

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT

Filed August 17, 2021, 12:00 a.m. through September 01, 2021, 11:59 p.m.

Number 2021-18  
September 15, 2021

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

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

# TABLE OF CONTENTS

|  |          |
|--|----------|
| <b>EXECUTIVE DOCUMENTS .....</b>   | <b>1</b> |
| DECLARING A STATE OF EMERGENCY DUE TO FLOODING (2021-14) .....                   | 1        |
| <b>NOTICES OF PROPOSED RULES .....</b>   | <b>3</b> |
| COMMERCE   |          |
| Real Estate  |          |
| R162-2c. Utah Residential Mortgage Practices and Licensing Rules .....           | 4        |
| R162-2h. Affiliated Title Business Rule .....                                    | 13       |
| ENVIRONMENTAL QUALITY  |          |
| Air Quality  |          |
| R307-121. General Requirements: Clean Air and Efficient Vehicle Tax Credit ..... | 16       |
| GOVERNOR   |          |
| Economic Opportunity   |          |
| R357-29. Rural County Grant Program Rule .....                                   | 19       |
| R357-42. Redeveloping Matching Grant Rule .....                                  | 21       |
| HEALTH   |          |
| Health Care Financing, Coverage and Reimbursement Policy                         |          |
| R414-29. Client Review/Education and Restriction Policy .....                    | 24       |
| HUMAN SERVICES   |          |
| Administration   |          |
| R495-882. Termination of Parental Rights .....                                   | 28       |
| Child and Family Services  |          |
| R512-1. Description of Division Services, Eligibility, and Service Access .....  | 30       |
| R512-204. Child Protective Services, New Caseworker Training .....               | 34       |
| Substance Abuse and Mental Health  |          |
| R525-5. Background Checks .....  | 35       |
| R525-7. Complaints/Suggestions/Concerns .....                                    | 38       |
| Recovery Services  |          |
| R527-3. Definitions .....  | 40       |
| R527-37. Closure Criteria for Support Cases .....                                | 42       |
| R527-253. Collection of Child Support Judgments .....                            | 44       |
| INSURANCE  |          |
| Administration   |          |
| R590-70. Insurance Holding Companies .....                                       | 46       |
| R590-103. Security Deposits .....  | 51       |
| R590-120. Surety Bond Forms .....  | 53       |

|  |           |
|--|-----------|
| R590-124. Loss Information Rule .....  | 55        |
| R590-127. Rate Filing Exemptions .....   | 58        |
| R590-129. Unfair Discrimination Based Solely Upon Blindness or Physical or<br>Mental Impairment .....  | 62        |
| NATURAL RESOURCES  |           |
| Wildlife Resources   |           |
| R657-10. Taking Cougar .....   | 64        |
| R657-41-9. Conservation Permit Funds and Reporting .....   | 69        |
| <b>NOTICES OF CHANGES IN PROPOSED RULES .....</b>  | <b>73</b> |
| HUMAN SERVICES   |           |
| Services for People with Disabilities  |           |
| R539-11. Intermediate Care Facility Advisory Committee .....   | 74        |
| <b>NOTICES OF 120-DAY (EMERGENCY) RULES .....</b>  | <b>77</b> |
| AGRICULTURE AND FOOD   |           |
| Plant Industry   |           |
| R68-29. Quality Assurance Testing on Cannabis .....  | 77        |
| <b>FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION .....</b>  | <b>83</b> |
| EDUCATION  |           |
| Administration   |           |
| R277-101. Public Participation in Utah State Board of Education Meetings .....   | 83        |
| R277-407. School Fees .....  | 84        |
| R277-409. Public School Memberships in Association .....   | 84        |
| R277-419. Pupil Accounting.....  | 85        |
| R277-445. Classifying Small Schools as Necessarily Existent .....  | 86        |
| R277-460. Distribution of Substance Abuse Prevention Account.....  | 86        |
| R277-488. Dual Language Immersion Program .....  | 87        |
| R277-489. Kindergarten Entry and Exit Assessment - Enhanced Kindergarten<br>Program .....  | 87        |
| R277-800. Utah Schools for the Deaf and the Blind.....   | 88        |
| HUMAN SERVICES   |           |
| Child and Family Services  |           |
| R512-2. Title IV-B Child Welfare/Family Preservation and Support Services and<br>Title IV-E Foster Care, Adoption, and Independent Living..... | 89        |
| R512-31. Foster Parent Due Process.....  | 89        |
| R512-32. Children with Reportable Communicable Diseases.....   | 90        |

|   |           |
|---|-----------|
| R512-40. Recruitment, Home Studies, and Approval of Adoptive Families for<br>Children in the Custody of Child and Family Services.....  | 90        |
| R512-42. Adoption by Relatives .....  | 91        |
| R512-51. Fee Collection for Criminal Background Screening for Prospective<br>Foster and Adoptive Parents and for Employees of Other Department of<br>Human Services Licensed Programs ..... | 91        |
| R512-80. Definitions of Abuse, Neglect, and Dependency.....   | 92        |
| Recovery Services   |           |
| R527-3. Definitions .....   | 92        |
| R527-253. Collection of Child Support Judgments.....  | 93        |
| R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or<br>in a Treatment Program .....   | 93        |
| PARDONS (BOARD OF)  |           |
| Administration  |           |
| R671-202. Notification of Hearings.....   | 94        |
| R671-302. Public Access to Hearings .....   | 95        |
| HIGHER EDUCATION (UTAH BOARD OF)  |           |
| Administration  |           |
| R765-431. State Authorization Reciprocity Agreement Rule .....  | 95        |
| TRANSPORTATION  |           |
| Operations, Construction  |           |
| R916-7. Appeals to UDOT Decisions on, and Requesting Compliance<br>with Nighttime Noise Permits .....   | 96        |
| Preconstruction, Right of Way Acquisition   |           |
| R933-1. Right of Way Acquisition .....  | 97        |
| <b>NOTICES OF RULE EFFECTIVE DATES .....</b>  | <b>99</b> |



# EXECUTIVE DOCUMENTS

---

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

---

## EXECUTIVE ORDER 2021-14

### Declaring a State of Emergency Due to Flooding

**WHEREAS**, the State of Utah has experienced an extremely active summer monsoon season across the state, with thunderstorms and heavy rains resulting in flooding events;

**WHEREAS**, numerous damaging flood events have impacted multiple counties throughout the state between June 15th through September 1st, with some communities being flooded multiple times; and

**WHEREAS**, the consecutive and ongoing weather events have caused flooding with significant damage to public infrastructure and residences, with statewide damage totals expected to be in the millions of dollars; and

**WHEREAS**, historic drought conditions, record low water levels, low soil moisture, high temperatures, and prolonged dry conditions have contributed to a formidable wildfire season, with burn scars and drought hardened ground surfaces increasing flash flood and debris flow risk; and

**WHEREAS**, these drought and wildfire conditions have contributed to and exacerbated flooding events throughout the state; and

**WHEREAS**, storm impacts such as flash flooding and debris flows are a threat to public safety; and

**WHEREAS**, these damaging monsoonal season flood conditions are expected to continue; and

**WHEREAS**, many local communities have declared local states of emergency and have requested resources and support from the State of Utah's departments and agencies to assist them in dealing with these flood emergencies; and

**WHEREAS**, these conditions create a state of emergency within the intent of the Disaster Response and Recovery Act found in Title 53, Chapter 2a of the Utah Code; and

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

**WHEREAS**, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act; and give direction to state and local officers and agencies that are reasonable and necessary for;

**NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, declare a state of emergency due to the aforesaid circumstances requiring aid, assistance, and relief available from State resources and hereby order:**

EXECUTIVE DOCUMENTS

1. The continued execution of the state Emergency Operations Plan and assistance from state government as needed and coordinated by the Department of Public Safety.

This Order is effective immediately, and shall remain in effect until modified, amended, rescinded, or superseded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 9th of September 2021.

(State Seal)

**Spencer J. Cox**  
**Governor, State of Utah**

ATTEST:

**Deidre M. Henderson**  
**Lieutenant Governor, State of Utah**

2021/14/EO

**End of the Executive Documents Section**



## 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 17, 2021, 12:00 a.m., and September 01, 2021, 11:59 p.m. are included in this, the September 15, 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 15, 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 January 13, 2022, 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:** Amendment

|                                      |                |                        |
|--------------------------------------|----------------|------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R162-2c</b> | <b>Filing ID 53856</b> |
|--------------------------------------|----------------|------------------------|

**Agency Information**

|                             |                               |                       |
|-----------------------------|-------------------------------|-----------------------|
| <b>1. Department:</b>       | Commerce                      |                       |
| <b>Agency:</b>              | Real Estate                   |                       |
| <b>Room no.:</b>            | 2nd Floor                     |                       |
| <b>Building:</b>            | Heber M Wells                 |                       |
| <b>Street address:</b>      | 160 E 300 S                   |                       |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114      |                       |
| <b>Mailing address:</b>     | PO Box 146711                 |                       |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-6711 |                       |
| <b>Contact person(s):</b>   |                               |                       |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>         |
| Justin Barney               | 801-530-6603                  | justinbarney@utah.gov |

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

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

R162-2c. Utah Residential Mortgage Practices and Licensing Rules

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

The purpose of the proposed rule amendment is to correct and clarify references in this rule, to eliminate references to "good moral character" and "moral turpitude", and to coordinate certain state requirements with national requirements so as to eliminate the expense to licensees for unnecessary and mostly redundant criminal background checks and credit reports.

**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 proposed rule amendment would:

1) replace the requirement that an applicant evidence "good moral character" with statutory requirements of honesty, integrity, and truthfulness and would correct a reference to a statutory subsection in Section R162-2c-201;

2) eliminate subsection headings; references to "moral turpitude and moral character;" and would eliminate references to unnecessary and now irrelevant dates in Section R162-2c-202;

3) eliminate subsection headings and references to "moral character", clarify the available formats for Utah-specific education instruction, including traditional classroom, virtual-live, distance education, and other formats, and also clarify that the 20 hours of instruction required to renew an instructor certification is not limited to classroom instruction in Section R162-2c-203;

4) eliminate subsection headings and references to "moral character", and coordinate the timing for state required fingerprinting for a criminal background check and submission of a credit report with national requirements, eliminating the expense to licensees for unnecessary and mostly redundant criminal background checks and credit reports in Section R162-2c-204; and

5) delete Section R162-2c-301b which is outdated.

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

The Division of Real Estate (Division) has the staff and budget in place to administer this proposed amendment. The proposed amendment would save existing employees time and therefore, allow them to focus more time on other job duties and responsibilities and allow them to better serve the licensees. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact affect those resources or result in any additional cost or savings to the state budget.

**B) Local governments:**

Local governments are not required to comply with or enforce the Utah Residential Mortgage Practices and Licensing Rules. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to local governments.

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

The proposed amendment does not create new obligations for small businesses nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to small business.

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

The proposed amendment does not create new obligations for non-small businesses and non-small businesses are under no obligation due to the current rule or the proposed amendment. The proposed amendment would eliminate the need for some licensees to pay to obtain a second set of fingerprints as well as the need for some licensees to pay for a second credit report. As a

result, licensees would not need to purchase those services through the National Mortgage Licensing System (NMLS) and the proposed rule amendment would result in a loss of income to the NMLS in an estimated annual amount of \$19,275. (The NMLS does not keep these fees but passes the fees to agencies who perform the criminal background checks and to credit reporting agencies, which are non-small businesses.) The Division estimates that the loss of income to the NMLS would be essentially the same amount as the cost savings to licensees who will not be required to purchase these mostly duplicative services, if the proposed rule is amended.

**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**):

The proposed amendment does not create new obligations for persons other than small businesses, non-small businesses, state, or local government entities and these persons are under no obligation due to the current rule or the proposed amendment. After conducting a thorough analysis, it was determined that the proposed rule amendment will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities.

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

The proposed rule amendment does not create new obligations for affected persons subject to the administrative rule nor does it increase the cost associated with any existing obligation. However, because the current state rule and the national rule do not overlap completely, the Division estimates that under the present rule approximately 300 licensees obtain unnecessary criminal background checks and 300 licensees pay for unnecessary credit reports. These 300 licensees will benefit each year from the proposed rule amendment which would eliminate the requirement for these mostly duplicative services. The NMLS charges a licensee \$36.25 for a criminal background check. The NMLS charges a licensee \$28 for a credit report. Affected licensees will not need to pay the NMLS twice for the background checks and credit reports if the proposed rule amendment is approved. If 300 licensees pay for unnecessary criminal background checks under the current rule, the total costs to licensees would be \$10,875. If 300 licensees pay for unnecessary credit reports, the total costs to licensees would be \$8,400. After conducting a thorough analysis, it was determined that the proposed rule amendment will result in a total fiscal benefit to licensees of an estimated amount of \$19,275 per year.

**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):

The proposed amendment does not create new obligations for non-small businesses and non-small businesses are under no obligation due to the current rule or the proposed amendment. The proposed amendment would eliminate the need for some licensees to pay to obtain a second set of fingerprints as well as the need for some licensees to pay for a second credit report. As a result, licensees would not need to purchase those services through the NMLS and the proposed rule amendment would result in a loss of income to the NMLS in an estimated annual amount of \$19,275. (The NMLS does not keep these fees but passes the fees to agencies who perform the criminal background checks and to credit reporting agencies, which are non-small businesses.) The Division estimates that the loss of income to the NMLS would be essentially the same amount as the cost savings to licensees who will not be required to purchase these mostly duplicative services, if the proposed rule is amended.

(By way of clarification, the projected loss of revenues of an estimated \$19,275 a year for non-small businesses who will lose revenues from fewer credit reports and background checks, will be off-set on a dollar-for-dollar basis by individual licensees who will not be required to pay for such duplicative services. The Division does not know if the fees for the duplicative services are reimbursed by the small business and non-small business employers of the licensees. Therefore, the offsetting dollar amount is reflected in the "other persons" line item of the table and not in the line items for small businesses and non-small businesses.)

Margaret Busse, 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**

| <b>Fiscal Cost</b>       | <b>FY2022</b>   | <b>FY2023</b>   | <b>FY2024</b>   |
|--------------------------|-----------------|-----------------|-----------------|
| State Government         | \$0             | \$0             | \$0             |
| Local Governments        | \$0             | \$0             | \$0             |
| Small Businesses         | \$0             | \$0             | \$0             |
| Non-Small Businesses     | \$19,275        | \$19,275        | \$19,275        |
| Other Persons            | \$0             | \$0             | \$0             |
| <b>Total Fiscal Cost</b> | <b>\$19,275</b> | <b>\$19,275</b> | <b>\$19,275</b> |
| <b>Fiscal Benefits</b>   |                 |                 |                 |
| State Government         | \$0             | \$0             | \$0             |

## NOTICES OF PROPOSED RULES

|   |                 |                 |                 |
|---|-----------------|-----------------|-----------------|
| Local Governments   | \$0             | \$0             | \$0             |
| Small Businesses  | \$0             | \$0             | \$0             |
| Non-Small Businesses  | \$0             | \$0             | \$0             |
| Other Persons   | \$19,275        | \$19,275        | \$19,275        |
| <b>Total Fiscal Benefits</b>  | <b>\$19,275</b> | <b>\$19,275</b> | <b>\$19,275</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b>      | <b>\$0</b>      | <b>\$0</b>      |
| <b>B) Department head approval of regulatory impact analysis:</b>   |                 |                 |                 |
| The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this fiscal analysis. |                 |                 |                 |

## Citation Information

|   |                   |                   |
|---|-------------------|-------------------|
| <b>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:</b> |                   |                   |
| Subsection 61-2c-103(3)   | Section 61-2c-202 | Section 61-2c-203 |
| Section 61-2c-204.1   |                   |                   |

## Public Notice Information

|   |            |
|---|------------|
| <b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (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.) |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b>   | 10/22/2021 |
| 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

|  |                            |              |            |
|--|----------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Jonathan Stewart, Director | <b>Date:</b> | 07/12/2021 |
|--|----------------------------|--------------|------------|

## R162. Commerce, Real Estate.

## R162-2c. Utah Residential Mortgage Practices and Licensing Rules.

**R162-2c-201. Licensing and Registration Procedures.**

- (1) Mortgage loan originator.
  - (a) To obtain a Utah license to practice as a mortgage loan originator, an individual who is not currently and validly licensed in any state shall:
    - (i) evidence honesty, integrity, and truthfulness [~~good moral character~~] pursuant to R162-2c-202(1);
    - (ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);
    - (iii) evidence financial responsibility pursuant to R162-2c-202(3);
    - (iv) obtain a unique identifier through the nationwide database;
    - (v) successfully complete, within the 12-month period prior to the date of application, 15 hours of Utah-specific prelicensing [~~pre-licensing~~] education as approved by the division;
    - (vi)(A) successfully complete 20 hours of prelicensing [~~pre-licensing~~] education as approved by the nationwide database according to the nationwide database outline for national course curriculum; or
    - (B) if the individual previously passed the 20-hour national course, obtained a license, and thereafter allowed the license to expire, successfully complete continuing education:
      - (I) approved by the nationwide database; and
      - (II) in the number of hours that would have been required to renew the expired license in the year in which the individual allowed the license to expire;
    - (vii) take and pass the examinations that meet the requirements of Subsection 61-2c-204.1(4) and that:
      - (A) are approved and administered through the nationwide database; and
      - (B) consist of a national test with uniform state content;
    - (viii) request licensure as a mortgage loan originator through the nationwide database;
    - (ix) authorize a criminal background check and submit fingerprints through the nationwide database;
    - (x) authorize the nationwide database to provide the individual's credit report to the division for review;
    - (xi) provide to the division [~~all~~] relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;
    - (xii) record with the nationwide database a mailing address, if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Subsection 61-2c-106(1)(a);
    - (xiii) complete, sign, and submit to the division a social security verification form as provided by the division; and
    - (xiv) pay [~~all~~] fees through the nationwide database as required by the division and by the nationwide database.
  - (b) To obtain a Utah license to practice as a mortgage loan originator, an individual who is currently and validly licensed in another state shall:
    - (i) evidence honesty, integrity, and truthfulness [~~good moral character~~] pursuant to R162-2c-202(1);
    - (ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);
    - (iii) evidence financial responsibility pursuant to R162-2c-202(3);
    - (iv) successfully complete, within the 12-month period prior to the date of application, 15 hours of Utah-specific mortgage loan originator prelicensing education;

(v) provide to the division ~~[all]~~ relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(vi) record with the nationwide database a mailing address, if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Subsection 61-2c-106(1)(a);

(vii) request licensure as a mortgage loan originator through the nationwide database;

(viii) authorize a criminal background check through the nationwide database;

(ix) authorize the nationwide database to provide the individual's credit report to the division for review;

(x) complete, sign, and submit to the division a social security verification form as provided by the division; and

(xi) pay ~~[all]~~ fees through the nationwide database as required by the division and by the nationwide database.

