required to comply with the provisions of the rule, and the changes do not add, remove, or change regulations.
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. 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 31A-2-404(2)(d)	Subsection 31A-23a-415(2)(d)	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:	10/08/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/13/2021
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R592. Insurance, Title and Escrow Commission.

R592-10. [Title Insurance Regulation] Assessment for the Title Licensee Enforcement Restricted Account [Agency Title Insurance Producers and Title Insurers].

R592-10-1. Authority.

This rule is promulgated by the Title and Escrow Commission [(Commission)] pursuant to Subsections 31A-2-404(2)(d) and 31A-23a-415(2)(d):

_____ (1) ~~31A-2-404(2)(d) which requires the Commission to determine by rule the assessment required by 31A-23a-415; and~~

_____ (2) ~~31A-23a-415(2)(d) which requires the Commission to establish the amount of costs and expenses that will be covered by the assessment].~~

R592-10-2. Purpose and Scope.

(1) The purpose[s] of this rule [are] is to:

_____ (a) ~~determine the assessment on a title insurer and an agency title insurance producer;~~

_____ (b) ~~establish the [categories of] costs and expenses covered by the assessment [incurred by the department in administering, investigating and enforcing the provisions of Title 31A, Chapter 23a, Parts IV and V related to the marketing of title insurance and the audits of agency title insurance producers];~~

_____ (b)(c) ~~require [the reporting by] a title insurer and an agency title insurance producer [and a title insurer of] to report the mailing address and physical location of each office in each county where the title insurer or agency title insurance producer [or title insurer] maintains an office;~~

_____ (e)(d) ~~[establish a calculation method for the calculation of] calculate the number of title insurer or agency title insurance producer [or title insurer] offices; and~~

_____ (e)(e) ~~determine the premium year used in calculating the assessment of title insurers.~~

(2) This rule applies to [all] each title insurer[s] and each agency title insurance producer[s].

R592-10-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-23a-415. Additional terms are defined as follows:

_____ (1) ~~For the purpose of the rule the Commission adopts the definitions as set forth in Sections 31A-1-301, 31A-2-402, and the following:~~

_____ (a) "Office" means each physical location of a title insurer or an agency title insurance producer ~~[or a title insurer]~~ in a county.

_____ (b) "Office" includes any physical location that is open and available to the public.

R592-10-4. Costs and Expenses.

The ~~[amount of costs and expenses that will be covered by the]~~ assessment ~~[imposed by]~~ under Section 31A-23a-415 covers the cost of ~~[for any fiscal year in which an assessment exists:~~

_____ (1) ~~will be for] a Market Conduct Examiner I, as determined by the department's budget [as and approved by the [Utah State Legislature], including [any approved salary increases or increases in benefits; and~~

_____ (2) ~~will include the following expenses]:~~

_____ (a) ~~1] salary and state paid benefits;~~

_____ (b) ~~2] travel expenses, including daily vehicle expenses;~~

_____ (c) ~~3] computer hardware and software expenses;~~

_____ (d) ~~4] e-commerce expenses;~~

NOTICES OF PROPOSED RULES

- (~~e~~)⁵ wireless communications expenses; and
(~~f~~)⁶ training expenses.

R592-10-5. Office Report.

(1) A title insurer and an agency title insurance producer ~~[and a title insurer]~~ shall submit a completed Office Report Form not later than 30 days after the date a change described ~~[below]~~ in this subsection occurs in a county where the title insurer or agency title insurance producer ~~[or title insurer]~~ maintains an office:

- (a) the opening or closing of an office; or
(b) a change of address of an office.

(2) An Office Report Form shall be submitted electronically via email to licensing.uid@utah.gov.

(3) The department's Office Report Form ~~[, which]~~ is available on the department's website, <https://insurance.utah.gov>, ~~shall be used to report changes in offices~~.

(a) An actual copy of the form may be used or may be adapted to a particular word processing system.

(b) If adapted, the content, size, font, and format must be similar.

R592-10-6. Calculation Method for the Calculation of the Number of Agency Title Insurance Producer Offices.

~~[(1)]~~⁴ All offices reported ~~[in accordance with]~~ under Section R592-10-5 are used to calculate the ~~[will be included in the calculation of the title insurance]~~ assessment.

~~[(2)]~~⁵ An annual assessment calculation for a title insurer or an agency title insurance producer ~~[or title insurer that is calculated using]~~ that uses an incorrect number[s] of offices because the number of offices was incorrectly reported will not be recalculated[.]

~~[(3)]~~ An agency title insurance producer or title insurer found to have improperly reported their offices may be subject to penalties in accordance with Section R592-10-9].

R592-10-7~~6~~. Premium Year for Title Insurer Assessment.

~~[(1)]~~ The title insurance assessment ~~[shall be]~~ is calculated using direct premium[s] written during the preceding calendar year ~~and~~ [.]

~~[(2)]~~ The direct premiums written shall be taken from the insurer's annual statements for that year.

R592-10-8~~7~~. Assessment Payment.

(1) An annual assessment shall be paid by the due date on the invoice.

(2) Payments shall be made in accordance with Rule R590-102, Insurance Department Fee Payment Rule.

R592-10-9. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.~~

R592-10-10. Enforcement Date.

~~The commissioner will begin enforcing this rule 45 days from the rule's effective date.~~

R592-10-11~~8~~. Severability.