(2) Lending manager. To obtain a Utah license to practice as an LM, an individual shall:

(a) evidence honesty, integrity, and truthfulness ~~[good moral character]~~ pursuant to R162-2c-202(1);

(b) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(c) evidence financial responsibility pursuant to R162-2c-202(3);

(d) provide to the division:

(i) the individual's unique identifier as assigned through the nationwide database;

(ii) evidence that the individual has taken and successfully:

(A) passed the 20-hour national mortgage loan originator prelicensing course; and

(B) passed the mortgage loan originator examination that:

(I) meets the requirements of Subsection 61-2c-204.1(4);

(II) is approved and administered through the nationwide database; and

(III) consists of a national test with uniform state content;

(C) completed the division-approved ~~[division approved]~~ 40 hour Utah-specific lending manager prelicensing education within the 12-month period prior to the date of application to the division;

(D) applied to the testing contractor designated by the division to sit for the lending manager licensing examination;

(E) paid a nonrefundable examination fee to the testing contractor; and

(F) passed both the state and national ~~[(general)]~~ components of the licensing examination;

(e) within the 12-month period preceding the date of submission of a lending manager application to the division, successfully:

(i) register in the nationwide database by selecting the "lending manager" license type and completing the associated MU4 form;

(ii) record with the nationwide database a mailing address if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Subsection 61-2c-106(1)(a);

(iii) authorize a criminal background check and submit fingerprints through the nationwide database;

(iv) provide to the division ~~[all]~~ relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(v) if applying for an active license, affiliate with a registered Utah mortgage entity;

(vi) authorize the nationwide database to provide the individual's credit report to the division for review;

(vii) pay the lending manager licensing fee as required by the division and by the nationwide database;

(viii) complete, sign, date, and submit to the division:

(A) the Utah lending manager checklist form as found on the division website or the nationwide database;

(B) the two page lending manager application as provided by the testing contractor;

(C) the social security verification forms as provided by the testing contractor; and

(D) a copy of a paid invoice from the nationwide database showing proof of payment of the lending manager license fee.

(f) provide to the division experience documentation forms to evidence that the applicant has satisfied the experience requirement of Subsection 61-2c-206(1)(d) as follows:

(i) during the five-year period preceding the date of submission of a lending manager license application to the division:

(A) three years full-time experience originating first-lien residential mortgages as a mortgage loan originator as defined in Subsection 61-2c-102(1)(ff);

(I) under a license issued by a state regulatory agency; or

(II) as an employee of a depository institution; and

(B) evidence of having originated a minimum of 45 first-lien residential mortgages; or

(ii) during the five-year period preceding the date of submission of a lending manager license application to the division:

(A) two years full-time experience originating first-lien residential mortgages as defined in Subsection 61-2c-102(1)(gg) ~~[61-2c-102(1)(ff)]~~;

(I) under a license issued by a state regulatory agency; or

(II) as an employee of a depository institution;

(B) plus one year of full-time equivalent experience from the optional experience equivalency calculation in S~~[ubs]~~ection R162-2c-501a or the optional experience table in S~~[ubs]~~ection R162-2c-501b; and

(C) evidence of having originated a minimum of 30 first-lien residential mortgages; or

(iii) during the 12 years preceding the date of submission of a lending manager license application to the division:

(A) ten years of full-time experience providing direct supervision as a loan manager in the residential mortgage industry;

(B) with evidence of having directly supervised during the ten years described in this Subsection no fewer than five licensed or registered loan originators; and

(C) although the five individuals licensed or registered as described in this Subsection may have changed over time, the number of individuals being managed or supervised must have remained at a minimum of five individuals throughout ~~[at all times during]~~ the ten years described in this Subsection; and

(D) evidence of having personally originated a minimum of 15 first-lien residential mortgages within the past five years.

(g) Failure to document acceptable experience in one of the three methods described in Subsection (f) will result in the denial of the lending manager application. A~~[ll]~~ application fees are nonrefundable.

(h) designate in the nationwide database whether the individual will be acting for the sponsoring entity as:

(i) the principal lending manager;

(ii) an associate lending manager; or

(iii) a branch lending manager.

(i) Deadlines.

## NOTICES OF PROPOSED RULES

(i) If an individual passes one test portion of the lending manager examination but fails the other, the individual may retake and pass the failed portion of the exam within 90 days of the date on which the individual achieves a passing score on the first portion of the exam.

(ii) An application for licensure shall be submitted:

(A) within 90 days of the date on which the individual achieves passing scores on both examination portions; and

(B) within 12 months of the date on which the individual completes the ~~prelicensing~~~~[pre-licensing]~~ education.

(iii) If any deadline in this Subsection R162-2c-201(2) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

(3) Mortgage entity.

(a) To obtain a Utah license to operate as a mortgage entity, a person shall:

(i) establish that ~~each control person meets [all control persons meet]~~ the requirements for honesty, integrity, and truthfulness ~~[moral character]~~ pursuant to R162-2c-202(1);

(ii) establish that ~~each control person meets [all control persons meet]~~ the requirements for competency pursuant to R162-2c-202(2);

(iii) register any other trade name with the Division of Corporations and Commercial Code;

(iv) register the entity in the nationwide database by:

(A) submitting an MU1 form that includes:

(I) ~~[all]~~ required identifying information;

(II) the name of the PLM who, pursuant to Subsection R162-2c-301a(3)(a)(iv), will serve as the entity's qualifying individual;

(III) the name of any LM who, pursuant to Subsection R162-2c-301a(3)(a)(iv), will serve as a branch lending manager;

(IV) the name of any individuals who may serve as control persons;

(V) the entity's registered agent; and

(VI) any other assumed business name or trade name under which the entity will operate;

(B) submitting a license request for any assumed business name listed in the "Other Trade Name" section of the MU1 form; and

(C) creating a sponsorship through the nationwide database that identifies the mortgage loan ~~originators~~~~[originator(s)]~~ sponsored by the entity;

(v) register any branch office operating from a different location than the entity;

(vi) pay ~~[all]~~ fees through the nationwide database as required by the division and by the nationwide database;

(vii) provide to the division proof that any assumed business name or other trade name is registered with the Division of Corporations and Commercial Code;

(viii) provide to the division ~~the~~~~[all]~~ court documents related to any criminal proceeding not disclosed through a previous application or renewal and involving any control person;

(ix) provide to the division complete documentation of any action taken by a regulatory agency against:

(A) the entity itself; or

(B) any control person; and

(C) not disclosed through a previous application or renewal;

and

(x) provide to the division a notarized letter on company letterhead, signed by the owner or president of the entity, authorizing the PLM to use the entity's name.

(b) Restrictions on entity name. No license may be issued by the division to an entity that proposes to operate under a name that closely resembles the name of another entity licensee, or that the

division determines might otherwise be confusing or misleading to the public.

(4) Branch office.

(a) To register a branch office with the division, a person shall:

(i) obtain a Utah entity license for the entity under which the branch office will be registered;

(ii) submit to the nationwide database an MU3 form that includes:

(A) ~~[all]~~ required identifying information; and

(B) the name of the LM who will serve as the branch lending manager;

(iii) create a sponsorship through the nationwide database that identifies the mortgage loan ~~originators~~~~[originator(s)]~~ who will work from the branch office; and

(iv) pay ~~[all]~~ fees through the nationwide database as required by the division and by the nationwide database.

(b) A person who registers a branch office pursuant to this Subsection (4) shall ensure that any licensed trade names of the entity that are used from the branch office are listed in the "Other Name" section of the entity MU1 form.

(c)(i) A PLM may not simultaneously serve as a BLM if Subsection R162-2c-301a(3)(a)(iv)(B) applies.

(ii) An individual may not serve as the BLM for more than one branch at any given time.

(5) Licenses not transferable.

(a) A licensee shall not transfer the licensee's license to any other person.

(b) A licensee shall not allow any other person to work under the licensee's license.

(c) If a change in corporate structure of a licensed entity creates a separate and unique legal entity, that entity shall obtain a unique license, and shall not operate under any existing license.

(6) Expiration of test results.

(a) Scores for the LM exam shall be valid for 90 days.

(7) ~~[Nonrefundable fees. All fees]~~ Fees are nonrefundable, regardless of whether an application is granted or denied.

(8) Other trade names.

(a) The division shall not approve a license for any person operating under an assumed business name that poses a reasonable likelihood of misleading the public into thinking that the person is:

(i) endorsed by the division, the state government, or the federal government;

(ii) an agency of the state or federal government; or

(iii) not engaged in the business of residential mortgage loans.

(b) A mortgage entity that operates under another trade name shall register the other trade name by including it on the MU1 form and obtaining the required registration.

### **R162-2c-202. Qualifications for Licensure.**

(1) ~~[Character.]~~ Individual applicants and control persons shall evidence ~~[good moral character,]~~ honesty, integrity, and truthfulness.

(a) An applicant may not have:

(i) been convicted of, pled guilty to, pled no contest to, ~~or~~ pled guilty in a similar manner to ~~[or resolved by diversion or its equivalent]~~;

(A) a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering;

(B) any felony in the seven years preceding the day on which an application is submitted to the division; ~~or~~

(C) ~~[in the five years preceding the day on which an application is submitted to the division:~~

- ~~—— (I) a misdemeanor involving moral turpitude; or~~
- ~~—— (II) a crime in another jurisdiction that is the equivalent of a misdemeanor involving moral turpitude;~~

~~—— (D) —~~ in the three years preceding the day on which an application is submitted to the division, any misdemeanor involving a finding of:

- (I) fraud;
- (II) misrepresentation;
- (III) theft; or
- (IV) dishonesty;

(ii) had a license as a mortgage loan originator revoked by a government regulatory body at any time, unless the revocation is subsequently vacated or converted;

(iii) had a professional license or registration, whether issued by a Utah regulatory body or by another jurisdiction, suspended, surrendered, canceled, or denied in the five years preceding the date the individual applies for licensure if the suspension, surrender, cancellation, or denial is based on misconduct in a professional capacity that relates to:

(A) ~~[moral character;~~

~~(B) ]honesty;~~

~~(B) [(C)] integrity;~~

~~(C) [(D)] truthfulness; or~~

~~(D) [(E)]~~ the competency to transact the business of residential mortgage loans;

(iv) in the five years preceding the day on which an application is submitted to the division, been the subject of a bar by the:

(A) Securities and Exchange Commission;

(B) New York Stock Exchange; or

(C) Financial Industry Regulatory Authority;

(v) had a permanent injunction entered against the individual:

(A) by a court or administrative agency; and

(B) on the basis of:

(I) conduct or a practice involving the business of residential mortgage loans; or

(II) conduct involving fraud, misrepresentation, or deceit.

(b) An applicant may be denied a license or issued a restricted license for incidents in the applicant's past other than those specified in ~~[this]~~ Subsection (1)(a) that reflect negatively on the applicant's ~~[moral character, ]~~honesty, integrity, and truthfulness. In evaluating an applicant for these qualities, the division and commission may consider any evidence, including the following:

(i) other criminal convictions or plea agreements ~~[with particular consideration given to convictions or plea agreements relative to charges that involve moral turpitude];~~

(ii) the circumstances that led to any criminal conviction or plea agreement under consideration;

(iii) past acts related to honesty, integrity, or truthfulness, ~~[or moral character, ]~~with particular consideration given to any ~~[such]~~ acts involving the business of residential mortgage loans;

(iv) dishonest conduct that would be grounds under Utah law for sanctioning an existing licensee;

(v) civil judgments in lawsuits brought on grounds of fraud, misrepresentation, or deceit;

(vi) court findings of fraudulent or deceitful activity;

(vii) evidence of non-compliance with court orders or conditions of sentencing;

(viii) evidence of non-compliance with:

(A) terms of a diversion agreement still subject to prosecution;

(B) a probation agreement; or

(C) a plea in abeyance; or

(ix) failure to pay taxes or child support obligations.

(2) ~~[Competency.]~~ Individual applicants and control persons shall evidence competency to transact the business of residential mortgage loans. In evaluating an applicant for competency, the division and commission may consider any evidence that reflects negatively on an applicant's competency, including:

(a) civil judgments, with particular consideration given to any ~~[such]~~ judgments involving the business of residential mortgage loans;

(b) failure to satisfy a civil judgment that has not been discharged in bankruptcy;

(c) failure of any previous mortgage loan business in which the individual was engaged, as well as the circumstances surrounding that failure;

(d) evidence as to the applicant's business management and employment practices, including the payment of employees, independent contractors, and third parties;

(e) the extent and quality of the applicant's training and education in mortgage lending;

(f) the extent and quality of the applicant's training and education in business management;

(g) the extent of the applicant's knowledge of the Utah Residential Mortgage Practices Act;

(h) evidence of disregard for licensing laws;

(i) evidence of drug or alcohol dependency;

(j) sanctions placed on professional licenses; and

(k) investigations conducted by regulatory agencies relative to professional licenses.

(3) ~~[Financial responsibility.]~~ Individual applicants shall evidence financial responsibility. To evaluate an applicant for financial responsibility, the division shall:

(a) access the credit information available through the NMLS ~~[or:~~

~~—— (i) an applicant for initial licensure, beginning October 18, 2010; and~~

~~—— (ii) a licensee who requests renewal during the 2010 renewal period, unless the licensee's credit report was reviewed in issuing the initial license]; and~~

(b) give particular consideration to:

(i) outstanding civil judgments;

(ii) outstanding tax liens;

(iii) foreclosures;

(iv) multiple social security numbers attached to the individual's name;

(v) child support arrearages; and

(vi) bankruptcies.

(4) ~~[Age.]~~ An applicant shall be at least 18 years of age.

(5) Minimum education. An applicant shall have a high school diploma, GED, or equivalent education as approved by the commission.

#### **R162-2c-203. Utah-Specific Education Certification.**

(1) ~~[School certification.]~~

~~—— (a) A school offering Utah-specific education shall certify with the division before providing any instruction.~~

(b) To certify, a school applicant shall prepare and supply the following information to the division:

(i) contact information, including:

(A) name, phone number, email address, and address of the physical facility;

## NOTICES OF PROPOSED RULES

(B) name, phone number, email address, and address of any school director;

(C) name, phone number, email address, and address of any school owner; and

(D) an email[~~e-mail~~] address where correspondence will be received by the school;

(ii) evidence that each school director and owner meets the [~~moral character~~] requirements outlined in Subsection R162-2c-202(1) and the competency requirements outlined in R162-2c-202(2);

(iii) school description, including:

(A) type of school;

(B) description of the school's physical facilities; and

(C) type of instruction method;

(iv) list of the instructors, including any guest lecturers, who will be teaching each course;

(v) proof that each instructor:

(A) has been certified by the division; or

(B) is exempt from certification under Subsection (6)(f);

(vi) statement of attendance requirements as provided to students;

(vii) refund policy as provided to students;

(viii) disclaimer as provided to students; and

(ix) criminal history disclosure statement as provided to students.

(c) [~~Minimum standards.~~

\_\_\_\_\_] (i) The course schedule may not provide or allow for more than eight credit hours per student per day.

(ii) The attendance statement shall require that each student attend at least 90% of the scheduled class time.

(iii) \_\_\_\_\_ The disclaimer shall adhere to the following requirements:

(A) be typed in [~~all~~] capital letters at least 1/4 inch high; and

(B) state the following language: "Any student attending, state the name of the school, [~~(school name)~~] is under no obligation to affiliate with any of the mortgage entities that may be soliciting for licensees at this school."

(iv) The criminal history disclosure statement shall:

(A) be provided to students while they are still eligible for a full refund; and

(B) clearly inform the student that upon application with the nationwide database, the student will be required to:

(I) accurately disclose the student's criminal history according to the licensing questionnaire provided by the nationwide database and authorized by the division; and

(II) provide to the division complete court documentation relative to any criminal proceeding that the applicant is required to disclose;

(C) clearly inform the student that the division will consider the applicant's criminal history pursuant to Subsection R162-2c-202(1) in making a decision on the application; and

(D) include a section for the student's attestation that the student has read and understood the disclosure.