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity will not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~ If any provision of this rule, Rule R592-10, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: ~~2021~~ November 9, 2018

Notice of Continuation: July 10, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-415

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends October 01, 2021.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through December 30, 2021, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R68-25	Filing ID: 53641

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Cody James	801-982-2376	Codyjames@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-25. Industrial Hemp Program for Processors
3. Publication date of previous proposed rule or change in proposed rule:
07/15/2021
4. Reason for this change (Why is the agency submitting this filing?):
Based on public feedback, the Department of Agriculture and Food (Department) would like to make changes to the transportation requirements that were added with the initial rule filing.
5. Summary of this change (What does this filing do?):
This filing makes changes to Section R68-25-13 to simplify the transportation requirements for industrial hemp material and make them more in line with the requirements in the previous version of the rule. A transportation reporting requirement for the receiving licensee has also been added, based on industry feedback and experience with the Department's management of the program.

(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 15, 2021, issue of the Utah State Bulletin, on page 11. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

6. Aggregate anticipated cost or savings to:
A) State budget:
These changes should not have any impact on the state budget. They do not increase fees or compliance requirements. They simply clarify and simplify the reporting requirements related to the transportation of industrial hemp.
B) Local government:
There should be no impact on local governments because they do not regulate or operate as industrial hemp processors.
C) Small businesses ("small business" means a business employing 1-49 persons):
These changes should not have any impact on small businesses. They do not increase fees or compliance requirements. They simply clarify and simplify the reporting requirements related to the transportation of industrial hemp.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These changes should not have any impact on non-small businesses. They do not increase fees or compliance requirements. They simply clarify and simplify the reporting requirements related to the transportation of industrial hemp.
E) Persons other than small businesses, non-small businesses, or 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):
These changes should not have any impact on other persons. They do not increase fees or compliance requirements. They simply clarify and simplify the reporting requirements related to the transportation of industrial hemp.

F) Compliance costs for affected persons:

The compliance costs for affected persons will not change. The rule changes clarify existing practice and remove reporting requirements put in place with the first filing.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will not have a fiscal impact on businesses. Craig W. Butters, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Butters, has reviewed and approved this fiscal analysis.

Citation Information

7. 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		
4-41-103(4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	10/01/2021
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10. This rule change MAY become effective on:	10/08/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Butters, Commissioner	Date:	08/12/2021
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R68. Agriculture and Food, Plant Industry.**R68-25. Industrial Hemp Program for Processors.****R68-25-1. Authority and Purpose.**

Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the processing and handling of industrial hemp.

R68-25-2. Definitions.

- 1) "CBD" means cannabidiol (CAS #13956-29-1).
- 2) "Cannabinoid" means any:
 - a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or
 - b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.
- 3) "Cannabinoid concentrate" means:
 - a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and
 - b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Final product" means a reasonably homogenous industrial hemp product in its final packaged form created using the same standard operating procedures and the same formulation.

6) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

7) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period of time.

8) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.

9) "Processor" means a person licensed by the department[~~to~~] process industrial hemp or a material derived from industrial hemp.

10) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp or hemp products.

11) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.

12) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(iii)(AA).

13) "Third-party laboratory" means a laboratory that has no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-25-3. Industrial Hemp Processor Licenses.

1) The department shall issue the following industrial hemp processor licenses:

a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell raw plant material or raw concentrate, and manufacture finished industrial hemp product;[-]

b) a Tier Two license, which allows a licensee to receive raw plant material and extract it into raw concentrate to store, sell, or transport;

c) a Tier Three license, which allows a licensee to receive, store, package, and label finished industrial hemp product; and

d) a Tier Four license, which allows a licensee to receive, store, transport, or sell raw concentrate, raw plant material, or finished industrial hemp product, and perform minimal processing for [the purpose of] storage only.

2) A Tier One processor may accept industrial hemp derived cannabinoid concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier two processor.

R68-25-4. Application Requirements.

1) The applicant shall be a minimum of 18 years old.

2) The applicant is not eligible to receive a license if they have:

a) been convicted of a felony or its equivalent; or

b) been convicted of a drug-related misdemeanor within the last ten years.

3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

a) a complete application form provided by the

department;

b) a physical description of the processing facility;

c) a plan review of the building, facilities, and equipment;

d) a photographic aerial map and street address for each building or site where industrial hemp will be processed, handled, or stored;

e) the planned source of industrial hemp material;

f) a statement of the intended end use or disposal for each part of the industrial hemp plant and hemp material; and

g) a research plan.

4) An applicant shall submit a nationwide criminal history from the FBI completed within three months of their application.

5) The applicant shall submit a fee as approved by the legislature in the fee schedule.

6) The department shall deny any applicant who does not submit the required information.

7) Each applicant for a Tier one, Tier Two, or Tier Three license shall be required to register as a food establishment under Section 4-5-301 pursuant to the requirements of Section R68-25-7.

R68-25-5. Processing Facility Restrictions.

1) A licensee shall not process or store leaf or floral material from industrial hemp in any structure that is used for residential purposes.

2) A licensee shall not process or store industrial hemp within 1,000 feet of a school or a public recreational area.

3) A licensee shall not process or handle industrial hemp or hemp material from any person who is not licensed by the department or from a person outside the state who is not authorized by the laws of that state.

4) A licensee shall not permit a person under the age of 18 to handle living plants, viable plant parts, viable seeds, leaf material, or floral material.

5) A licensee shall submit a nationwide criminal history from the FBI to the department for each employee with access to material which contains, or may contain, over 0.3% THC within the first month of employment.

R68-25-6. Extraction Methods.

1) In addition to the requirements of Section R68-25-4, an applicant seeking to engage in the extraction of cannabinoid concentrate from industrial hemp shall submit to the department a detailed description of the proposed extraction method.