(d) Within ten days after the occurrence of any material change in the information outlined in Subsection (1), the school shall provide to the division written notice of that change.

(2) [~~School certification expiration and renewal.~~] A school certification expires 24 months from the date of issuance and must be renewed before the expiration date in order for the school to remain in operation. To renew, a school applicant shall:

(a) complete a renewal application as provided by the division;

(b) pay a nonrefundable renewal fee;

(c) provide a list of the [~~all~~] proposed courses with a projected schedule of days, times, and locations of classes; and

(d) provide the information specified in Subsection 3(c) for Utah-specific course certification for the division's evaluation of each proposed course.

(3) [~~Utah-specific course certification.~~

\_\_\_\_\_] (a) A school providing a Utah-specific course shall certify the course with the division before offering the course to students.

(b) Application shall be made at least 30 days prior to the date on which a course requiring certification is proposed to begin.

(c) To certify a Utah-specific course, a school applicant shall prepare and supply the following information:

(i) instruction method;

(ii) outline of the course, including:

(A) a list of subjects covered in the course;

(B) reference to the approved course outline for each subject covered;

(C) length of the course in terms of hours spent in [~~classroom~~] instruction;

(D) number of course hours allocated for each subject;

(E) at least three learning objectives for every hour of class[~~room~~] time;

(F) instruction format for each subject, whether traditional classroom, virtual-live, distance education, or other format; [~~; i.e., lecture or media presentation;~~]

(G) name and credentials of any guest lecturer; and

(H) list of topics and sessions taught by any guest lecturer;

(iii) a list of the titles, authors, and publishers of [~~all~~] required textbooks;

(iv) copies of any workbook used in conjunction with a non-lecture method of instruction;

(v) a copy of each quiz and examination, with an answer key; and

(vi) the grading system, including methods of testing and standards of grading.

(d) [~~Minimum standards.~~

\_\_\_\_\_] (i) The [~~All~~] texts, workbooks, supplement pamphlets and other materials shall be appropriate, current, accurate, and applicable to the required course outline.

(ii) The course shall cover each [~~all~~] of the topics set forth in the associated outline.

(iii) The lecture method shall be used for at least 50% of course instruction unless the division gives special approval otherwise.

(iv) A school applicant that uses a non-lecture method for any portion of course instruction shall provide to the student:

(A) an accompanying workbook as approved by the division for the student to complete during the instruction; and

(B) a certified instructor available within 48 hours of the non-lecture instruction to answer student questions.

(v) The division shall not approve an online education course unless:

(A) there is a method to ensure that the enrolled student is the person who actually completes the course;

(B) the time spent in actual instruction is equivalent to the credit hours awarded for the course; and

(C) there is a method to ensure that the student comprehends the material.

(4) [~~Course expiration and renewal.~~

\_\_\_\_\_] (a) A precertification course expires at the same time the school certification expires.

(b) A precertification course certification is renewed automatically when the school certification is renewed.



(5) ~~Education committee.~~

\_\_\_\_\_] (a) The commission may appoint an education committee to:

(i) assist the division and the commission in approving course topics; and

(ii) make recommendations to the division and the commission about:

(A) whether a particular course topic is relevant to residential mortgage principles and practices; and

(B) whether a particular course topic would tend to enhance the competency and professionalism of licensees.

(b) The division and the commission may accept or reject the education committee's recommendation on any course topic.

(6) ~~Instructor certification.~~

\_\_\_\_\_] (a) Except as provided in ~~this~~ Subsection (6)(f), an instructor shall certify with the division before teaching a Utah-specific course.

(b) Application shall be made at least 30 days prior to the date on which the instructor proposes to begin teaching.

(c) To certify as an instructor of mortgage loan originator prelicensing courses, an individual shall provide evidence of:

(i) a high school diploma or its equivalent;

(ii)(A) at least five years of experience in the residential mortgage industry within the past ten years; or

(B) successful completion of appropriate college-level courses specific to the topic proposed to be taught;

(iii)(A) a minimum of ~~12~~<sup>twelve</sup> months of full-time teaching experience;

(B) part-time teaching experience that equates to ~~12~~<sup>twelve</sup> months of full-time teaching experience; or

(C) participation in instructor development workshops totaling at least two days in length; and

(iv) having passed, within the six-month period preceding the date of application, the lending manager licensing examination.

(d) To certify as an instructor of LM prelicensing courses, an individual shall:

(i) meet the general requirements of ~~this~~ Subsection 6(c); and

(ii) meet the specific requirements for any of the following courses the individual proposes to teach.

(A) Management of a Residential Mortgage Loan Office: at least two years practical experience in managing an office engaged in the business of residential mortgage loans.

(B) Mortgage Lending Law: two years practical experience in the field of real estate law; and either:

(I) current active membership in the Utah Bar Association; or

(II) degree from an American Bar Association accredited law school.

(C) Advanced Appraisal:

(I) at least two years practical experience in appraising; and

(II) current state-certified appraiser license.

(D) Advanced Finance:

(I) at least two years practical experience in real estate finance; and

(II) association with a lending institution as a loan originator.

(e) To act as an instructor of NMLS-approved continuing education courses, an individual shall certify through the nationwide database.

(f) The following instructors are not required to be certified by the division:

(i) a guest lecturer who:

(A) is an expert in the field on which instruction is given;

(B) provides to the division a resume or similar documentation evidencing satisfactory knowledge, background, qualifications, and expertise; and

(C) teaches no more than 20% of the course hours;

(ii) a college or university faculty member who evidences academic training, industry experience, or other qualifications acceptable to the division;

(iii) an individual who:

(A) evidences academic training, industry experience, or other qualifications satisfactory to the division; and

(B) receives approval from the commission; and

(iv) a division employee.

(g) ~~Renewal.~~

\_\_\_\_\_] (i) An instructor certification for Utah-specific prelicensing education expires 24 months from the date of issuance and shall be renewed before the expiration date.

(ii) To renew an instructor certification for Utah-specific prelicensing education, an applicant shall submit to the division:

(A) evidence of having taught at least 20 hours of ~~classroom~~ instruction in a certified mortgage education course during the preceding two years;

(B) evidence of having attended an instructor development workshop sponsored by the division during the preceding two years; and

(C) a renewal fee as required by the division.

(iii) To renew an instructor certification for continuing education, an individual shall certify through the nationwide database.

(h) ~~Reinstatement.~~

\_\_\_\_\_] (i) An instructor who is certified by the division may reinstate an expired certification within 30 days of expiration by:

(A) complying with ~~this~~ Subsection (6)(g); and

(B) paying an additional ~~nonrefundable~~<sup>non-refundable</sup> late fee.

(ii) Until six months following the date of expiration, an instructor who is certified by the division may reinstate a certification that has been expired more than 30 days by:

(A) complying with ~~this~~ Subsection (6)(g);

(B) paying an additional ~~nonrefundable~~<sup>non-refundable</sup> late fee; and

(C) completing six ~~classroom~~ hours of education related to residential mortgages or teaching techniques.

(7)(a) The division may monitor schools and instructors for:

(i) adherence to course content;

(ii) quality of instruction and instructional materials; and

(iii) fulfillment of affirmative duties as outlined in Subsections R162-2c-301a(5)(a) and R162-2c-301a(6)(a).

(b) To monitor schools and instructors, the division may:

(i) collect and review evaluation forms; or

(ii) assign an evaluator to attend a course and make a report to the division.

#### **R162-2c-204. License Renewal, Reinstatement, and Reapplication.**

(1) The deadlines for license renewal, reinstatement and reapplication are as follows: ~~Deadlines.~~

(a) ~~License renewal.~~

\_\_\_\_\_] (i) To renew on time, a person who holds an active license as of October 31 shall renew by December 31 of the same calendar year.

(ii)(A) A person who obtains a license on or after November 1 shall renew by December 31 of the following calendar year.

(B) A person who is not required to renew in the first year of licensure pursuant to ~~this~~ Subsection (1)(a)(ii)(A) shall nevertheless complete, prior to December 31 of the first year of licensure, continuing education as required for renewal pursuant to Subsection R162-2c-

## NOTICES OF PROPOSED RULES

204(3)(a) if the individual did not complete the mortgage loan originator national ~~prelicensing~~[~~pre-licensing~~] education during the calendar year.

(b) ~~[Reinstatement.]~~The deadline to reinstate a license that expires on December 31 is February 28 of the year following the date of expiration.

(c) After the reinstatement deadline passes, a person shall reapply for licensure pursuant to Subsection R162-2c-204(3)(c).

(2)(a)(i) ~~[Qualification for renewal.]~~

~~(a) Character.~~

~~—————(i) Individuals applying to renew or reinstate a license shall evidence[ that they maintain good moral character,] honesty, integrity, and truthfulness as required for initial licensure.~~

(ii)(A) An individual applying for a renewed license may not have:

(I) a felony that resulted in a conviction or plea agreement during the renewal period; or

(II) a finding of fraud, misrepresentation, or deceit entered against the applicant by a court of competent jurisdiction or a government agency and occurring within the renewal period.

(B) A licensee shall submit a fingerprint background report ~~[in order]~~to renew a license every fifth year following the renewal period beginning November ~~[4,]~~2015. If the licensee has submitted a fingerprint background report to the NMLS that is current according to the NMLS and is dated within 90-days of the date of the application to renew, the Division shall use that fingerprint background report in satisfaction of the requirement of this subsection. If there is no current fingerprint background report in the NMLS, the licensee shall submit a fingerprint background report to the NMLS with the licensee's application to renew.

(iii) The division may deny an individual applicant a renewed license upon evidence, as outlined in Subsection R162-2c-202(1)(b), of circumstances that reflect negatively on the applicant's ~~[character,~~] honesty, integrity, or truthfulness and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iv) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standards for~~[character,~~] honesty, integrity, and truthfulness required of individual applicants.

(b)~~[-Competency.]~~

~~—————(i) Individual applicants and control persons shall evidence that they maintain the competency required for initial licensure.~~

(ii) The division may deny an individual applicant a renewed license upon evidence, as outlined in Subsection R162-2c-202(2), of circumstances that reflect negatively on the applicant's competency and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iii) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standard for competency required of individual applicants.

(c) ~~[Financial responsibility.]~~Individuals applying to renew or reinstate a license shall evidence financial responsibility. A licensee shall submit a credit report [in order]to renew a license every fifth year following the renewal period beginning November [4,]2015. If the licensee has submitted a credit report to the NMLS that is current according to the NMLS and is dated within 30-days of the date of the application to renew, the Division shall use that credit report in satisfaction of the requirement of this subsection. If there is no current

credit report in the NMLS, the licensee shall submit a credit report to the NMLS with the licensee's application to renew.

(3) Education requirements for renewal, reinstatement, and reapplication.

(a)~~[-License renewal.]~~

~~—————(i) Except as provided in [this]Subsection (3)(a)(ii), to qualify for license renewal, an individual who holds an active license as of January 1 of the calendar year shall complete, within the calendar year in which the individual's license is scheduled to expire, the following courses, none of which may be duplicative of courses taken in the same or preceding renewal period:~~

(A) a division-approved course on Utah law, completed annually; and

(B) eight hours of continuing education approved through the nationwide database, as follows:

(I) three hours federal laws and regulations;

(II) two hours ethics which may include fraud, consumer protection, and fair lending issues;~~[(fraud, consumer protection, fair lending issues);]~~

(III) two hours training related to lending standards for non-traditional mortgage products; and

(IV) one hour undefined instruction on mortgage origination.

(C) In addition to other required continuing education, a mortgage loan originator ~~[licensed with the State of Utah on or after May 8, 2017, shall, beginning January 1, 2020,]shall~~ complete a division-approved continuing education course for new loan originators prior to their first renewal.

(ii) An individual who completes the mortgage loan originator nationwide ~~prelicensing~~[~~pre-licensing~~] education between January 1 and December 31 in their initial license renewal for the renewal period ending December 31 is exempt from the nationwide database continuing education requirements and the division-approved course on Utah law.

(b) ~~[Reinstatement.]~~To reinstate an expired mortgage loan originator or lending manager license, an individual shall, by February 28 of the calendar year following the date on which the license expired, complete:

(i) the division-approved course on Utah law specified in Subsection (3)(a)(i)(A);

(ii) eight hours of continuing education:

(A) in topics listed in ~~[this]Subsection (3)(a)(i)(B); and~~

(B)(I) approved by the nationwide database as "continuing education" if completed prior to the date of expiration; or

(II) approved by the nationwide database as "late continuing education" if completed between the date of expiration and the deadline for reinstatement; and

(iii) if the new mortgage loan originator continuing education course was required for renewal prior to the expiration of their license, in addition to other required continuing education, a mortgage loan originator ~~[licensed with the State of Utah]~~shall complete the division-approved continuing education course for new loan originators prior to reinstatement.

(c)~~[-Reapplication.]~~

~~—————(i) To reapply for licensure after the reinstatement deadline passes and by or before December 31 of the calendar year following the date on which the license expired, an individual shall complete the division-approved course on Utah law and continuing education requirement outlined in[ this] Subsection (3)(b).~~

(ii) To reapply for licensure after the deadline described in ~~[this]Subsection (3)(c)(i)~~ passes, an individual shall:

(A) complete eight hours of continuing education:

(I) in topics listed in ~~[this]~~ Subsection (3)(a)(i); and  
 (II) approved by the nationwide database as "late continuing education"; and

(B) within the 12-month period preceding the date of reapplication, take and pass:

(I) the 15-hour Utah-specific mortgage loan originator ~~prelicensing~~~~[pre-licensing]~~ education, if the terminated license was a mortgage loan originator license; or

(II) the 40-hour Utah-specific lending manager ~~prelicensing~~~~[pre-licensing]~~ education and associated examination, if the terminated license was a lending manager license; and

(C) complete the division-approved course on Utah law specified in Subsection (3)(a)(i)(A).

(4) The procedures for r[R]enewal, reinstatement, and reapplication are as follows:~~[procedures.]~~

(a) An individual licensee shall:

(i) evidence having completed education as required by Subsection R162-2c-204(3);

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and

(iii) submit through the nationwide database:

(A) a request for renewal, if renewing or reinstating a license;

or

(B) a request for a new license, if reapplying; and

(iv) pay the fees~~[all fees as]~~ required by the division and by the nationwide database, including ~~[all]~~ applicable late fees.

(b) An entity licensee shall:

(i) submit through the nationwide database a request for renewal;

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;

(iii) renew the registration of any branch office or other trade name registered under the entity license; and

(iv) pay through the nationwide database each of the ~~[all]~~ fees, including ~~[all]~~ applicable late fees, required by the division and by the nationwide database.

#### **R162-2c-301b. Employee Incentive Program.**

~~(1)(a) Under this Subsection R162-2c-301b, a licensed entity may pay an incentive to a mortgage loan originator who is sponsored by the entity and licensed in:~~

~~(i) Utah; or~~

~~(ii) another state.~~

~~(b) A licensed entity may not pay an incentive to an unlicensed employee.~~

~~(2) A PLM or entity that uses an incentive program shall:~~

~~(a) prior to paying any incentive to an individual, specifically describe in the individual's contract for employment:~~

~~(i) the methodology by which any incentive will be calculated, including the limitation specified in Subsection (2)(b); and~~

~~(ii) the circumstances under which an incentive will be paid, including the limitation specified in this Subsection (2)(c); and~~

~~(b) limit the dollar amount or value of any single incentive to \$300 or less;~~

~~(c) limit the sponsored mortgage loan originator to receiving no more than three incentive payments in a calendar year; and~~

~~(d)(i) keep complete records of all incentive payments made, including:~~

~~(A) borrower name;~~

~~(B) property address;~~

~~(C) transaction closing date;~~

~~(D) date of incentive payment;~~

~~(E) name of employee receiving incentive payment; and~~

~~(F) amount paid; and~~

~~(ii) make such records available to the division for audit or inspection upon request.~~

~~(3) Before paying an incentive to a mortgage loan originator who is not licensed in Utah, the PLM or entity shall ensure that the individual did not:~~

~~(a) solicit or advertise to the client regarding financing for a Utah property; or~~

~~(b) perform any other activity that constitutes the business of residential mortgage loans pursuant to Section 61-2c-102(1)(h).]~~

**KEY: residential mortgage, loan origination, licensing, enforcement**

**Date of Last Change: 2021[July 8, 2020]**

**Notice of Continuation: January 15, 2020**

**Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

**Utah Admin. Code** R162-2h

**Ref (R no.):**

**Filing ID**

**53635**

#### **Agency Information**

|                             |                                    |
|-----------------------------|------------------------------------|
| <b>1. Department:</b>       | Commerce                           |
| <b>Agency:</b>              | Real Estate                        |
| <b>Room no.:</b>            | 2nd Floor                          |
| <b>Building:</b>            | Heber M Wells                      |
| <b>Street address:</b>      | 160 E 300 S                        |
| <b>City, state and zip:</b> | Salt Lake City, UT                 |
| <b>Mailing address:</b>     | PO Box 146711                      |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-6711      |
| <b>Contact person(s):</b>   |                                    |
| <b>Name:</b>                | <b>Phone:</b> <b>Email:</b>        |
| Justin Barney               | 801-530-6603 justinbarney@uath.gov |

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

#### **General Information**

##### **2. Rule or section catchline:**

R162-2h. Affiliated Title Business Rule

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

The purpose of this new proposed rule is to establish an administrative rule for affiliated title business as authorized by Sections 31A-23a-1002, 31A-23a-1004, and 31A-23a-1006. The proposed rule requires an affiliated business to

notify the Division of Real Estate (Division) in writing within 30 days of the date of affiliation.