2) The applicant shall describe the proposed process for the removal of any harmful solvents added during the extraction process, if applicable.

3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

4) The department may deny a license for methods that pose a significant risk to public health and safety.

5) The department shall not allow the use of butane or propane in any extraction method.

R68-25-7. Processing Practices.

1) The department incorporates by reference 21 CFR 111, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a CBD product intended for human consumption.

2) The department incorporates by reference 21 CFR 117, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Human Food for a licensee engaged in processing non-cannabinoid products for human or animal consumption.

3) Processors shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and any other applicable state laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

R68-25-8. Required Reports.

1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.

2) A licensee shall submit a report of the results of the research as set forth in the research plan by December 31st.

3) The failure to submit a timely completed form may result in the denial of a renewal license.

R68-25-9. Additional Records.

1) The licensee shall keep records of receipt for any industrial hemp material obtained including:

- a) the date of receipt;
- b) quantity received;
- c) an identifying lot number created by the licensee; and
- d) the seller's information including:
 - i) the seller's department license number;
 - ii) seller's contact information; and
 - iii) the address of the facility or growing area from which the industrial hemp material was shipped.

2) The licensee shall keep records that include the following information for each batch of industrial hemp material processed[?]:

- a) the date of processing;
- b) the lot number of the material;
- c) the amount processed;
- d) the type of processing; and
- e) any lab test conducted on the industrial hemp material

or product during the processing.

3) The licensee shall keep records of any tests conducted with the identifying lot number.

4) A licensee processing a cannabinoid product shall keep records required by 21 CFR 111 including:

- a) written procedures for preventing microbial contamination;
- b) documentation of training of employees;
- c) cleaning logs of equipment;
- d) procedures for cleaning the physical facility;
- e) documentation of your qualification of supplier; and
- f) documentation of calibration of machinery.

5) A licensee processing a non-cannabinoid product shall keep records as required by 21 CFR 117 including:

- a) written procedures for preventing microbial contamination;
- b) documentation of training of employees;
- c) cleaning logs of equipment;
- d) procedures for cleaning the physical facility; and
- e) documentation of calibration of machinery.

6) Records shall be maintained for a minimum of three years.

7) Records are subject to review by department officials at the time of inspection or upon request.

R68-25-10. Testing.

1) For industrial hemp products that will be used for human consumption or absorption the product shall be tested for the following before being made available for retail sale:

- a) cannabinoid profile;
- b) solvents;
- c) pesticides;
- d) microbials; and
- e) heavy metals.

2) The testing shall be completed by a third-party laboratory.

3) The department shall conduct random testing of industrial hemp products and materials.

4) The sample taken by the department shall be the official sample.

R68-25-11. Inspections and Sampling.

1) The department shall have complete and unrestricted access to industrial hemp plants, seeds, and materials and ~~and~~ land, buildings, and other structures used to process industrial hemp.

2) Samples of each industrial hemp product may be randomly taken from the facilities by department officials.

3) The department may review records kept in accordance with rule requirements.

4) The department shall notify a licensee of test results greater than 0.3% THC.

5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.

6) Any laboratory test of a final product with a result of 1% THC or greater shall be turned over to the appropriate law enforcement agency and revocation of the processor license shall be immediate.

7) The department shall notify the licensee of any solvents, metals, microbials, or pesticides found during testing.

8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R68-25-12. Storage of Industrial Hemp and Hemp Material.

1) A licensee may store hemp and hemp products provided:

- a) the licensee notifies the department of the location of the storage facility;
- b) the licensee informs the department of the type and amount of the product being stored in the storage facility;
- c) the storage facility is outside of the public view; and
- d) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.

2) A licensee may store a cannabinoid concentrate that exceeds 0.3% THC provided:

- a) the concentrate is kept in a secure room;
- b) the concentrate is kept separate from other hemp products;
- c) access to the concentrate is limited; and

d) a record is kept of the amount of concentrate being stored and when it is being moved.

3) Storage facilities shall be maintained in accordance with the practice adopted in R68-25-7.

4) Storage facilities and records are subject to random inspection by department officials.

R68-25-13. Transportation of Industrial Hemp Material.

1) A licensee may move nonviable hemp product without an industrial hemp transportation permit.

2) An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp, cannabinoid concentrate, or industrial hemp products.

3) The sending licensee shall request an industrial hemp transportation permit on a form provided by the department.

4) Requests for an industrial hemp transportation permit shall be submitted to the department at least five business days prior to movement.

5) An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.

6) The department may deny any application for an industrial hemp transportation permit that is not completed in accordance with this rule.

7) The receiving licensee shall verify the receipt of the industrial hemp on a form provided by the department.

8) A licensee extracting cannabinoids from industrial hemp shall not transport any product until the department has been notified of the THC test results for the product being transported.

~~1) A printed transport manifest shall accompany each transport of any industrial hemp material within the possession of an industrial hemp processor.~~

~~2) The manifest shall contain the following information:~~

~~a) the address and license number of the departure location;~~

~~b) the physical address and license number of the receiving location;~~

~~c) the strain name, quantities by weight, and unique identification numbers of each industrial hemp material to be transported;~~

~~d) date and time of departure;~~

~~e) estimated date and time of arrival; and~~

~~f) name and signature of each agent accompanying the industrial hemp material.~~

~~3) The transport manifest may not be voided or changed after departing from the original industrial hemp licensee.~~

~~4) A copy of the transport manifest shall be given to the receiving industrial hemp licensee.~~

~~5) The receiving industrial hemp licensee shall ensure that the industrial hemp material received is as described in the transport manifest and shall:~~

~~a) record the amounts received for each strain; and~~

~~b) document any differences between the quantity specified in the transport manifest and the quantities recorded.~~

~~6) During transportation, industrial hemp material shall be:~~

~~a) shielded from the public view;~~

~~b) secured; and~~

~~c) temperature controlled if perishable.~~

~~7) An industrial hemp licensee shall contact the department within 24 hours if a vehicle transporting industrial hemp material is involved in an accident that involves product loss.~~

~~8) Only the registered agents of an industrial hemp licensee may occupy a transporting vehicle.~~

~~9) If a cannabinoid concentrate with a THC concentration above 0.3% is transported to a Tier One industrial hemp processor, a copy of the transport manifest shall be provided to the department within three days.]~~

R68-25-14. Restriction on the Sale and Transfer of Industrial Hemp Material.

1) A licensee shall not sell or transfer living plants, viable plants, viable seed, leaf material, or floral material to any person not licensed by the department.

2) A licensee shall not sell or transfer living plants, viable seed, leaf material, or floral material to any person outside the state who is not authorized by the laws of that state.

3) A licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the product's THC level is less than 0.3%.

R68-25-15. Renewal.

1) A licensee shall resubmit the documents required in Section R68-25-4, with updated information, before December 31st of the current year.

2) The department may deny a renewal for an incomplete application.

3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-25-16. Violation.

1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department as listed on the license or within 1,000 feet of a school or public recreational area.

2) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.

3) A licensee shall not allow unsupervised public access to hemp processing facilities.

4) It is a violation to employ a person under the age of 18 in the processing or handling of industrial hemp or its products.

5) It is a violation to sell a product to the general public in violation of this section or state laws governing the final product.

6) It is a violation to add cannabinoids to a food product.

7) It is a violation to process raw concentrate without an industrial hemp processor license.

8) It is a violation to fail to keep records required by this section.

9) It is a violation for a licensee to allow an employee that has been convicted of a felony or its equivalent access to hemp material or product which contains over 0.3% THC or has the potential to contain over 0.3% THC.

10) It is a violation for a licensee to allow an employee that has been convicted of a drug-related misdemeanor within the last ten years access to hemp material or product which contains over 0.3% THC or has the potential to contain over 0.3% THC.

11) It is a violation to possess cannabinoid concentrate without an industrial hemp processing license.

KEY: cannabidiol, hemp products, hemp extraction, hemp oil
Date of Enactment or Last Substantive Amendment: 2021
Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R23-32	Filing ID: 53632
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Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room no.:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141160	
City, state and zip:	Salt Lake City, UT 84114-1160	
Contact person(s):		
Name:	Phone:	Email:
Jim Russell	801-957-7191	jimrussell@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:	R23-32. Rules of Procedure for Conduct of Utah State Building Board Meetings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	

Subsection 63A-5-102(2) allows the Building Board to "adopt rules of procedure for the conduct of its meetings." Subsection 63A-5-103(1)(e) grants the Building Board administrative rulemaking authority.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no public comments during or since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued to allow the Building Board to continue to have meetings to conduct Building Board business, as mandated by Utah law.

Agency Authorization Information

Agency head or designee, and title:	Joe Burgess, State Building Board Chair	Date:	08/10/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R25-2	Filing ID: 53484
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Agency Information

1. Department:	Government Operations
Agency:	Finance
Room no.:	Floor 3

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141031	
City, state and zip:	Salt Lake City, UT 84114-1031	
Contact person(s):		
Name:	Phone:	Email:
Janica Gines	801-957-7727	jmgines@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R25-2. Finance Adjudicative Proceedings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Pursuant to Section 63G-4-203, if an agency enacts rules designating one or more categories of adjudicative proceedings as informal adjudicative proceedings, the agency shall, by rule, prescribe procedures for informal adjudicative proceedings.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received in the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The legislative direction for this rule still exists. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Janica Gines, Director	Date:	07/20/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-15	Filing No. 50261
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Agency Information

1. Department:	Commerce
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Agency:	Occupational and Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Lynne Anthony	801-530-6179	lanthony@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-15. Health Facility Administrator Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 15, provides for the licensure and regulation of health facility administrators. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Health Facility Administrators Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 15, with respect to health facility administrators.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Since this rule was last reviewed in August 2016, the rule has been amended one time. The Division did receive a November 20, 2018, email from Randy Lindner/National Association of Long Term Care Administrators Board in which he suggested one word change in Section R156-15-308 of the proposed rule. As a result of Mr. Lindner's request, the Division filed a nonsubstantative change on December 10, 2018, under Filing No. 43433. The Division has received no other written comments with respect to this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 15. This rule should also be continued as it provides information to ensure applicants for

licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	05/21/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-71	Filing No. 50308
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Agency Information

1. Department:	Commerce		
Agency:	Occupational and Professional Licensing		
Building:	Heber M Wells Building		
Street address:	160 E 300 S		
City, state, zip:	Salt Lake City, UT 84111-2316		
Mailing address:	PO Box 146741		
City, state, zip:	Salt Lake City, UT 84114-6741		
Contact person(s):			
Name:	Phone:	Email:	
Larry Marx	801-530-6254	lmarx@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R156-71. Naturopathic Physician Practice Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 71, provides for the licensure and regulation of naturopathic physicians. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Naturopathic Physicians Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 71, with respect to naturopathic physicians.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in August 2016, the rule has been amended one time. The Division has received no written comments with respect to this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 71. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Director	Date:	03/02/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R307-124	Filing ID: 50574
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Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	P.O. Box 144820	
City, state and zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Mat Carlile	385-306-3565	mcarlile@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R307-124. General Requirements: Conversion to Alternative Fuel Grant Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Section 19-2-304, which establishes the requirements, procedures, criteria, and definitions used to determine eligibility for the Conversion to Alternative Fuel Grant Program. Rule R307-124 sets the minimum requirements for the application and the awarding of funds that are designated for the Conversion to Alternative Fuel Grant Program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments received during and since the rule was enacted from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R307-124 should be continued because it provides necessary guidance in the administration of the Conversion to Alternative Fuel Grant Program.