**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):

Section R162-2h-101 names the chapter the "Affiliated Title Business Rule" and recites statutory authority for this rule.

Section R162-2h-102 establishes definitions for words and terms used in this rule.

Section R162-2h-201 requires each new or newly affiliated title entity to notify the Division in writing within 30 days of the date of affiliation.

Section R162-2h-202 provides that the names of affiliated businesses are public, and the Division may display, report, or publish a list of the names of affiliated businesses.

#### Fiscal Information

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

##### A) State budget:

The Division has the budget and staff to carry out the requirements of this proposed rule. After conducting a thorough analysis, it is anticipated that this proposed rule will not result in a cost or savings to the state budget.

##### B) Local governments:

Local governments are not required to comply with or enforce the Affiliated Title Business Rule. After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to local governments.

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

This proposed rule is not expected to impact small business revenues or expenditures as the costs are either inestimable or there is no fiscal impact.

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

This proposed rule does not create new obligations for non-small businesses, nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to non-small businesses.

**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**):

The proposed rule does not create new obligations for persons other than small businesses, non-small businesses, state, or local government entities, nor does it increase the cost associated with any existing obligation. After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities.

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

The proposed rule requires an affiliated business to notify the Division in writing within 30 days of the date of affiliation. The affected person may accomplish this notice requirement by writing a letter or sending an email communication. This cost is very minor and inestimable. After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons that can be estimated.

**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):

I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that this rule may have on businesses. I direct that my comments about the rule's fiscal impact on businesses be inserted at the appropriate place on the notice form to be filed with the Office of Administrative Rules for publication of the rulemaking action. Margaret Busse, 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        |
| <b>Total Fiscal Cost</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>   |            |            |            |

|   |            |            |            |
|---|------------|------------|------------|
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>   |            |            |            |
| The Executive Director of the Department of Commerce, Margaret Busse, 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-23a-1002 | Section 31A-23a-1004 | Section 31A-23a-1006 |
|----------------------|----------------------|----------------------|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |                            |              |            |
|--|----------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Jonathan Stewart, Director | <b>Date:</b> | 05/18/2021 |
|--|----------------------------|--------------|------------|

**R162. Commerce, Real Estate.**

**R162-2h. Affiliated Title Business Rule.****R162-2h-101. Title and Authority.**

(1) This chapter is known as the "Affiliated Title Business Rule."

(2) This administrative rule for affiliated title business is authorized by Sections 31A-23a-1002, 31A-23a-1004, and 31A-23a-1006.

**R162-2h-102. Definitions.**

(1) "Affiliated business is defined in Section 31A-23a-1001.

(2) "Division" is defined in Section 31A-23a-1001.

(3) "New or newly affiliated title entity" is defined in Section 31A-23a-1001.

**R162-2h-201. Notice and Reports.**

(1) Each new or newly affiliated title entity shall, within 30 days of the date of affiliation, notify the division in writing of affiliation.

**R162-2h-202. Names of Affiliated Businesses are Public.**

(1) The names of affiliated businesses are public and the division may:

(a) display;

(b) report; or

(c) publish a list of names of affiliated businesses.

**KEY:** real estate, affiliated title business, notice and reports, names of affiliated businesses are public

**Date of Last Change** 2021

**Authorizing, and Implemented or Interpreted Law:** 31A-23-1002; 31A-23a-1004; 31A-23a-1006

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

**Utah Admin. Code Ref (R no.):** R307-121

**Filing ID**  
53891

**Agency Information**

|                             |                                    |                   |
|-----------------------------|------------------------------------|-------------------|
| <b>1. Department:</b>       | Environmental Quality              |                   |
| <b>Agency:</b>              | Air Quality                        |                   |
| <b>Building:</b>            | Multi-Agency State Office Building |                   |
| <b>Street address:</b>      | 195 N 1950 W                       |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116           |                   |
| <b>Mailing address:</b>     | PO Box 144820                      |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4820      |                   |
| <b>Contact person(s):</b>   |                                    |                   |
| <b>Name:</b>                | <b>Phone:</b>                      | <b>Email:</b>     |
| Mat Carlile                 | 385-306-3565                       | mcarlile@utah.gov |

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

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

R307-121. General Requirements: Clean Air and Efficient Vehicle Tax Credit

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

During the five-year review analysis, the Division of Air Quality (DAQ) staff determined that this rule is no longer needed because the Utah State Legislature did not renew the sections of the Utah Code that govern and allow the Utah Clean Fuel Tax Credit. The Legislature allowed the code to lapse as of December 31, 2016.

**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 repealed in its entirety.

**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 because the tax credit no longer exists.

**B) Local governments:**

There are no anticipated costs or savings to local governments because this rulemaking is not applicable to them.

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

There are no anticipated costs or savings to small businesses because the tax credit no longer exists.

**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 because the tax credit no longer exists.

**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 for persons other than small businesses, and non-small businesses, state, or local government because the tax credit no longer exists.

**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 anticipated compliance costs for affected persons.

**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):

The Department does not expect any measurable fiscal impacts on businesses due to this rule repeal. Kimberly D. Shelley, 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**

| <b>Fiscal Cost</b>           | <b>FY2022</b> | <b>FY2023</b> | <b>FY2024</b> |
|------------------------------|---------------|---------------|---------------|
| 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           |
| <b>Total Fiscal Cost</b>     | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Fiscal Benefits</b>       |               |               |               |
| 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           |
| <b>Total Fiscal Benefits</b> | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, Kimberly D. Shelley, has reviewed and approved of this impact 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 59-7-605 | Section 59-10-1009 | Section 19-2-104 |
| Section 19-1-402 |                    |                  |

**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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |                         |              |            |
|--|-------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Bryce C. Bird, Director | <b>Date:</b> | 08/17/2021 |
|--|-------------------------|--------------|------------|

**R307. Environmental Quality, Air Quality.****~~R307-121. General Requirements: Clean Air and Efficient Vehicle Tax Credit.~~****~~R307-121-1. Authorization and Purpose.~~**

~~(1) This rule is authorized by Sections 59-7-605 and 59-10-1009. These statutes establish criteria and definitions used to determine eligibility for an income tax credit.~~

~~(2) R307-121 establishes procedures to provide proof of purchase or lease, in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), to the director for an OEM vehicle, qualifying electric motorcycle, or the conversion of a motor vehicle or special mobile equipment for which an income tax credit is allowed under Sections 59-7-605 or 59-10-1009.~~

**~~R307-121-2. Definitions.~~**

~~The following additional definitions apply to R307-121.~~

~~"Air quality standards" means air quality standards as defined in Subsection 59-7-605(1)(a) and 59-10-1009(1)(a).~~

~~"Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).~~

~~"Clean fuel vehicle" means clean fuel vehicle as defined in Subsection 19-1-402(2).~~

~~"Conversion equipment" means a package that may include fuel, ignition, emissions control, and engine components that are modified, removed, or added to a motor vehicle or special mobile equipment to make that motor vehicle or equipment eligible for the tax credit.~~

~~"Motor Vehicle" means a motor vehicle as defined in 41-1a-102.~~

~~"Original equipment manufacturer(OEM) vehicle" means original equipment manufacturer(OEM) as defined in Subsection 19-1-402(8).~~

~~"Original purchase" means original purchase as defined in Subsection 59-7-605(1)(g) and 59-10-1009(1)(g).~~

~~"Qualifying electric motorcycle" means qualifying electric motorcycle as defined in 59-7-605(1)(h) or 59-10-1009(1)(h).~~

~~"Qualifying electric vehicle" means qualifying electric vehicle as defined in 59-7-605(1)(i) or 59-10-1009(1)(i).~~

~~"Qualifying plug-in hybrid vehicle" means qualifying plug-in hybrid vehicle as defined in 59-7-605(1)(j) or 59-10-1009(1)(j).~~

~~"Window Sticker" means the label required by United States Code Title 15 Sections 1231 and 1232, as effective January 3, 2012.~~

**~~R307-121-3. Proof of Purchase to Demonstrate Eligibility for New OEM Natural Gas, Propane, Qualifying Electric or Qualifying Plug-in Hybrid Vehicles.~~**

~~To demonstrate that an OEM natural gas, propane, qualifying electric, or qualifying plug-in hybrid motor vehicle is eligible for the tax credit, proof of purchase shall be made in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documents to the director:~~

~~(1)(a) a copy of the motor vehicle's window sticker, which includes its Vehicle Identification Number (VIN), or equivalent manufacturer's documentation showing that the motor vehicle is an OEM natural gas, propane, qualifying electric or qualifying plug-in hybrid vehicle; or~~

~~(b) a signed statement by either an Automotive Service Excellence (ASE) certified technician or Canadian Standards Association (CSA) America CNG Fuel System Inspector that includes the VIN, the technician's ASE or CSA America certification number, and states that the motor vehicle is an OEM natural gas, propane, qualifying electric or qualifying plug-in hybrid vehicle;~~

~~(2) an original or copy of the purchase order, customer invoice, or receipt that includes the name of the taxpayer seeking the credit, the name of the seller of the motor vehicle, the VIN, purchase date, and price of the motor vehicle;~~

~~(3) a copy of the current Utah vehicle registration in the name of the taxpayer seeking the credit;~~

~~(4) an original or copy of the odometer disclosure statement required in Utah Code Annotated Title 41 Chapter 1a Section 902 for the motor vehicle that was acquired as an original purchase; and~~

~~(5) the underhood identification number or engine group of the motor vehicle.~~

**~~R307-121-4. Proof of Purchase to Demonstrate Eligibility for New Qualifying Electric Motorcycle.~~**

~~To demonstrate that a qualifying electric motorcycle is eligible for the tax credit, proof of purchase shall be made in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documents to the director:~~

~~(1)(a) a copy of the Manufacturer's Statement of Origin (MSO) or equivalent manufacturer's documentation showing that the motor vehicle is a qualifying electric motorcycle; or~~

~~(b) a signed statement by an Automotive Service Excellence (ASE) certified technician that includes the VIN, the technician's ASE certification number, and states that the motorcycle is a qualifying electric motorcycle;~~

## NOTICES OF PROPOSED RULES

\_\_\_\_\_ (2) an original or copy of the purchase order, customer invoice, or receipt that includes the name of the taxpayer seeking the credit, the name of the seller of the motor vehicle, the VIN, purchase date, and price of the motor vehicle;

\_\_\_\_\_ (3) a copy of the current Utah vehicle registration in the name of the taxpayer seeking the credit; and

\_\_\_\_\_ (4) an original or copy of the odometer disclosure statement required in Utah Code Annotated Title 41 Chapter 1a Section 902 for the motor vehicle that was acquired as an original purchase.

### **R307-121-5. Proof of Lease to Demonstrate Eligibility for New OEM Natural Gas, Propane, Qualifying Electric or Qualifying Plug-in Hybrid Vehicles.**

\_\_\_\_\_ To demonstrate that an OEM natural gas, propane, qualifying electric or qualifying plug-in hybrid vehicle is eligible for the tax credit, proof of lease shall be made in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documents to the director:

\_\_\_\_\_ (1)(a) a copy of the motor vehicle's window sticker, which includes its Vehicle Identification Number (VIN), or equivalent manufacturer's documentation showing that the motor vehicle is an OEM natural gas, propane, qualifying electric or qualifying plug-in hybrid vehicle; or

\_\_\_\_\_ (b) a signed statement by either an Automotive Service Excellence (ASE) certified technician or Canadian Standards Association (CSA) America CNG Fuel System Inspector that includes the VIN, the technician's ASE or CSA America certification number, and states that the motor vehicle is an OEM natural gas, propane, qualifying electric or qualifying plug-in hybrid vehicle;

\_\_\_\_\_ (2) an original or copy of the lease agreement that includes the name of the taxpayer seeking the credit, the name of the lessor of the vehicle, the VIN, the beginning date of the lease, the value of the vehicle at the beginning of the lease, and the value of the vehicle at the end of the lease;

\_\_\_\_\_ (3) a copy of the current Utah vehicle registration in the name of the taxpayer seeking the credit;

\_\_\_\_\_ (4) an original or copy of the odometer disclosure statement required in Utah Code Annotated Title 41 Chapter 1a Section 902 for the motor vehicle that was acquired as an original purchase; and

\_\_\_\_\_ (5) the underhood identification number or engine group of the motor vehicle.

### **R307-121-6. Proof of Lease to Demonstrate Eligibility for Qualifying Electric Motorcycle.**

\_\_\_\_\_ To demonstrate that a qualifying electric motorcycle is eligible for the tax credit, proof of lease shall be made in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documents to the director:

\_\_\_\_\_ (1)(a) a copy of the Manufacturer's Statement of Origin (MSO) or equivalent manufacturer's documentation showing that the motor vehicle is a qualifying electric motorcycle; or

\_\_\_\_\_ (b) a signed statement by an Automotive Service Excellence (ASE) certified technician that includes the VIN, the technician's ASE certification number, and states that the motorcycle is a qualifying electric motorcycle;

\_\_\_\_\_ (2) an original or copy of the lease agreement that includes the name of the taxpayer seeking the credit, the name of the lessor of the vehicle, the VIN, the beginning date of the lease, the value of the vehicle at the beginning of the lease, and the value of the vehicle at the end of the lease;

\_\_\_\_\_ (3) a copy of the current Utah vehicle registration in the name of the taxpayer seeking the credit; and

\_\_\_\_\_ (4) an original or copy of the odometer disclosure statement required in Utah Code Annotated Title 41 Chapter 1a Section 902 for the motor vehicle that was acquired as an original purchase.

### **R307-121-7. Proof of Purchase to Demonstrate Eligibility for Motor Vehicles Converted to a Clean Fuel.**

\_\_\_\_\_ To demonstrate that a conversion of a motor vehicle to be fueled by a clean fuel is eligible for the tax credit, proof of purchase shall be made, in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documentation to the director:

\_\_\_\_\_ (1) an original or copy of the purchase order, customer invoice, or receipt that includes the name of the taxpayer seeking the credit, the name, address, and phone number of the person that converted the motor vehicle to run on a clean fuel; the VIN; the date of conversion; and the price of the conversion equipment installed on the motor vehicle;

\_\_\_\_\_ (2) a copy of the current Utah vehicle registration in the name of the taxpayer seeking the credit; and

\_\_\_\_\_ (3) a signed statement by the person who converted the motor vehicle certifying that the conversion does not tamper with, circumvent, or otherwise affect the vehicle's on-board diagnostic system, in accordance with 19-1-406(2).

### **R307-121-8. Proof of Purchase to Demonstrate Eligibility for Special Mobile Equipment Converted to Clean Fuels.**

\_\_\_\_\_ To demonstrate that a conversion of special mobile equipment to be fueled by clean fuel is eligible for the tax credit, proof of purchase shall be made, in accordance with 59-7-605(3)(b) or 59-10-1009(3)(b), by submitting the following documentation to the director:

\_\_\_\_\_ (1) a description, including serial number, of the special mobile equipment for which credit is to be claimed; and

\_\_\_\_\_ (2) an original or copy of the purchase order, customer invoice, or receipt that includes the name of the taxpayer seeking the credit, the serial number, the date of conversion, and the price of the conversion equipment installed on the special mobile equipment.

**KEY: air pollution, alternative fuels, tax credits, motor vehicles**

**Date of Last Change: September 3, 2015**

**Notice of Continuation: September 7, 2016**

**Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-402; 59-7-605; 59-10-1009]**

## NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R357-29

**Filing ID**  
53890

## 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**

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| R357-29. Rural County Grant Program Rule  |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):  |
| During the 2020 General Session, S.B. 95 passed and created the Rural County Grant Program, and later a portion of the program was unfunded. This rule filing will clarify the standards for participation in the now funded portion of the program. Additionally, 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 this rule need to be updated. This rule also makes technical changes to comply with Executive Order No. 2021-12. |
| <b>4. Summary of the new rule or change</b> (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 establishes the criteria to participate in Part B: Competitive Awards under the Rural County Grant Program; amends references of "Development" to "Opportunity"; amends statutory references so that they are correct; and makes technical changes to comply with the Office of Administrative Rules' Rulewriting Manual for Utah as required by Executive Order No. 2021-12.  |

**Fiscal Information**

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| There is no aggregate anticipated cost or savings to the state budget. This rule is merely creating the requirements for the Rural County Grant Program Part B: Competitive Grants that was created by the passing of S.B. 95 (2020) and makes technical changes. |
| <b>B) Local governments:</b>  |
| There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.  |

|  |               |               |               |
|--|---------------|---------------|---------------|
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):   |               |               |               |
| There is no aggregate anticipated cost or savings to small businesses because this proposed rule 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.   |               |               |               |
| <b>D) Non-small businesses</b> ("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 rule 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. |               |               |               |
| <b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):   |               |               |               |
| There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule 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. |               |               |               |
| <b>F) Compliance costs for affected persons</b> (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.   |               |               |               |
| <b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):   |               |               |               |
| The purpose of this rule filing is to establish the standards and review process for participation in the Part B: Rural County Grant Program and make technical changes. This rule will have no negative impact on businesses. Dan Hemmert, Executive Director   |               |               |               |
| <b>6. A) Regulatory Impact Summary Table</b> (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.)   |               |               |               |
| <b>Regulatory Impact Table</b>   |               |               |               |
| <b>Fiscal Cost</b>   | <b>FY2022</b> | <b>FY2023</b> | <b>FY2024</b> |
| State Government   | \$0           | \$0           | \$0           |

## NOTICES OF PROPOSED RULES

|   |            |            |            |
|---|------------|------------|------------|
| Local Governments   | \$0        | \$0        | \$0        |
| Small Businesses  | \$0        | \$0        | \$0        |
| Non-Small Businesses  | \$0        | \$0        | \$0        |
| Other Persons   | \$0        | \$0        | \$0        |
| <b>Total Fiscal Cost</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>  |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>   |            |            |            |
| The Executive Director of 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-4-104 | Section 17-54-103 |  |
|-------------------|-------------------|--|

## 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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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

|  |                                 |              |            |
|--|---------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Dan Hemmert, Executive Director | <b>Date:</b> | 09/01/2021 |
|--|---------------------------------|--------------|------------|

**R357. Governor, Economic [Development] Opportunity.**

**R357-29. Rural County Grant Program Rule.**

**R357-29-101. Title.**

This rule is known as the "Rural County Grant Program Rule."