Agency Authorization Information

Agency head or desinee, and title:	Bryce C. Bird, Director	Date:	08/04/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R428-1	Filing ID:	53300
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Agency Information

1. Department:	Health
Agency:	Center for Health Data, Health Care Statistics
Room no.:	106
Building:	Cannon Health Bldg
Street address:	288 N. 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO 144004
City, state and zip:	Salt Lake City, UT 84114-4004

Contact person(s):

Name:	Phone:	Email:
Carl Letamendi	801-538-7052	cletamendi@utah.gov
Stephanie Saperstein	801-538-6430	stephaniesaperstein@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R428-1. Health Data Plan and Incorporated Documents
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is required by Subsection 26-33a-104(2) which reads in part: "The committee shall: (a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan..."
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Office of Health Care Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the Office. On July 20, 2021, the Health Data Committee voted, with unanimous consent, to continue Rule R428-1.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R428-1 establishes the basic operational requirement for the Health Data Committee (HDC) to manage the data collection, analysis, and distribution; that is, to adopt a health data plan through a public process. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or desinee, and title:	Nate Checketts, Executive Director	Date:	08/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R428-2	Filing ID: 51037

Agency Information

1. Department:	Health	
Agency:	Center for Health Data, Health Care Statistics	
Room no.:	106	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114-4004	
Contact person(s):		
Name:	Phone:	Email:
Carl Letamendi	801-538-7052	cletamendi@utah.gov
Stephanie Saperstein	801-538-6430	stephaniesaperstein@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R428-2. Health Data Authority Standards for Health Data
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Section 26-33a-104, which provides for data collection activities and rulemaking to carry out these activities.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Office of Health Care Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the Office. On July 20, 2021, the Health Data Committee voted, with unanimous consent, to continue Rule R428-2.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R428-2 establishes the reporting standards which apply to data suppliers, and the classification, control, use, and release of data received by the Health Data Committee pursuant to Title 26, Chapter 33a. Continuation of Rule R428-2 will assure the data definitions, standards, security, and disclosure under the Health Data Authority Act are consistent across all data suppliers, data users, and public inquiries. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R428-5	Filing ID: 51042
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Agency Information

Agency information:

1. Department:	Health	
Agency:	Center for Health Data, Health Care Statistics	
Room no.:	106	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114-4004	
Contact person(s):		
Name:	Phone:	Email:
Carl Letamendi	801-538-7052	cletamendi@utah.gov
Stephanie Saperstein	801-538-6430	stephaniesaperstein@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R428-5. Appeal and Adjudicative Proceedings

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is allowed by Section 26-33a-104 and Title 63, Chapter 46b, the Utah Administrative Procedures Act. It is necessary to clarify administrative adjudicative procedures under the Utah Administrative Procedures Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Office of Health Care Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the Office. On July 20, 2021, the Health Data Committee voted, with unanimous consent, to continue Rule R428-5.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R428-5 outlines the formal adjudicative procedures requirements for administrative adjudicative actions of the Health Data Committee (HDC). The Utah Administrative Procedures Act allows administrative agencies to adopt certain procedures by rule if the agency conducts formal administrative adjudicative proceedings. This rule provides appropriate administrative procedures to handle a disagreement by the HDC, if any, in data collection activities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R428-10	Filing ID: 51040
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Agency Information

1. Department:	Health
Agency:	Center for Health Data, Health Care Statistics
Room no.:	106
Building:	Cannon Health Bldg
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO 144004

City, state and zip:	Salt Lake City, UT 84114-4004	
Contact person(s):		
Name:	Phone:	Email:
Carl Letamendi	801-538-7052	cletamendi@utah.gov
Stephanie Saperstein	801-538-6430	stephaniesaperstein@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R428-10. Health Data Authority Healthcare Facility Data Reporting Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by Subsection 26-33a-104(3), which states "In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may adopt rules to carry out the provisions of this chapter."

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Office of Health Care Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the Office. On July 20, 2021, the Health Data Committee voted, with unanimous consent, to continue Rule R428-10.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R428-10 establishes the reporting standards and procedures for discharge and encounter data submitted by licensed hospitals, ambulatory surgery centers and emergency departments in the . Continuation of the rule will assure that the continuously carries out its activities in developing and using the statewide healthcare facility database to improve health care cost, quality, and access. There is widespread use of nearly 30 years of data within many programs at the health department for planning and reports on hospitalization trends. Also, public use data files have been purchased by many individuals in the healthcare industry, researchers, and the Federal Agency

for Healthcare Research and Quality. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R428-12	Filing ID:	51038
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Agency Information

1. Department:	Health	
Agency:	Center for Health Data, Health Care Statistics	
Room no.:	106	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO 144004	
City, state and zip:	Salt Lake City, UT 84114-4004	
Contact person(s):		
Name:	Phone:	Email:
Carl Letamendi	801-538-7052	cletamendi@utah.gov
Stephanie Saperstein	801-538-6430	stephaniesaperstein@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R428-12. Health Data Authority Survey of Enrollees in Health Plans
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Subsection 26-33a-104(3), which states "In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with

the concurrence of the department, may adopt rules to carry out the provisions of this chapter."

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Office of Health Care Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquiries have been made and responded to by the Office. On July 20, 2021, the Health Data Committee voted, with unanimous consent, to continue Rule R428-12.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R428-12 allows monitoring of satisfaction with the quality and access of care provided by participating Utah health plans. Continuation of this rule will assure that health plans are monitored using nationally-recognized standards. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/13/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-200	Filing ID:	51077
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Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	

Please address questions regarding information on this notice to the agency.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

General Information

2. Rule catchline:
R432-200. Small Health Care Facility (Four to Sixteen Beds)
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to provide regulations for a small healthcare facility (four to sixteen beds) to allow services at varying levels of health care intensity to be provided in structures that depart from the traditional institutional setting.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments from any party regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Health care may be delivered in a less restrictive, residential, or home-like setting. There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-300	Filing ID:	51081
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Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Licensing
Room no.:	4th Floor
Building:	Cannon Health Bldg
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144103
City, state and zip:	Salt Lake City, UT 84114-4103

Contact person(s):

Name:	Phone:	Email:
Kristi Grimes	385-214-9187	
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-300. Small Health Care Facility - Type N
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to establish standards for protection of the health, safety, and welfare of individuals who receive nursing care in privately-owned homes.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments from any party regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-650	Filing ID:	51082
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Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Licensing
Room no.:	4th Floor
Building:	Cannon Health Bldg
Street address:	288 N 1460 W

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-650. End Stage Renal Disease Facility Rules
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments from any party regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule sets standards for the operation and maintenance for End Stage Renal Disease (ESRD) facilities in order to provide safe and effective services. There are facilities currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-700	Filing ID:	51091
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Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-700. Home Health Agency Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments from any party regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule sets standards for the operation of home health agencies. There are agencies currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-725	Filing ID: 53420
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Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	

Please address questions regarding information on this notice to the agency.

General Information**2. Rule catchline:**

R432-725. Personal Care Agency Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no written comments from any party regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule sets standards for the operation of personal care agencies. There are agencies currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-750	Filing ID: 51085
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Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone:	Email:
Kristi Grimes	385-214-9187	

Please address questions regarding information on this notice to the agency.

General Information**2. Rule catchline:**

R432-750. Hospice Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no written comments from any party regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule sets standards for the operation of hospice agencies. There are agencies currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R432-950	Filing ID:	51104
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Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Licensing	
Room no.:	4th Floor	
Building:	Cannon Health Bldg	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact person(s):		
Name:	Phone: Email:	
Kristi Grimes	385-214-9187	
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R432-950. Mammography Quality Assurance
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 26, Chapter 21, is the health code that mandates the licensing of health facilities. The purpose of this rule is to promote the public health and welfare through the establishment and enforcement of licensure standards.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no written comments from any party regarding this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule ensures the agency is in compliance with the Mammography Quality Standards Act of 1992. There are agencies currently licensed in this category. The Department of Health agrees with the need to continue this rule.

Agency Authorization Information

Agency head or designee, and title:	Nate Checketts, Executive Director	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-207	Filing ID:	51408
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone: Email:	
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-207. Health Producer Commissions for Small Employer Groups
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3) authorizes the Insurance Commissioner to write rules to implement the provisions of

Title 31A, the Insurance Code. Subsection 31A-30-104(7) authorizes the Insurance Commissioner to establish guidelines relating to the Commission structure for small group health insurance agents in the small employer group market. Commission structure can affect access to health insurance coverage for small employer groups.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule requires that Commission schedules not be set up by insurers to restrict or hinder agents from selling to small business owners. This rule is important because it eliminates the pressure on agents from insurers regarding the sale of guaranteed issue or renewal policies to small business owners. In this way, small employers are guaranteed health insurance coverage. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-210	Filing ID: 51406
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R590-210. Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 31A-2-201 authorizes the Insurance Commissioner to implement the provisions of Title 31A, the Insurance Code. Subsection 31A-23a-417(3) authorizes the Insurance Commissioner to adopt rules to implement the requirements of Title V, Sections 501 through 505 of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 through 6820). Title V, Section 505 empowers the Insurance Commissioner to enforce Subtitle A of Title V of the Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R590-206 applies to licensees of the Department, and Rule R590-210 exempts certain licensees from the provisions of that rule. Persons or entities that provide warranty or service contracts on consumer goods are required to register with the Department and to provide certain information about their ability to perform under the warranty or service contract. Technically, a registration may be considered a license issued by the Department. Unless those contracts are exempted from this rule, the provider must comply with Rule R590-206.

Without the exemption, the persons or entities providing the warranties or service contracts will experience immediate and substantial costs to comply with Rule R590-206. Without the exemption, they will either be out of compliance or must stop providing the product or provide the product subject to being in violation of this rule. The impact to the public would be immediate and perilous. It would impact the delivery of these products in interstate commerce and result in increased cost to purchasers. It would impact the supply of these products in the market. Warranty and service contract providers are not subject to the Gramm-Leach-Bliley Act.