**R357-29-102. Definitions.**

The following terms are defined as follows:

(1) ~~"Annual Distribution" means the grant funding distributed evenly to each qualifying rural county in an amount up to and including \$200,000.~~

(2) ~~"CED board" means a County Economic Development Advisory Board defined under Section 17-54-102.~~

(3) ~~"Competitive Application" means an application that is subject to review, scoring and comparing against other applicants to determine grant awardees against a limited pool of funding.~~

(4) ~~"Go[CED] Utah" means the Governor's Office of Economic [Development] Opportunity.~~

(5) ~~"Part A: Annual Distribution" means the grant funding distributed evenly to each qualifying rural county in an amount up to and including \$200,000.~~

(6) ~~"Part B: Competitive Award" means the grant funding, obtained by competitive application, which exceeds the \$200,000 annual distribution, not to exceed an overall amount of \$800,000 per year for a single county.~~

**R357-29-103. Authority.**

This rule is adopted by the office under the authority of Sections 17-54-103 and 63N-4-104.

**R357-29-104. Content of Applications Part A: Annual Distribution.**

(1) The following content shall, at a minimum, be included in each application for a ~~first year~~ Part A: annual distribution:

- name of applying county;
- tax ID;
- name of fiscal agent;
- amount of grant funding requested; and
- responsible contacts:
  - name;
  - full mailing address;
  - telephone number; and
  - email address.

(2) The following documentation shall, at a minimum, be included in each first year application for a ~~first year~~ Part A: annual distribution grant:

- the entity's W9 form, or the county's state vendor number if the county is currently a state vendor;
- copy of resolution forming the CED board;
- minutes from the legislative body council meeting detailing the official establishment of a CED board;
- letter of support from the CED board; and

- (e) list of CED board members including:
  - (i) names;
  - (ii) titles;
  - (iii) organizations each member represents; and
  - (iv) contact information.

(3) After the first year, the following documentation shall, at a minimum, be included in each application for a Part A: annual distribution grant:

- (a) an annual report from the previous year reporting:
  - (i) the use of funds;
  - (ii) the effectiveness of the award in improving economic development in the county;
  - (iii) how much matching money has been utilized by the county; and
  - (iv) any other item requested by the office; and
- (b) for the current year request a:
  - (i) description of projects and activities the funds will be used for;
  - (ii) budget describing proposed uses of grant funds;
  - (iii) description of matching funds; and
  - (iv) description of expected deliverables and outcomes.

#### **R357-29-105. Content of Applications--Part B.**

(1) The following content shall, at a minimum, be included in each application for a Part B: competitive award grant:

- (a) name of applying county;
- (b) tax ID;
- (c) name of fiscal agent;
- (d) amount of grant funding requested; and
- (e) responsible contacts:
  - (i) name;
  - (ii) full mailing address;
  - (iii) telephone number; and
  - (iv) email address.

(2) The following documentation shall, at a minimum, be included in each application for a Part B: competitive award grant:

- (a)(i) the entity's W9 form; or
- (ii) the county's state vendor number if the county is currently a state vendor;
- (b) an annual report from the previous year reporting the use of Part A: annual distribution and Part B competitive award the includes:
  - (i) the use of funds;
  - (ii) the effectiveness of the award in improving economic development in the county;
  - (iii) how much matching money has been utilized by the county; and
  - (iv) any other item requested by the office; and
- (c) for the current year request a:
  - (i) description of projects and activities the funds will be used for;
  - (ii) budget describing proposed uses of grant funds;
  - (iii) description of matching funds;
  - (iv) description of expected deliverables and outcomes; and
  - (v) letters of support from:
    - (A) key stakeholders;
    - (B) project participants;
    - (C) local governments; and
    - (D) any other entity receiving sub-grant funding from Part B funds.

#### **R357-29-105. Funding Distribution.**

(1) After Go[~~OED~~] Utah approval of a[~~n~~] Part: A annual distribution grant the county may receive up to 100% of the total grant amount.

(2) After Go Utah approval of a Part B: competitive award grant funds will be distributed:

- (a) 75% of grant funds disbursed to a county after:
  - (i) application approval;
  - (ii) a contract between the county and the state is entered; and
  - (iii) the county invoices the office for 75% of the funds; and
- (b) the remaining 25% of funds may be disbursed to a county upon satisfactory evidence of benchmark achievements toward completion of economic development projects and activities recorded in the grant contract.

**KEY: Rural County Grant, economic development**

**Date of Last Change: 2021[~~July 9, 2020~~]**

**Authorizing, and Implemented or Interpreted Law: 17-54-103; 63N-4-104**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New

|                                      |                |                                  |
|--------------------------------------|----------------|----------------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R357-42</b> | <b>Filing ID</b><br><b>53895</b> |
|--------------------------------------|----------------|----------------------------------|

#### **Agency Information**

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

#### **General Information**

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R357-42. Redeveloping Matching Grant Rule  |
| <b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>  |
| During the 2021 First Special Session, S.B. 1001 passed and created the Redeveloping Matching Grant program. The purpose of this rule is to establish the criteria to participate in this program. |

**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 will codify definitions, authority, eligibility criteria, contract requirements, contract modification process, funding distribution, and reporting requirements.

#### Fiscal Information

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

**A) State budget:**

There is no new aggregate anticipated cost or savings to the state budget. This rule is merely establishing the process to receive redeveloping matching grant funds.

**B) Local governments:**

Local governments may receive a total of \$35,000,000 in grant funds if they allow higher density housing as a permitted use.

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

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

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

There is no new aggregate anticipated cost or savings to non-small businesses because this proposed rule does not create new obligations for non-small businesses, 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** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule 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 new compliance costs for affected persons because participation 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):

The purpose of this rule filing is to establish the standards and review process for participation in the Redeveloping Matching Grant program. This rule will have no negative 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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**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:**

|                               |  |  |
|-------------------------------|--|--|
| Subsection<br>63G-3-201(2)(d) |  |  |
|-------------------------------|--|--|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |                                    |              |            |
|--|------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Dan Hemmert,<br>Executive Director | <b>Date:</b> | 09/01/2021 |
|--|------------------------------------|--------------|------------|

**R357. Governor, Economic Opportunity.****R357-42. Redeveloping Matching Grant Rule.****R357-42-101. Title.**

This rule is known as the "Redeveloping Matching Grant Rule".

**R357-42-102. Definitions.**

The following terms are defined:

- (1) "Approve a redevelopment application" means:
  - (a) entering a redevelopment agreement that includes, a minimum, of eight housing units per acre; or
  - (b) modifying an existing redevelopment agreement that:
    - (i) substantially increases the number of housing units, as determined by the executive director; and
    - (ii) includes, a minimum, of eight housing units per acre;
- (2) "Executive Director" means the executive director of the Governor's Office of Economic Opportunity;
- (3) "Land Use Authority" means the same as defined under Section 10-9a-103;
- (4) "Municipality" includes any land use authority located in the state;
- (5) "Per Acre" means that on average the qualifying project has a minimum of eight residential housing units.
- (6) "Spend" or "Spent" includes:
  - (a) money paid directly towards the qualifying project;
  - (b) fees waived by the land use authority;
  - (c) land donated towards the qualifying project;
  - (d) funds expended to improve areas immediately adjacent to the qualifying project where such improvements benefit the qualifying project; and
  - (e) other expenses approved by the executive director.

**R357-42-103. Authority.**

This rule is adopted by the office under the authority of Subsection 63G-3-201(2)(d) and Appropriation Adjustments, S.B. 1001, SSI 2021, Item 53, Section 2 (2021).

**R357-42-104. Award and Required Contract.**

(1) The office reserves the right to award funding for any proposal in full or in part, to request additional information, or to reject any proposal.

(2) Upon award, and prior to disbursement of funds, awardee shall enter into a contract with the office governing the use of funding.

(3) Awardees must maintain eligibility status until the collaboration is complete, scope of work requirements have been met, final disbursement of funding has been made, and reporting has been completed.

**R357-42-105. Funding Distribution.**

(1) The office shall reimburse the awardee for no more than the total amount specified in the contract.

(2) Payment will only be made for those costs authorized and approved by the office after sufficient documentation is provided in accordance with the terms and conditions provided in the contract.

(3) Misrepresentation to the office or violations of the agreement may result in forfeiture of program participation, repayment of the funding received, or disqualification from continued funding.

(4) If an awardee does not spend the proposed qualifying project matching funds within the terms of the contract the awardee shall repay the portion of matching funds that were not spent to the office.

(5)(a) Land use authorities may be awarded for multiple qualifying projects; and

(b) priority will be given to land use authorities that have not received an award.

(6) The office reserves the right to audit the use of funding.

**R357-42-106. Reporting and Cooperation Requirements.**

(1) At a minimum the awardee shall report to the office and provide documentation evidencing the following:

(a) number of:

(i) housing units built; and

(ii) acres of qualifying project; and

(b) amount of:

(i) private investment; and

(iii) public investment.

**KEY: economic opportunity, high density housing**

**Date of Last Change: 2021**

**Authorizing, and Implemented or Interpreted Law: 63G-3-201(2)(d)**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal and Reenact

**Utah Admin. Code Ref (R no.):** R414-29

**Filing ID**  
53836

**Agency Information**

|  |  |                       |
|--|--|-----------------------|
| <b>1. Department:</b>  | Health   |                       |
| <b>Agency:</b>   | Health Care Financing, Coverage and Reimbursement Policy |                       |
| <b>Building:</b>   | Cannon Health Building                                   |                       |
| <b>Street address:</b>   | 288 N 1460 W   |                       |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116                                 |                       |
| <b>Mailing address:</b>  | PO Box 143102  |                       |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-3102                            |                       |
| <b>Contact person(s):</b>  |  |                       |
| <b>Name:</b>   | <b>Phone:</b>  | <b>Email:</b>         |
| Craig Devashrayee  | 801-538-6641   | cdevashrayee@utah.gov |
| Please address questions regarding information on this notice to the agency. |  |                       |

**General Information**

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R414-29. Client Review/Education and Restriction Policy  |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):   |
| The purpose of this change is to implement, by rule, current Medicaid policy for the Restriction Program.  |
| <b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):   |
| All requirements of the repealed rule are reenacted in the proposed rule. In contrast to the repealed rule, this new rule specifies in greater detail the criteria to place members in the Restriction Program. It also details the provisions, rights, and obligations of restriction members, specifies provisions that govern providers and pharmacies, and spells out notice requirements and provisions that regulate the length of restriction. This new rule further elaborates on member enrollment and the Department of Health's authority to regulate Medicaid members who overutilize Medicaid services. |

**Fiscal Information**

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| There is no impact to the state budget as this change only clarifies and implements current Medicaid policy by rule. It neither affects member services nor provider reimbursement. |

**B) Local governments:**

There is no impact on local governments because they neither fund nor determine eligibility for the Restriction Program.

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

There is no impact on small businesses as this change only clarifies and implements current Medicaid policy by rule. It neither affects member services nor provider reimbursement.

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

There is no impact on non-small businesses as this change only clarifies and implements current Medicaid policy by rule. It neither affects member services nor provider reimbursement.

**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 impact on Medicaid providers and Medicaid members as this change only clarifies and implements current Medicaid policy by rule. It neither affects member services nor provider reimbursement.

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

There is no impact on a single Medicaid provider or Medicaid member as this change only implements Medicaid policy by rule. It neither affects member services nor provider reimbursement.

**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):

Businesses will see neither costs nor revenue as this change only implements Medicaid policy by rule. Nate Checketts, 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        |
| <b>Total Fiscal Cost</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>  |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>   |            |            |            |
| The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis. |            |            |            |

**Citation Information**

|   |                 |  |
|---|-----------------|--|
| <b>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:</b> |                 |  |
| Section 26-1-5  | Section 26-18-3 |  |

**Public Notice Information**

|   |            |
|---|------------|
| <b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (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.) |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b>   | 10/22/2021 |
| 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**

|  |                                    |              |            |
|--|------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Nate Checketts, Executive Director | <b>Date:</b> | 08/13/2021 |
|--|------------------------------------|--------------|------------|

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.****R414-29. Client Review[Education] and Restriction Policy.****[R414-29-1. Introduction and Authority.**

~~(1) The Client Restriction Program promotes the appropriate use of quality medical services by identifying and correcting overutilization of services.~~

~~(2) This rule is required by 42 CFR 431.54(e) and 456.3.~~

**R414-29-2. Definitions.**

~~In addition to the definitions in R414-1, the following definitions apply to this rule:~~

~~(1) "Overutilize" means use of medical services at a frequency or amount that is above what is medically necessary.~~

~~(2) "Restriction Case Manager" means a Medical Doctor or Doctor of Osteopathy who agrees to become the primary medical care provider for all of a restricted client's non-emergency medical needs.~~

~~(3) "Restriction Pharmacy" means the only pharmacy that can receive Medicaid reimbursement for dispensing non-emergency pharmacy items to a restricted client.~~

**R414-29-3. Notifying Clients of Overutilization of Services.**

~~(1) The Department may require a client to participate in the Restriction Program based on the client's overutilization of services. The Department shall notify the client in writing of its determination. This notice shall:~~

~~(a) state the factors, or combination of factors, justifying Restriction Program participation;~~

~~(b) cite the regulation authorizing Restriction Program participation;~~

~~(c) invite the client to provide additional information justifying the use of services, within ten calendar days after the date the notice is issued;~~

~~(d) notify the client that, if he fails to submit additional written justification within ten calendar days after the date the notice is issued, the Department shall require his participation in the Restriction Program.~~

~~(e) invite the client to select a Restriction Case Manager and a Restriction Pharmacy;~~

~~(f) inform the client that if he fails to contact the Department with a choice within ten calendar days after the date the notice is issued, the Department shall assign a Restriction Case Manager and a Restriction Pharmacy without further notice.~~

~~(2) If the client submits additional information within ten calendar days after the notice is issued, the Department shall evaluate this information along with the original data, and notify the client in writing of the Department's determination.~~

~~(3) If the client disagrees with the determination, he may request a hearing. The Department shall provide the client with instructions on how to request a hearing, including a hearing request form.~~

**R414-29-4. Restriction Case Manager.**

~~The client may select a physician as a Restriction Case Manager if the physician agrees to serve in that capacity and if the Department accepts the physician as a Restriction Case Manager.~~

## NOTICES OF PROPOSED RULES

The Restriction Case Manager must develop a written treatment plan the client understands and accepts.

### **R414-29-5. Restriction Pharmacy.**

The client may select a pharmacy as a Restriction Pharmacy if the pharmacy agrees to serve in that capacity and if the Department accepts the pharmacy as a Restriction Pharmacy.

### **R414-29-6. Changes in Restriction Case Manager or Restriction Pharmacy.**

(1) When a client requests a change in the Restriction Case Manager or the Restriction Pharmacy, the request may be verbal or written. Before placing the new Restriction Case Manager on the client's case record, the Department must verify that the proposed Restriction Case Manager agrees to the responsibilities of the Restriction Case Manager.

(2) The Department must approve all changes in the Restriction Case Manager or the Restriction Pharmacy before the client may use a different Restriction Case Manager or Restriction Pharmacy. Circumstances under which the Department may approve such a change are:

(a) client, Restriction Case Manager, or Restriction Pharmacy moves location;

(b) Restriction Case Manager or Restriction Pharmacy discontinues or limits practice;

(c) Restriction Case Manager, or Restriction Pharmacy requests a change;

(d) Department Staff Physician recommends a change, when a periodic assessment of the use of services reveals indications of possible overutilization by the restricted client, the Restriction Case Manager, or both.

(3) The Department may mandate a change in the Restriction Case Manager or Restriction Pharmacy whenever it determines that the client:

(a) continues to overutilize services despite being under restriction; or

(b) is not receiving appropriate care while being managed by the Restriction provider.

### **R414-29-7. Length of Restriction.**

(1) A client shall continue participation in the Restriction Program until the client has demonstrated he is not overutilizing services. Once a client is placed in the Restriction Program, a client may request a review for discharge from the Restriction Program after one year. If utilization data supports discharge from the Restriction Program, the client will no longer be enrolled in the program.

(2) If a client loses Medicaid eligibility, and subsequently re-establishes Medicaid eligibility, the Department shall automatically require the client's participation in the Restriction Program if the loss of eligibility is for less than one year.