However, because they are required to register with the Department, they can technically be considered "licensees" of the Department. Without the exemption, they would be subject to Rule R590-206, which applies

only to financial services entities under the Gramm-Leach Bliley Act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R590-237	Filing ID:	52982
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-237. Access to Health Care Providers in Rural Counties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3)(a) authorizes the Insurance Commissioner to implement the provisions of Title 31A, the Insurance Code. Subsection 31A-45-501(8)(c) authorizes the Insurance Commissioner to identify, by rule, counties with a population density of less than 100 people per square mile, independent hospitals, and federally qualified health centers.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance (Department) received one written comment regarding this rule during the past five years. The commenter requested the addition of clarifying language to this rule, which the Department added in a subsequent amendment.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule requires health maintenance organizations (HMO) to provide enrollees in rural areas a notice that includes a list of non-HMO contracted medical providers they can use. This rule is needed to ensure that people living in rural areas have access to adequate health care services. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	08/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R907-66	Filing ID:	52097
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Agency Information

1. Department:	Transportation		
Agency:	Administration		
Room no.:	Administrative Suite, 1st Floor		
Building:	Calvin Rampton		
Street address:	4501 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		
Mailing address:	PO Box 148455		
City, state and zip:	Salt Lake City, UT 84114-8455		
Contact person(s):			
Name:	Phone:	Email:	
Linda Hull	801-965-4253	lhull@utah.gov	
Becky Lewis	801-965-4026	blewis@utah.gov	
James Palmer	801-965-4197	jimpalmer@agutah.gov	
Lori Edwards	801-965-4048	loriedwards@agutah.gov	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Please address questions regarding information on this notice to the agency.

General Information**2. Rule catchline:**

R907-66. Procurement of Consultant Services - Procedures and Contract Administration

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Authority for this rule is under Subsections 63G-6a-106(3)(a) and 72-1-201(1)(h).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Transportation has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule incorporates by reference applicable federal regulations required to receive federal-aid funds for transportation-related projects, i.e., 2 CFR Part 200 and 23 CFR Part 172 for both federal and state-funded projects; matches the federal simplified acquisition threshold in 48 CFR 2.101 for small purchase contracts as allowed by 23 CFR Part 172 and Subsection 63G-6a-506(2); and, adopts a qualifications-based consultant selection process for other professional services in addition to design and engineering-related services. All these functions help the consultant services division to run efficiently and effectively. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, PE, Executive Director	Date:	08/03/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R909-1	Filing ID: 53050
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Agency Information

1. Department:	Transportation
Agency:	Motor Carrier
Room no.:	Administrative Suite, 1st Floor

Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information**2. Rule catchline:**

R909-1. Safety Regulations for Motor Carriers

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 72-9-103(1) requires the Department of Transportation (Department) to regulate motor carrier safety in the state with an administrative rule that includes the components in this rule.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department must continue this rule because Subsection 72-9-103(1), which is still in effect, requires the Department to regulate motor carrier safety with an administrative rule that includes the components included in this rule.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, PE, Executive Director	Date:	07/30/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R926-2	Filing ID: 52129
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Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R926-2. Evaluation of Proposed Additions to or Deletions from the State Highway System
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 72-4-102.5(7)(a) requires the Department of Transportation (Department) to make rules establishing and defining a functional classification of highways for the purpose of implementing Section 72-4-102.5, defining and

designating regionally significant arterial highways, and establishing an access management policy consistent with the functional classification of roadway. This rule satisfies these requirements.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has received no written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule must continue because Subsection 72-4-102.5(7)(a) is still in effect.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, PE, Executive Director	Date:	07/30/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R926-3	Filing ID: 52131
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Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R926-3. Class B and Class C Road Funds
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 72-2-109(1) requires the Department of Transportation (Department) to "make rules providing for uniform accounting of funds to be expended upon class B and C roads as required by the federal government under Title 23, United States Code Annotated, relating to federal aid for highway purposes together with all amendatory acts." This rule satisfies that statutory requirement.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department must continue this rule. Subsection 72-2-109(1) requires the Department to maintain this rule, and it includes procedures the Department must follow to distribute Class B and C road funds to counties and municipalities.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Bracerias, PE, Executive Director	Date:	08/03/2021
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 53550 (Amendment) R68-27: Cannabis Cultivation
Published: 06/15/2021
Effective: 08/09/2021

No. 53566 (Amendment) R68-28: Cannabis Processing
Published: 07/01/2021
Effective: 08/09/2021

No. 53565 (Amendment) R68-32: Sale and Transfer of
Industrial Hemp Waste Material to Medical Cannabis
Cultivators
Published: 07/01/2021
Effective: 08/09/2021

Capitol Preservation Board (State)

Administration

No. 53560 (Amendment) R131-3: Use of Magnetometers
on Capitol Hill
Published: 06/15/2021
Effective: 08/04/2021

Education

Administration

No. 53595 (Amendment) R277-309: Appropriate Licensing
and Assignment of Teachers
Published: 07/01/2021
Effective: 08/12/2021

No. 53748 (Amendment) R277-317: Incentives for National
Board Certification
Published: 06/01/2021
Effective: 08/12/2021

No. 53596 (New Rule) R277-328: Educational Equity in
Schools
Published: 07/01/2021
Effective: 08/09/2021

No. 53645 (Repeal) R277-503: Licensing Routes
Published: 07/15/2021
Effective: 08/25/2021

No. 53597 (Amendment) R277-601: Standards for Utah
School Buses and Operations
Published: 07/01/2021
Effective: 08/12/2021

No. 53644 (Amendment) R277-605: Coaching Standards
and Athletic Clinics
Published: 07/15/2021
Effective: 08/25/2021

No. 53646 (Amendment) R277-607: Absenteeism and
Truancy Prevention
Published: 07/15/2021
Effective: 08/25/2021

No. 53598 (Amendment) R277-607: Absenteeism and
Truancy Prevention
Published: 07/01/2021
Effective: 08/12/2021

No. 53647 (Amendment) R277-609: Standards for LEA
Discipline Plans and Emergency Safety Interventions
Published: 07/15/2021
Effective: 08/25/2021

No. 53599 (Amendment) R277-700: The Elementary and
Secondary School General Core
Published: 07/01/2021
Effective: 08/12/2021

No. 53600 (Amendment) R277-920: School Improvement -
Implementation of the School Turnaround and Leadership
Development Act
Published: 07/01/2021
Effective: 08/12/2021

NOTICES OF RULE EFFECTIVE DATES

No. 53601 (Amendment) R277-925: Effective Teachers in High Poverty Schools Incentive Program
Published: 07/01/2021
Effective: 08/12/2021

No. 53651 (New Rule) R277-930: English Language Learner Software
Published: 07/15/2021
Effective: 08/25/2021

Health

Administration

No. 53445 (Repeal) R380-200: Patient Safety Surveillance and Improvement Program (PSSIP)
Published: 06/15/2021
Effective: 08/18/2021

No. 53444 (Repeal) R380-210: Health Care Facility Patient Safety Program
Published: 06/15/2021
Effective: 08/18/2021

Disease Control and Prevention, Health Promotion

No. 53435 (Amendment) R384-100: Cancer Reporting Rule
Published: 06/01/2021
Effective: 08/02/2021

No. 53559 (Amendment) R384-415: Electronic Cigarette Substance Standards
Published: 06/15/2021
Effective: 09/09/2021

Health Care Financing, Coverage and Reimbursement Policy
No. 53604 (Amendment) R414-1: Withholding of Payments
Published: 07/01/2021
Effective: 08/16/2021

No. 53579 (Amendment) R414-2a-7: Limitations
Published: 07/01/2021
Effective: 08/13/2021

Patient Safety Program

No. 53439 (New Rule) R429-1: Patient Safety Surveillance and Improvement Program (PSSIP)
Published: 06/15/2021
Effective: 08/18/2021

No. 53440 (New Rule) R429-2: Health Care Facility Patient Safety Program
Published: 06/15/2021
Effective: 08/18/2021

No. 53441 (New Rule) R429-3: Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting
Published: 06/15/2021
Effective: 08/18/2021

Family Health and Preparedness, Licensing
No. 53605 (Amendment) R432-30: Adjudicative Procedure
Published: 07/01/2021
Effective: 08/12/2021

No. 53420 (Amendment) R432-725-4: Personal Care Agency Rule
Published: 05/15/2021
Effective: 08/12/2021

Family Health and Preparedness, Primary Care and Rural Health

No. 53443 (Repeal) R434-150: Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting
Published: 06/15/2021
Effective: 08/14/2021

Center for Health Data, Vital Records and Statistics

No. 53434 (Repeal and Reenact) R436-18: Adoption Program Procedures, Form Content, and Donations
Published: 06/01/2021
Effective: 08/03/2021

Higher Education (Utah Board of)

Administration

No. 53603 (Amendment) R765-431: State Authorization Reciprocity Agreement Rule
Published: 07/01/2021
Effective: 08/19/2021

No. 53591 (Amendment) R765-605: Higher Education Success Stipend Program
Published: 07/01/2021
Effective: 08/19/2021

No. 53592 (Amendment) R765-613: Public Safety Officer Career Advancement Reimbursement (POSCAR)
Published: 07/01/2021
Effective: 08/19/2021

Human Services

Administration

No. 53387 (New Rule) R495-830: Qualifications for Forensic Evaluator
Published: 05/01/2021
Effective: 08/12/2021

Insurance

Title and Escrow Commission

No. 53653 (Amendment) R592-1: Title Insurance Licensing
Published: 07/15/2021
Effective: 08/23/2021

No. 53654 (Amendment) R592-5: Title Insurance Product or Service Approval for a Dual Licensed Title Licensee
Published: 07/15/2021
Effective: 08/23/2021

No. 53655 (Amendment) R592-6: Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business
Published: 07/15/2021
Effective: 08/23/2021

Natural Resources

Wildlife Resources

No. 53588 (Amendment) R657-6: Taking Upland Game
Published: 07/01/2021
Effective: 08/09/2021

No. 53636 (Amendment) R657-9: Taking Waterfowl, Wilson's Snipe and Coot
Published: 07/15/2021
Effective: 08/23/2021

No. 53589 (Amendment) R657-39: Wildlife Board and Regional Advisory Councils
Published: 07/01/2021
Effective: 08/09/2021

Navajo Trust Fund

Trustees

No. 53472 (New Rule) R661-24: Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program
Published: 06/01/2021
Effective: 08/09/2021

No. 53473 (New Rule) R661-25: Utah Navajo Trust Fund Housing Projects Policy
Published: 06/01/2021
Effective: 08/09/2021

Public Safety

Administration

No. 53556 (Amendment) R698-8: Local Public Safety and Firefighter Surviving Spouse Trust Fund
Published: 06/15/2021
Effective: 08/04/2021

Highway Patrol

No. 53703 (New Rule) R714-164: School Bus Inspection, Maintenance and Auditing Requirements
Published: 07/15/2021
Effective: 08/23/2021

No. 53610 (New Rule) R714-560: Technology and Equipment for Officer-Involved Critical Incident Investigation
Published: 07/01/2021
Effective: 08/09/2021

End of the Notices of Rule Effective Dates Section