(3) The Department shall assess the client's utilization of services when requested after Restriction has been maintained for at least one year and shall use information such as:

(a) medical care obtained from multiple practitioners;

(b) prescriptions obtained from multiple practitioners;

(c) emergency rooms used for non-emergency services as defined in the Utah Medicaid Table of Authorized Emergency Diagnosis;

(d) use of multiple emergency rooms;

(e) concurrent use of medications in the same therapeutic class, when prescribed by different practitioners;

(f) indications of forged or altered prescriptions;

(g) use of medical services inconsistent with diagnosis;

(h) other patterns indicating overutilization.]

### **R414-29-1. Introduction and Authority.**

(1) This rule sets out the criteria and process to restrict a Medicaid member to specific Medicaid providers if the member is found to have a pattern of using Medicaid services at a frequency or amount not medically necessary.

(2) This rule implements the requirements found in 42 CFR 431.54(e) and 42 CFR 456.3.

### **R414-29-2. Definitions.**

In addition to the definitions in Section R414-1-2, the following definitions apply to this rule:

(1) "Abuse potential medications" means those substances listed in Schedule II-V in 21 CFR 812, Subchapter I, Part B (b)(2) through (5)(c) and Section 58-37-4.2.

(2) "Access to care" means the timely availability and adequacy of healthcare services to achieve the best health outcomes for Medicaid members.

(3) "Annual review" means a review of a restricted member's records and claims from the prior 12 months of Medicaid eligibility and enrollment in the Restriction Program performed to determine whether the member has adhered to Restriction Program guidelines during enrollment in the Restriction Program.

(4) "Assigned pharmacy" means the pharmacy assigned by the Department for a restricted member to access pharmacy services.

(5) "Assigned prescriber" means a provider authorized by a restricted member's assigned PCP to write prescriptions for the restricted member.

(6) "Assigned primary care provider" means the PCP assigned by the Department as the provider responsible for coordinating a restricted member's overall health care.

(7) "Assigned provider" means provider authorized by the restricted member's assigned PCP to provide services to the member.

(8) "Concurrently Prescribed" means abuse potential medications that are prescribed by different prescribers for overlapping periods.

(9) "Department" means the Division of Medicaid and Health Financing and its contracted accountable care organizations.

(10) "Emergency department" means an area of a hospital in which emergency services are provided 24 hours a day.

(11) "Member" means a person who is determined eligible for assistance under the Medicaid program.

(12) "Non-emergent emergency department visit" means an emergency department visit, in which the medical condition does not meet the definition of emergency medical condition, and the services rendered do not meet the definition of emergency service, in accordance with the definitions set forth in Section R414-1-2.

(13) "Non-affiliated" provider means a provider who has not entered into a contractual agreement with another provider to provide similar health care services. This type of provider is neither closely associated with, belongs to, nor subordinate to another provider within a provider group practice. It also means a provider who has not been designated by a principal provider to render health care services in the temporary absence of the principal provider.

(14) "Overutilization" means to use medical services at a frequency or amount that is more than customary.

(15) "Primary care provider" or "PCP" means a physician, doctor of osteopathic medicine, nurse practitioner, or physician assistant, who provides, coordinates, or helps a patient access a necessary range of health care services.



(16) "Restriction case" means the record of documentation on a member enrolled in the Restriction Program.

(17) "Restriction criteria" means the criteria used to place a Medicaid member in the Restriction Program, as described under Section R414-29-3.

(18) "Restricted member" means a Medicaid member who is placed in the Restriction Program.

#### **R414-29-3. Restriction Program.**

(1) The Department may enroll a member in the Restriction Program if the member meets one or more of the following restriction criteria within the most recent 12 months of Medicaid eligibility:

(a) accesses four or more non-affiliated PCPs and specialists;

(b) accesses four or more pharmacies for the purchase of abuse potential medications;

(c) accesses three or more non-affiliated providers who prescribe abuse potential medications in a consecutive two-month period;

(d) accesses six or more prescriptions for abuse potential medications in a consecutive two-month period;

(e) accesses emergency department services for five or more non-emergent emergency department visits;

(f) fills concurrent prescriptions for abuse potential medications, written by different prescribers;

(g) pays cash for Medicaid-covered services; or

(h) accesses concurrently prescribed abuse potential medications written by different prescribers without medical necessity or the knowledge or consent of the different prescribers.

(2) Once a member is found to meet or exceed restriction criteria, the Department shall perform an additional review to determine if overutilization of services was the result of limited access to care or medical necessity.

(3) When an individual is placed in the Restriction Program, the member shall have one assigned PCP and one assigned pharmacy.

(4) The Department may only pay claims for services rendered by the assigned PCP, prescriptions written by the assigned PCP, and prescriptions filled by the assigned pharmacy unless:

(a) services were provided upon referral from the assigned PCP;

(b) prescribers were authorized as assigned prescribers by the assigned PCP;

(c) services were provided by an emergency department;

(d) services and resulting prescriptions were provided in a hospital inpatient setting;

(e) services were provided by an urgent care center; or

(f) services were provided by Medicaid-enrolled providers not licensed to prescribe medications, such as behavioral health counselors or physical therapists.

(5) Enrollment in the Restriction Program does not affect the restricted member's ability to access emergency services.

#### **R414-29-4. Assigned PCP and Assigned Pharmacy.**

(1) The assigned PCP and assigned pharmacy shall enroll as Medicaid providers.

(2) The restricted member's primary care provider may serve as the assigned PCP if the provider agrees to serve in that capacity and if the Department approves the provider as the assigned PCP.

(3) The assigned PCP shall provide non-emergent services for the restricted member.

(4) The assigned PCP shall coordinate health care services for the restricted member, providing referrals for assigned providers and assigned prescribers as necessary.

#### **R414-29-5. Selection of Assigned PCP and Assigned Pharmacy.**

(1) The Department shall approve an assigned PCP and assigned pharmacy for the member when the member is placed in the Restriction Program. When making this assignment, the Department may consider the member's utilization history, geographic location, medical needs, transportation needs, and the quality of services available.

(2) Within 30 days of notification of placement in the Restriction Program, the restricted member may select an assigned PCP and an assigned pharmacy. The restricted member's selection of an assigned PCP and assigned pharmacy are subject to the approval of the Department.

(3) Only the Department may approve of any change in a assigned PCP or an assigned pharmacy.

(4) The assigned PCP and assigned pharmacy shall remain as the assigned PCP and assigned Pharmacy for the duration of the member's enrollment in the Restriction Program with the following exceptions:

(a) a member requests a change of assigned PCP or assigned pharmacy within 30 days of notification of enrollment in the Restriction Program;

(b) the assigned PCP or assigned pharmacy changes locations;

(c) the assigned PCP or assigned pharmacy discontinues or limits practice;

(d) the assigned PCP or assigned pharmacy requests a change;

(e) a member has a verified change of address, which impacts access to the assigned PCP or assigned pharmacy; or

(f) the Department recommends a change when review indicates continued overutilization by a restricted member, the assigned PCP, or both.

(5) The Department may require a change of assigned PCP, assigned pharmacy, assigned providers, or assigned prescribers whenever it determines the restricted member is not receiving appropriate care.

(6) Requests from a restricted member to change an assigned PCP or assigned pharmacy may be verbal or be in writing.

#### **R414-29-6. Notification of Placement in Restriction Program.**

(1) The Department shall provide written notice to a Medicaid member that the Department is placing the member in the Restriction Program at least 10 days before placing the member in the Restriction Program. The notice shall inform the member of:

(a) the effective date of the member's placement in the Restriction Program;

(b) the basis for the member's placement in the Restriction Program;

(c) the specific element of the restriction criteria that supports the placement of the member in the Restriction Program; and

(d) the assigned PCP and assigned pharmacy selected for the member, and known assigned providers and assigned prescribers for the member at the time of placement in the Restriction Program.

(2) The notice shall inform the member that:

## NOTICES OF PROPOSED RULES

(a) upon placement in the Restriction Program, the member's assigned PCP must authorize Medicaid-covered prescriptions, primary care, and specialty care services for payment to be made; and

(b) the member has the right to an administrative hearing, including appropriate forms, instructions, and information sufficient to request an administrative hearing and the time frame for requesting an administrative hearing.

### **R414-29-7. Length of Restriction.**

(1) A restricted member shall remain in the Restriction Program for a total of 12 months of Medicaid eligibility. The months of eligibility need not be continuous.

(2) If a restricted member becomes ineligible for Medicaid, and subsequently reestablishes Medicaid eligibility, the Department shall require the member to continue enrollment in the Restriction Program, unless the restricted member's loss of Medicaid eligibility is greater than one year.

(3) The Department shall perform a review of a member's placement in the Restriction Program once the member has been enrolled in the Restriction Program for 12 months of Medicaid eligibility.

(4) The Restriction Program shall remove a restricted member if an annual review demonstrates the restricted member no longer meets the restriction criteria.

(5) The Department shall inform a restricted member in writing of the member's removal from the Restriction Program.

(6) If at the time of annual review, a Medicaid member still meets the criteria for the Restriction Program, the Department shall inform the restricted member of continued enrollment in the Restriction Program for an additional 12 months of Medicaid eligibility.

(7) The Department shall provide notice to a Medicaid member of continuation in the Restriction Program in accordance with Section R414-29-6.

### **KEY: Medicaid**

Date of Last Change: ~~2021 May 16, 2013~~

Notice of Continuation: August 22, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

|                                      |                 |                  |
|--------------------------------------|-----------------|------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R495-882</b> | <b>Filing ID</b> |
|                                      |                 | <b>53889</b>     |

### **Agency Information**

|                             |                                    |
|-----------------------------|------------------------------------|
| <b>1. Department:</b>       | Human Services                     |
| <b>Agency:</b>              | Administration                     |
| <b>Room no.:</b>            | DHS Administration Office          |
| <b>Building:</b>            | Multi-Agency State Office Building |
| <b>Street address:</b>      | 195 N 1950 W                       |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116           |
| <b>Mailing address:</b>     | 195 N 1950 W                       |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116           |

### **Contact person(s):**

| <b>Name:</b> | <b>Phone:</b> | <b>Email:</b>   |
|--------------|---------------|-----------------|
| Jodi Witte   | 801-741-7417  | jwitte@utah.gov |
| Casey Cole   | 801-741-7523  | cacole@utah.gov |
| Jonah Shaw   | 801-538-4225  | jshaw@utah.gov  |

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

### **General Information**

#### **2. Rule or section catchline:**

R495-882. Termination of Parental Rights

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

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.

#### **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 amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

### **Fiscal Information**

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

##### **A) State budget:**

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or saving to the state budget.

##### **B) Local governments:**

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or saving to local governments.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect

substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or saving to small businesses.

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

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or saving to non-small businesses.

**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**):

The amendment to this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or saving to persons.

**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 associated with the amendment of this rule; it is technical in nature and does not reflect substantive changes to current practices or procedures.

**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 proposal will not result in a fiscal impact to businesses. Tracy Gruber, 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    |

|                              |            |            |            |
|------------------------------|------------|------------|------------|
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, 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 62A-1-111 | Section 62A-1-117 | Section 62A-11-107 |
| Section 78A-6-356 |                   |                    |

**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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber, Executive Director | <b>Date:</b> | 08/27/2021 |
|--|----------------------------------|--------------|------------|

**R495. Human Services, Administration.****R495-882. Termination of Parental Rights.****R495-882-1. Authority and Purpose.**

[+](1) ~~The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary by] pursuant to Section 62A-11-107.~~

[2-](2) The purpose of this rule is to provide information about child support obligations and child support arrears when a child is placed in the care[+] or custody of the state or with an individual other than the parent for at least 30 days.

**R495-882-2. Arrears Obligation for Children in Care.**

[In accordance with]Pursuant to Sections 62A-1-117 and [78A-6-1106]78A-6-356, child support is assigned to the state when a child is placed in the care[+] or custody of the state or with an individual other than the parent for at least 30 days. The juvenile court shall also order the [parents or any other obligated person]child's parent, guardian, or other obligated individual to pay child support to [the Office of Recovery Services -]ORS[+] while the child is in a placement. If parental rights are terminated, and if any child support payable to the state has accrued prior to the termination of parental rights, the parent shall be responsible for paying this amount to the state[~~in accordance with Section 78A-6-513~~]. ORS will attempt to collect [all]any past due child support that accrued prior to the termination of parental rights for children who were in the care or custody of the state.

**KEY:** state custody, parental rights

**Date of Last Change:** 2021[October 8, 2008]

**Notice of Continuation:** February 1, 2019

**Authorizing, and Implemented or Interpreted Law:** 62A-1-111; 62A-1-117; 62A-11-107; 78A-6-356[78A-6-513; 78A-6-1106]

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

|                                      |               |                  |
|--------------------------------------|---------------|------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-1</b> | <b>Filing ID</b> |
|                                      |               | <b>53851</b>     |

**Agency Information**

|  |                           |                      |
|--|---------------------------|----------------------|
| <b>1. Department:</b>  | Human Services            |                      |
| <b>Agency:</b>   | Child and Family Services |                      |
| <b>Building:</b>   | MASOB                     |                      |
| <b>Street address:</b>   | 195 N 1950 W              |                      |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116  |                      |
| <b>Contact person(s):</b>  |                           |                      |
| <b>Name:</b>   | <b>Phone:</b>             | <b>Email:</b>        |
| Carol Miller   | 801-557-1772              | carolmiller@utah.gov |
| Jonah Shaw   | 385-310-2389              | jshaw@utah.gov       |
| Please address questions regarding information on this notice to the agency. |                           |                      |

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

R512-1. Description of Division Services, Eligibility, and Service Access

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

In this repeal, the Division of Child and Family Services has determined that the language in this rule is covered in other sections of Utah statute and administrative rules, so this rule is redundant and not needed.

**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):**

There will be no significant impact due to this repeal because the language in this rule is covered in other sections of statute and administrative rules. Therefore, this rule is repealed in its entirety.

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

There will be no increase in cost or savings to the state budget because these proposed changes do not increase nor decrease workload that would require additional staff or other costs.

**B) Local governments:**

Local governments have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

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

Small businesses have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

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

Non-small businesses have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

**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**):**

Persons other than small businesses, non-small businesses, state, or local government entities have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

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

Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

**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 proposal will not result in a fiscal impact to businesses because this rule is being repealed. Tracy Gruber, Executive Director

**B) Name and title of department head commenting on the fiscal impacts:**

**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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Human Services, Tracy Gruber, 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<br>62A-4a-102 | Section<br>62A-4a-103 | Section<br>62A-4a-105 |
|-----------------------|-----------------------|-----------------------|

**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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 08/19/2021 |
|--|-----------------------|--------------|------------|

**R512. Human Services, Child and Family Services.**

~~**[R512-1. Description of Division Services, Eligibility, and Service Access.**~~

~~**R512-1-1. Purpose and Authority.**~~

~~(1) The purpose of this rule is to clarify the scope of services the Division of Child and Family Services (Child and Family Services) provides to families in Utah.~~

~~(2) This rule is authorized by Section 62A-4a-102.~~

~~**R512-1-2. Introduction.**~~

~~(1) Pursuant to Sections 62A-4a-103 and 62A-4a-105, Child and Family Services is authorized to provide programs and services that support the strengthening of family values, including services that preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.~~

~~(2) Child Welfare Services shall be made available for children who are abused, neglected, exploited, abandoned; for those whose parents are unable to care for them; and for the assisting of youth who are ungovernable or who are runaways. Domestic violence~~

services shall be made available to assist adult victims who have been abused or threatened by their partners.

~~(3) Child and Family Services shall provide protective services, services given in the family home, short-term temporary crisis placement services, out-of-home placements, and adoption services. The "Best Interest of the Child" shall be the guiding principle used in making decisions for those served by Child and Family Services.~~

~~(4) The programs administered by Child and Family Services have been established to help children remain with their families, to solve problems in their homes, and, if that is not possible, to place them in out-of-home care for as short a time as possible. When Child and Family Services finds that return of a child to the family will never be possible, adoption or guardianship shall be sought to ensure a permanent family for the child. Domestic violence services shall provide comprehensive assistance to adult victims of domestic violence, their dependent children, and in some cases, to the abusive partner so that families can be restored to harmony or helped to develop new, more productive ways of life.~~

~~(5) Child and Family Services shall provide its services through local offices situated throughout the state. These offices are listed in telephone directories under Utah State Department of Human Services, Division of Child and Family Services and also on Child and Family Services' website.~~

~~(6) The State Office of Child and Family Services located in Salt Lake City shall operate as the central office to administer Child Welfare programs, which include:~~

- ~~(a) Program planning;~~
- ~~(b) Practice guideline development;~~
- ~~(c) Training and consultation;~~
- ~~(d) Program financing;~~
- ~~(e) Administration of the Interstate Compact on Placement of Children (ICPC) and the Interstate Compact on Adoption and Medical Assistance (ICAMA);~~
- ~~(f) Legislative and federal liaison; and~~
- ~~(g) Information and referral.~~

#### **R512-1-3. Prevention Services.**

Child and Family Services will either provide for, or contract for, any of several child abuse and neglect prevention services. Most prevention services shall be provided and funded according to the requirements of Section 62A-4a-309, known as the Children's Account legislation.

#### **R512-1-4. Intervention Services.**

~~(1) Protective Services. Child abuse and neglect investigation and services shall be provided to eligible clients. All referrals received alleging child abuse and neglect will be screened for assessment and/or investigation in accordance with the provisions of Section 62A-4a-409. Child and Family Services' caseworkers recognize that parents have the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline their children. They also recognize that removal affects these rights, creating a long-term impact on children. Child and Family Services' caseworkers are dedicated to maintaining children with their family when circumstances and services can make it safe for the children to remain home. Child and Family Services will determine whether or not a child has been abused or neglected, or is in danger thereof, and shall take necessary action to protect the child from potential danger. Temporary care of children in crisis placements may be provided when children cannot be returned home due to the likelihood of further abuse or neglect. The parents of a child in a crisis placement will be kept informed of the child's health and safety and will be involved in~~

developing plans for themselves and their child. If parents desire to visit their child in a crisis placement, staff will arrange, as appropriate, visits with the child at the location designated by staff. Assessment and treatment services will be provided to victims of child sexual abuse and their families.

~~(a) Access. Investigations and/or assessments will be conducted using all appropriate referrals of alleged child abuse or neglect.~~

~~(b) Eligibility. A report of occurrence of child abuse or that a child is at risk thereof will constitute sufficient eligibility.~~

~~(2) Youth Services. Short-term crisis counseling services and shelter to runaway, homeless, and ungovernable youth and their families may be provided in order to stabilize the family.~~

~~(a) Access. Any youth, family, or other agency can access services defined in this rule, as long as the child is determined to be homeless, ungovernable, or a runaway.~~

~~(b) Eligibility. Youth who are either homeless or ungovernable or who have run away shall be eligible.~~

#### **R512-1-5. In-Home Services.**

~~(1) In-Home Services. Child and Family Services may offer services to families whose children are in their own homes, yet who are at risk of or who have suffered from abuse or neglect. Services will be voluntary or court ordered, and shall be intensive to avoid unnecessary placement of children in protective custody. These services may include child day care, protective supervision, and services for the preservation of families.~~

~~(a) Access. Referrals can be made from Child Protective Services or from Juvenile Court and other agencies.~~

~~(b) Eligibility. A family must be determined to be in a state of crisis and children shall be at risk of abuse or neglect.~~

~~(2) Domestic Violence Services. For adult victims of domestic violence and their minor children, shelter care facilities may be provided in order to protect the adult victim and their children from further violence. Short-term counseling may be provided to the family while in shelter, and treatment services may be offered to the perpetrator of the abuse in order to stop the violence and maintain the family as a unit. Children of abused partners eligible for domestic violence services may receive child care without a fee as part of the protective services provided to the family.~~

~~(a) Access. The adult victim of family violence shall have access to the services listed above by requesting protection or by referral.~~

~~(b) Eligibility. The only eligibility factor is that the adult victim shall have been abused by their partner or some other member of the family. The perpetrator may be assessed, through court order, for the costs of Child and Family Services providing these services.~~

#### **R512-1-6. Out-of-Home Care Services.**

~~(1) The following definitions apply to this section:~~

~~(a) "Cohabiting" means residing with another person and being involved in a sexual relationship.~~

~~(b) "Involved in a sexual relationship" means any sexual activity and conduct between persons.~~

~~(c) "Residing" means living in the same household on an uninterrupted or an intermittent basis.~~

~~(2) Foster care and group care. Child placement services may be provided when parents are unable to meet their children's needs within the family. Child and Family Services has authority to place a child when the state has been granted custody through a court order, or when a voluntary agreement has been signed by the parents, or when the child is from another state and is covered by the ICPC. The intent of~~

foster care or group care is to insure a permanent home for each child. This may be achieved through a return to the home, or through adoption, guardianship, or individualized permanency services. A permanency plan for each foster child, defining the goal and steps to be taken to achieve permanency, shall be formulated. Periodic reviews shall be held at least once every six months to assess progress achieved within the permanency plan, and to project a likely date for returning the child to the family home or to another permanent home arrangement. A dispositional hearing shall be held every 12 months from the date of placement to determine the future status of the child. Foster care shall be provided in licensed family homes. Legally married couples and individuals who are not cohabiting and are blood relatives of the child in the custody of Child and Family Services may be foster parents. Group care shall be provided in licensed facilities which offer a more structured treatment environment than a family home. Foster homes are licensed in accordance with Rule R501-12. Residential Treatment Programs, also known as group homes, are licensed in accordance with Rule R501-19.

(a) Access. Referrals can be made from Child Protective Services or from Juvenile Court and other agencies. Parents can request placement services by contacting the local Child and Family Services office. Referrals for foster care or group care may be screened to determine whether placement is the best option. In most cases, services that are intended to prevent placement must first be provided, before foster care or group care will be considered by Child and Family Services.

(b) Eligibility. Temporary child custody must be given to the state by court order, or by voluntary agreement, and most parents shall be obligated to pay support while their child is in foster care. Youth can be served in foster care or group care until age 18 years, or until age 21 years when ordered by the court.

(3) Transition to Adult Living. Services may be given to older teenage foster children to teach self-sufficiency skills in order to increase their ability to be self-reliant in the future. Some who do not return to living with their parents upon leaving foster care will be allowed to live on their own. All foster children age 14 years and older shall be required to be working toward at least one objective in developing independent living skills in their permanency plans.

(a) Access. Access shall be given only by a referral from the foster care caseworker.

(b) Eligibility. Foster children who are at least 14 years old and who are in the custody of the state shall be eligible.

(4) Adoption. This service provides adoptive homes for children in custody of the state who are legally available because the birth parents have been permanently deprived of parental rights by court action, or who have voluntarily relinquished their children for adoption.

(a) The choice of an adoptive home is based on the best interests of the child.

(b) Adults who are residents of Utah who wish to adopt a child in Utah State custody may apply to the Utah Foster Care Foundation for consideration.

(c) Adults who are residents of other states who wish to adopt a child in Utah State custody must meet the standards to adopt a child in their state custody as well as to comply with ICPC requirements.

(d) Children whose special needs make it more difficult to find appropriate adoptive homes may be eligible for adoption assistance, which may include Medicaid and a monthly subsidy payment based on federal qualifying factors.

(e) To be eligible, the child must be in custody of the state and be legally freed for adoption, and the court must determine that adoption is the best permanency option for the child. Persons approved to be adoptive parents must meet certain standards before approval

based on Rule R512-41. Authorization of adoption assistance for children with special needs shall be determined by Child and Family Services based on federal law.

(5) Provider Services. Persons applying to be foster care or emergency care parents shall be given information and a home study will be completed. For those approved as meeting program standards, basic training will be provided, as well as any additional training that may be required for some types of care. Annual reapproval is required.

(a) Access. Persons interested in becoming foster parents or who wish to provide emergency care, such as crisis placements, may apply at the Utah Foster Care Foundation.

(b) Eligibility. Any adult may apply for consideration. Persons approved to be providers must meet certain standards before approval is granted.

#### **R512-1-7. Collection of Fees.**

Child and Family Services' regional office staff shall collect any assessed fees for services. Failure of a family to pay the assessed fee may result in the termination of the service and a referral to the Office of Recovery Services for collection. For hardship situations, a fee reduction can be considered by the director of Child and Family Services.

#### **R512-1-8. Civil Rights and Due Process.**

Child and Family Services shall comply with the Department of Human Services policy of Civil Rights. Child and Family Services seeks to provide equal opportunity and to insure due process in all actions taken pursuant to these rules. Consumers have the right to be notified about decisions made about their eligibility for any service that is requested and received through Child and Family Services, and to request a hearing if they disagree with any decision. Notice of a decision shall be sent by Child and Family Services when an application for service or a service payment is denied, or if a service is reduced or terminated. Consumers must make a request for any hearings regarding services and decisions specified in this rule in writing.

**KEY: social services, child welfare, domestic violence, eligibility**  
**Date of Enactment or Last Substantive Amendment: June 15, 2015**  
**Notice of Continuation: October 13, 2016**  
**Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-103; 62A-4a-105]**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

|                                      |                 |                  |              |
|--------------------------------------|-----------------|------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-204</b> | <b>Filing ID</b> | <b>53852</b> |
|--------------------------------------|-----------------|------------------|--------------|

#### **Agency Information**

|                             |                           |
|-----------------------------|---------------------------|
| <b>1. Department:</b>       | Human Services            |
| <b>Agency:</b>              | Child and Family Services |
| <b>Building:</b>            | MASOB                     |
| <b>Street address:</b>      | 195 N 1950 W              |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116  |
| <b>Contact person(s):</b>   |                           |

# NOTICES OF PROPOSED RULES

| Name:  | Phone:       | Email:               |
|--|--------------|----------------------|
| Carol Miller   | 801-557-1772 | carolmiller@utah.gov |
| Jonah Shaw   | 385-310-2389 | jshaw@utah.gov       |
| Please address questions regarding information on this notice to the agency. |              |                      |

## General Information

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R512-204. Child Protective Services, New Caseworker Training   |
| <b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):  |
| In this repeal, the Division of Child and Family Services has determined that the language in this rule is only applicable to Child and Family Services staff and is therefore not needed.   |
| <b>4. Summary of the new rule or change</b> (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 has not been utilized in several years because the language is not applicable to any persons other than Child and Family Services staff. Therefore, there will be no significant impact of this repeal and it is repealed in its entirety. |

## Fiscal Information

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| There will be no increase in cost or savings to the state budget because these proposed changes do not increase nor decrease workload that would require additional staff or other costs. |
| <b>B) Local governments:</b>  |
| Local governments have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.                   |
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):  |
| Small businesses have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.                    |
| <b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):  |

Non-small businesses have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

**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**):

Persons other than small businesses, non-small businesses, state, or local government entities have no responsibility for services offered by Child and Family Services and are therefore, not affected by this rule and will have no fiscal impact.

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

Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

**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 proposal will not result in a fiscal impact to businesses because this rule is being repealed. Tracy Gruber, Executive Director

**B) Name and title of department head commenting on the fiscal impacts:**

| 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        |
| <b>Total Fiscal Cost</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>   |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>   |            |            |            |
| The Executive Director of the Department of Human Services, Tracy Gruber, 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 62A-4a-102 | Section 62A-4a-105 | Section 62A-4a-107 |
|--------------------|--------------------|--------------------|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 08/19/2021 |
|--|-----------------------|--------------|------------|

**R512. Human Services, Child and Family Services.****~~R512-204. Child Protective Services, New Caseworker Training.~~****~~R512-204-1. Purpose and Authority.~~**

~~(1) Pursuant to Section 62A-4a-107, the Division of Child and Family Services (Child and Family Services) mandates that before assuming significant independent casework responsibilities, all caseworkers shall successfully complete the core curriculum training.~~

~~(2) Section 62A-4a-102 gives Child and Family Services rulemaking authority.~~

**~~R512-204-2. Conflict Training.~~**

~~(1) The child welfare training coordinator for Child and Family Services is charged with the responsibility for ensuring that the core curriculum is inclusive of information about working with families where there is a conflictual relationship born out of divorce proceedings. This training must include information on fraudulent reporting in Child Protective Services investigations. Other training information must be provided that assists the caseworker in using a variety of techniques to develop a complete picture of the family dynamics and how this may impact the information gathered and the conclusions reached at the end of an investigation.~~

**KEY: child welfare, child abuse, caseworker training**

**Date of Enactment or Last Substantive Amendment: October 22, 2009**

**Notice of Continuation: April 18, 2017**

**Authorizing, and Implemented or Interpreted Law: 62A-4a-105; 62A-4a-107; 62A-4a-102]**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

|                                      |               |                  |
|--------------------------------------|---------------|------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R525-5</b> | <b>Filing ID</b> |
|                                      |               | <b>53883</b>     |

**Agency Information**

|                             |                                    |                   |
|-----------------------------|------------------------------------|-------------------|
| <b>1. Department:</b>       | Human Services                     |                   |
| <b>Agency:</b>              | Substance Abuse and Mental Health  |                   |
| <b>Room no.:</b>            | Second Floor                       |                   |
| <b>Building:</b>            | Multi Agency State Office Building |                   |
| <b>Street address:</b>      | 195 N 1950 W                       |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT                 |                   |
| <b>Mailing address:</b>     | 195 N 1950 W                       |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116           |                   |
| <b>Contact person(s):</b>   |                                    |                   |
| <b>Name:</b>                | <b>Phone:</b>                      | <b>Email:</b>     |
| Thom Dunford                | 801-538-4181                       | tdunford@utah.gov |
| Jonah Shaw                  | 801-538-4219                       | jshaw@utah.gov    |

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

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

R525-5. Background Checks

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

The Division of Substance Abuse and Mental Health (Division) is repealing this rule because the Utah State Hospital (USH) has a much more detailed policy on the requirements of background checks for employees. Also, these requirements already exist in statute and rule per Section 62A-1-118 and Rule R495-885. The Division currently uses a general rule writing authority to enforce these requirements, but there is no specific statutory authority requirement for this rule.

**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 in its entirety.

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

This rule outlined procedural requirements pertaining to the acquisition and use of background checks on all employee at the USH. No financial obligations are associated with these requirements other than those that would already exist, which would include the cost of time for a state employee to process the background checks. This requirement will continue to remain in force because of statutory and departmental rule requiring background checks on all employees that provide services to children and vulnerable adults. No budgetary costs or savings are associated with this repeal.

**B) Local governments:**

This rule outlined procedural requirements pertaining to the acquisition and use of background checks on all employee at the USH and does not pertain to employees of local governments and political subdivisions. No financial obligations to local governments are associated with these requirements, and no budgetary costs or savings are associated with this repeal.

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

This rule outlined procedural requirements pertaining to the acquisition and use of background checks on all employee at the USH and does not pertain to employees of small businesses. No financial obligations are associated with these requirements, and no budgetary costs or savings are associated with this repeal.

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

This rule outlined procedural requirements pertaining to the acquisition and use of background checks on all employee at the USH and does not pertain to employees of non-small businesses. No financial obligations are associated with these requirements, and no budgetary costs or savings are associated with this repeal.

**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**):

This rule outlined procedural requirements pertaining to the acquisition and use of background checks on all employee at the USH and pertains to other persons who would be seeking employment. The financial obligations already associated with these requirements will not change due to this repeal, because individuals seeking and obtaining employment at the USH will continue to submit to background checks per statute and departmental rule requirements.

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

The procedural requirements of background checks for employees at the USH have no associated financial obligations. Individuals seeking and obtaining employment at the USH have their fingerprints taken, and the processing of background checks are both performed by USH staff. These requirements will continue to remain in force because of statutory and department level rules that require background check for employee who are in contact with children and vulnerable adults. No costs are passed onto the new employee, but rather those costs are built into the USH budget.

**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):

Businesses do not have a role in processing fingerprints and background checks on individuals employed at the USH; therefore, enforcement of the requirements in this rule has no financial obligation or impact placed on businesses. Tracy S. Gruber, 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        |
| <b>Total Fiscal Cost</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>   |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>  |            |            |            |
| The Executive Director of the Department of Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis. |            |            |            |

**Citation Information**

|   |  |  |
|---|--|--|
| <b>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:</b> |  |  |
| Section<br>62A-15-105   |  |  |

**Public Notice Information**

|   |            |
|---|------------|
| <b>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.)</b> |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |
| <b>10. This rule change MAY become effective on:</b>  | 10/22/2021 |

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**

|  |                                     |              |            |
|--|-------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber,<br>Executive Director | <b>Date:</b> | 08/26/2021 |
|--|-------------------------------------|--------------|------------|

**R525. Human Services, Substance Abuse and Mental Health, State Hospital.**~~**R525 5. Background Checks.**~~~~**R525 5 1. Authority and Purpose.**~~

~~(1) This rule is adopted under the authority of Section 62A-15-105.~~

~~(2) The purpose of this rule is to explain the use of background checks for new employees and volunteers at the Utah State Hospital.~~

~~**R525 5 2. Background Checks Are Completed on All New Employees and Volunteers.**~~

~~Background checks, which may include fingerprinting and BCI inquiries, are completed on all newly hired employees and volunteers who will be performing volunteer services for an extended period of time.~~

~~**R525 5 3. Information Is Used for Employment/Volunteer Service Placement.**~~

~~Background information shall be used to determine appropriateness for employment or volunteer services.~~

~~**KEY: background checks**~~

~~**Date of Last Change: February 21, 2012**~~

~~**Notice of Continuation: January 16, 2018**~~

~~**Authorizing, and Implemented or Interpreted Law: 62A-15-105**~~

**NOTICE OF PROPOSED RULE**

|                                      |               |                                  |
|--------------------------------------|---------------|----------------------------------|
| <b>TYPE OF RULE:</b> Repeal          |               |                                  |
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R525-7</b> | <b>Filing ID</b><br><b>53884</b> |

**Agency Information**

|                             |                                    |
|-----------------------------|------------------------------------|
| <b>1. Department:</b>       | Human Services                     |
| <b>Agency:</b>              | Substance Abuse and Mental Health  |
| <b>Room no.:</b>            | Second Floor                       |
| <b>Building:</b>            | Multi Agency State Office Building |
| <b>Street address:</b>      | 195 N 1950 W                       |
| <b>City, state and zip:</b> | Salt Lake City, UT                 |
| <b>Mailing address:</b>     | 195 N 1950 W                       |

## NOTICES OF PROPOSED RULES

|  |                          |                   |
|--|--------------------------|-------------------|
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116 |                   |
| <b>Contact person(s):</b>  |                          |                   |
| <b>Name:</b>   | <b>Phone:</b>            | <b>Email:</b>     |
| Thom Dunford   | 801-538-4181             | tdunford@utah.gov |
| Jonah Shaw   | 801-538-4219             | jshaw@utah.gov    |
| Please address questions regarding information on this notice to the agency. |                          |                   |

### General Information

#### 2. Rule or section catchline:

R525-7. Complaints/Suggestions/Concerns

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

The Division of Substance Abuse and Mental Health (Division) is repealing this rule because the Utah State Hospital (USH) has a much more detailed policy on the requirements of submitting complaints, suggestions, and concerns. The Division currently uses a general rulewriting authority to enforce these requirements, but there is no specific statutory authority requirement for this rule.

#### 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 repealed in its entirety.

### Fiscal Information

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

##### A) State budget:

This rule outlined procedural requirements pertaining to submitting complaints, suggestions, and concerns at the USH. The requirements in this rule will continue to be enforce through policy and procedures. No financial obligations are associated with these requirements; therefore, no budgetary costs or savings are associated with this repeal.

##### B) Local governments:

This rule outlined procedural requirements pertaining to submitting complaints, suggestions, and concerns at the USH. Local governments have been able to realize the benefits of this rule in other forums that have no associated cost, but also have the ability to express their needs using the process out lined in this rule. No financial obligations are associated with these requirements; therefore, no

budgetary costs or savings to local governments are associated with this repeal.

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

This rule outlined procedural requirements pertaining to submitting complaints, suggestions, and concerns at the USH. No financial obligations are associated with these requirements; therefore, no budgetary costs or savings to small businesses are associated with this repeal.

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

This rule outlined procedural requirements pertaining to submitting complaints, suggestions, and concerns at the USH. No financial obligations are associated with these requirements; therefore, no budgetary costs or savings to non-small businesses are associated with this repeal.

#### 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**):

Other persons affected by this rule include anyone who would be associated with the USH including patients and their, families members, friends, and associates, as well as the community at large, special interests groups, and practicum students from colleges throughout the State. This rule outlined procedural requirements pertaining to submitting complaints, suggestions, and concerns at the USH. No financial obligations are associated with these requirements; therefore, no costs or savings are associated with this repeal.

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

The procedural requirements of submitting complaints, suggestions, and concerns at the USH have no associated costs or financial obligations; therefore, no compliance costs or savings can be identified with this repeal.

#### 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):

The procedural requirements of submitting complaints, suggestions, and concerns at the USH have no associated costs or financial obligations; therefore, no costs or savings can be identified for businesses. Tracy S. Gruber, 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        |
| <b>Total Fiscal Cost</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>   |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>  |            |            |            |
| The Executive Director of the Department of Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis. |            |            |            |

**Citation Information**

|   |  |  |
|---|--|--|
| <b>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:</b> |  |  |
| Section<br>62A-15-105   |  |  |

**Public Notice Information**

|   |            |
|---|------------|
| <b>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.)</b> |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b>   | 10/22/2021 |
| 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**

|  |                                     |              |            |
|--|-------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber,<br>Executive Director | <b>Date:</b> | 08/26/2021 |
|--|-------------------------------------|--------------|------------|

**R525. Human Services, Substance Abuse and Mental Health, State Hospital.****~~R525-7. Complaints/Suggestions/Concerns.~~****~~R525-7.1. Authority and Purpose.~~**

~~(1) This rule is promulgated under the authority of Section 62A-15-105.~~

~~(2) The purpose of this rule is to explain the process for patients and their family members to register complaints, suggestions and concerns.~~

**~~R525-7.2. Patient and Family Members May Register Complaints.~~**

~~Patients and/or their family members may register a complaint/suggestion/concern about the hospital to any hospital staff member.~~

**~~R525-7.3. Complaints/Suggestions/Concerns Are Reviewed.~~**

~~Complaints/suggestions/concerns are reviewed by the Hospital Suggestion Committee and forwarded to the appropriate person/agency for response.~~

**~~R525-7.4. The Suggestion Committee Shall Respond.~~**

~~The person submitting the complaint/suggestion/concern shall receive a response from the Suggestion Committee.~~

**~~R525-7.5. No Reprisal to Person Making Complaint.~~**

~~Patients, family members, and members of the public may pursue complaints against the hospital without reprisal.~~

**KEY: complaints, suggestions, concerns****Date of Last Change: February 21, 2012****Notice of Continuation: January 16, 2018****Authorizing, and Implemented or Interpreted Law: 62A-15-105]****NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment

|                                      |               |                  |              |
|--------------------------------------|---------------|------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R527-3</b> | <b>Filing ID</b> | <b>53888</b> |
|--------------------------------------|---------------|------------------|--------------|

**Agency Information**

|                        |                   |
|------------------------|-------------------|
| <b>1. Department:</b>  | Human Services    |
| <b>Agency:</b>         | Recovery Services |
| <b>Street address:</b> | 515 E 100 S       |

# NOTICES OF PROPOSED RULES

|  |                               |                 |
|--|-------------------------------|-----------------|
| <b>City, state and zip:</b>  | Salt Lake City, UT 84102-4211 |                 |
| <b>Mailing address:</b>  | PO Box 45033                  |                 |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84145-0033 |                 |
| <b>Contact person(s):</b>  |                               |                 |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>   |
| Casey Cole   | 801-741-7523                  | cacole@utah.gov |
| Jonah Shaw   | 801-538-4225                  | jshaw@utah.gov  |
| Please address questions regarding information on this notice to the agency. |                               |                 |

## General Information

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| R527-3. Definitions   |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):  |
| This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.  |
| <b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):  |
| Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual. Also, several terms defined in this rule are being removed because they are defined in other rules or are not used in other rules within Title R527. |

## Fiscal Information

|  |
|--|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>   |
| <b>A) State budget:</b>  |
| The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.  |
| <b>B) Local governments:</b>   |
| The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments. |

| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):  |             |        |        |        |                  |     |     |     |                   |     |     |     |
|---|-------------|--------|--------|--------|------------------|-----|-----|-----|-------------------|-----|-----|-----|
| The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.   |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.   |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director   |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>6. A) Regulatory Impact Summary Table</b> (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.)  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <b>Regulatory Impact Table</b>  |             |        |        |        |                  |     |     |     |                   |     |     |     |
| <table border="1"> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </table>  | Fiscal Cost | FY2022 | FY2023 | FY2024 | State Government | \$0 | \$0 | \$0 | Local Governments | \$0 | \$0 | \$0 |
| 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        |
| <b>Total Fiscal Cost</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>  |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>                                       |            |            |            |
| The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis. |            |            |            |

**Citation Information**

|   |                    |                    |
|---|--------------------|--------------------|
| <b>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:</b> |                    |                    |
| Section 62A-1-111   | Section 62A-11-103 | Section 62A-11-107 |
| Section 62A-11-303  | Section 62A-11-401 | Section 78B-14-102 |

**Public Notice Information**

|   |            |
|---|------------|
| <b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (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.) |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |

|   |            |
|---|------------|
| <b>10. This rule change MAY become effective on:</b>  | 10/22/2021 |
| 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**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber, Executive Director | <b>Date:</b> | 08/27/2021 |
|--|----------------------------------|--------------|------------|

**R527. Human Services, Recovery Services.****R527-3. Definitions.****R527-3-1. Authority and Purpose.**

~~[4-](1)~~ The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to Section 62A-1-111 ~~[and 62A-11-107]~~. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~[2-](2)~~ The purpose of this rule is to identify the terms and definitions used by ~~[the Office of Recovery Services/Child Support Services]~~ ORS not currently defined by law.

**R527-3-2. Definitions.**

~~[4-](1)~~ Terms used in this title, R527, are defined in Sections 62A-11-103, 62A-11-303, 62A-11-401, 78B-12-102 and 78B-14-102. In addition, the following terms are defined:

- ~~1. "ORS" means the Office of Recovery Services.~~
- ~~2. "ORSIS" means the Office of Recovery Services Computer Information System.~~
- ~~3. "BMC" means the Bureau of Medical Collections.~~
- ~~4. "CIC" means the Bureau for Children in Care.~~
- ~~5. "CSS" means Child Support Services.~~
- ~~6. "MSS" means Management Support Services.~~
- ~~7. "CSU" means the Customer Service Unit.~~
- ~~8. "BFS" means the Bureau of Financial Services.~~
- ~~9. "BET" means the Bureau of Electronic Technology.~~
- ~~10. "OT" means the Office of Technology.~~

~~(1)~~ "IV-D" means Title IV-D of the Social Security Act.

~~[42-](2)~~ "IV-D agency" ~~[refers to]~~ means the state agency that administers a child support program under Title IV-D of the Social Security Act.

~~[43-](3)~~ "IV-D recipient" ~~[refers to]~~ means a person who receives IV-D services.

~~[44-](4)~~ "IV-A" ~~[refers to]~~ means Title IV-A of the Social Security Act.

~~[45-](5)~~ "IV-A agency" ~~[refers to]~~ means the state agency that administers a public entitlement program under Title IV-A of the Social Security Act.

~~[46-](6)~~ "IV-A recipient" ~~[refers to]~~ means ~~[a person who receives IV-A benefits]~~ any individual who has been determined eligible for financial assistance pursuant to Title IV-A of the Social Security Act.

(7) "Non-IV-A Medicaid recipient" means any individual who has been determined eligible for or is receiving Medicaid pursuant to Title XIX of the Social Security Act but has not been determined eligible for or is not receiving financial assistance pursuant to Title IV-A of the Social Security Act.

(8) "Medicaid agency" means the state agency that has the responsibility for administration of or supervising the administration of the state plan pursuant to Title XIX of the Social Security Act.

~~[17-]~~ "UIFSA" refers to Title 78B, Chapter 14 (Uniform Interstate Family Support Act) which replaces "URES", Title 77, Chapter 31 (Uniform Reciprocal Enforcement of Support Act).

## NOTICES OF PROPOSED RULES

18. "AFDC" refers to the former Aid to Families with dependent children program.
19. "FEP" refers to the Family Employment Program which is funded by "TANF" (Federal Temporary Assistance for Needy Families).
20. "Pass-through payment" as used in R527-40-1(3) refers to the first \$50 of the current support that ORS collected for a month in which the custodial parent received AFDC. The IV-A agency paid this amount to the AFDC household prior to March, 1997.
21. "IRS" refers to the Internal Revenue Service.
22. "TPL" means Third Party Liability.
23. "CP" means custodial parent.
24. "NCP" means non-custodial parent.]

**KEY:** child support, welfare

**Date of Last Change:** ~~2021~~ November 10, 2009

**Notice of Continuation:** December 13, 2016

**Authorizing, and Implemented or Interpreted Law:** 62A-1-111; 62A-11-103; 62A-11-107; 62A-11-303; 62A-11-401; 78B-12-102; 78B-14-102; 42 U.S.C. Chapter 7

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Repeal

|                                      |                |                                  |
|--------------------------------------|----------------|----------------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R527-37</b> | <b>Filing ID</b><br><b>53887</b> |
|--------------------------------------|----------------|----------------------------------|

### Agency Information

|                             |                               |                   |
|-----------------------------|-------------------------------|-------------------|
| <b>1. Department:</b>       | Human Services                |                   |
| <b>Agency:</b>              | Recovery Services             |                   |
| <b>Street address:</b>      | 515 E 100 S                   |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84102-4211 |                   |
| <b>Mailing address:</b>     | PO Box 45033                  |                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84145-0033 |                   |
| <b>Contact person(s):</b>   |                               |                   |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>     |
| Mary Burgener               | 801-741-7465                  | mburgene@utah.gov |
| Casey Cole                  | 801-741-7523                  | cacole@utah.gov   |
| Jonah Shaw                  | 801-538-4225                  | jshaw@utah.gov    |

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

### General Information

#### 2. Rule or section catchline:

R527-37. Closure Criteria for Support Cases

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

This rule is being repealed as no additional value is provided since the CFR provides sufficient law.

#### 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 in its entirety.

### Fiscal Information

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

##### A) State budget:

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to the state budget.

##### B) Local governments:

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to non-small businesses.

##### 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**):

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.



**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 associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**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 repeal will not result in a fiscal impact to businesses. Tracy Gruber, 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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, 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 62A-11-107 | 45 CFR 303.11 | Section 62A-1-111 |
|--------------------|---------------|-------------------|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

**10. This rule change MAY become effective on:**

10/22/2021

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**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber, Executive Director | <b>Date:</b> | 08/27/2021 |
|--|----------------------------------|--------------|------------|

**R527. Human Services, Recovery Services.****[R527-37. Closure Criteria for Support Cases.****R527-37-1. Authority and Purpose.**

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide the federal regulation that is incorporated by reference.

**R527-37-2. Closure Criteria for Support Cases.**

This rule establishes the criteria a support case must meet in order to be eligible for case closure under federal regulations. The Office of Recovery Services adopts the federal regulations as published in 45 CFR 303.11, July 2, 2010 ed., which are incorporated by reference.

**KEY: child support**

**Date of Last Change: October 23, 2012**

**Notice of Continuation: January 23, 2017**

**Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-1-111]**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

|                                      |                 |                  |              |
|--------------------------------------|-----------------|------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R527-253</b> | <b>Filing ID</b> | <b>53882</b> |
|--------------------------------------|-----------------|------------------|--------------|

**Agency Information**

|  |                               |                  |
|--|-------------------------------|------------------|
| <b>1. Department:</b>  | Human Services                |                  |
| <b>Agency:</b>   | Recovery Services             |                  |
| <b>Street address:</b>   | 515 E 100 S                   |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84102-4211 |                  |
| <b>Mailing address:</b>  | PO Box 45033                  |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84145-0033 |                  |
| <b>Contact person(s):</b>  |                               |                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>    |
| Scott Weight   | 801-741-7435                  | Sweigh2@utah.gov |
| Casey Cole   | 801-741-7523                  | cacole@utah.gov  |
| Jonah Shaw   | 801-538-4225                  | jshaw@utah.gov   |
| Please address questions regarding information on this notice to the agency. |                               |                  |

**General Information**

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| R527-253. Collection of Child Support Judgments   |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):  |
| Pursuant to Executive Order No. 2021-12, this rule is being repealed as the result of the review of the rule against the current edition of the Office of Administrative Rules' Rulewriting Manual. ORS authority to set payment schedules and ORS authority to use the collection methods listed in this rule is covered in statute or federal regulations. Statute does not prohibit ORS from utilizing multiple collection remedies concurrently. The content of this rule, therefore, is redundant. |
| <b>4. Summary of the new rule or change</b> (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 repealed in its entirety.  |

**Fiscal Information**

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not |

anticipated that this repeal would create a fiscal cost or savings to the state budget.

**B) Local governments:**

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to local governments.

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to small businesses.

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

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to non-small businesses.

**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**):

The repeal of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this repeal would create a fiscal cost or savings to other persons.

**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 associated with the repeal of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**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 proposal will not result in a fiscal impact to businesses because this rule is being repealed. Tracy Gruber, 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        |
| <b>Total Fiscal Cost</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| 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        |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>                                       |            |            |            |
| The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis. |            |            |            |

**Citation Information**

|   |                   |                    |
|---|-------------------|--------------------|
| <b>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:</b> |                   |                    |
| Section 62A-11-107  | Section 62A-1-111 | Section 62A-11-320 |

**Public Notice Information**

|   |            |
|---|------------|
| <b>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.)</b> |            |
| <b>A) Comments will be accepted until:</b>  | 10/15/2021 |

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b>   | 10/22/2021 |
| 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**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber, Executive Director | <b>Date:</b> | 08/27/2021 |
|--|----------------------------------|--------------|------------|

**R527. Human Services, Recovery Services.****~~R527-253. Collection of Child Support Judgments.~~****~~R527-253-1. Purpose and Authority.~~**

~~1. The Office of Recovery Services (ORS) is authorized to create rules necessary for the provision of social services by Section 62A-11-107.~~

~~2. The purpose of this rule is to clarify that ORS has the authority to demand payment in full or to set or reset payment schedules to collect past due support according to the interests of the state. It also provides a list of some of the legal remedies available to ORS to collect on a judgment.~~

**~~R527-253-2. Collection of Child Support Judgments.~~**

~~1. The Office of Recovery Services/Child Support Services (ORS/CSS) may demand and collect immediate payment in full, or may demand and collect payments that will result in payment in full within a period of time that is deemed to meet the interests of the state in child support judgment matters.~~

~~2. ORS/CSS may collect a child support judgment through income withholding, liens, tax refund intercepts, and any other legal remedy available. Initiation of a particular remedy shall not limit ORS/CSS from initiating any other remedy at the same time.~~

**KEY: administrative law, child support****Date of Last Change: October 23, 2012****Notice of Continuation: December 14, 2016****Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-320]****NOTICE OF PROPOSED RULE****TYPE OF RULE:** Amendment**Utah Admin. Code** R590-70**Ref (R no.):****Filing ID**

53857

**Agency Information**

|                             |                                   |
|-----------------------------|-----------------------------------|
| <b>1. Department:</b>       | Insurance                         |
| <b>Agency:</b>              | Administration                    |
| <b>Room no.:</b>            | Suite 2300                        |
| <b>Building:</b>            | Taylorville State Office Building |
| <b>Street address:</b>      | 4315 S 2700 W                     |
| <b>City, state and zip:</b> | Taylorville, UT 84129             |

# NOTICES OF PROPOSED RULES

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

## General Information

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| R590-70. Insurance Holding Companies  |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):  |
| This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.  |
| <b>4. Summary of the new rule or change</b> (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. Others are changes to make the language of this rule more clear, and Section R590-70-22 is being updated to use the Department's current language. The changes do not add, remove, or change any regulations or requirements. |

## Fiscal Information

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions. |
| <b>B) Local governments:</b>  |
| There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.           |
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):  |
| There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.             |

| <b>D) Non-small businesses</b> ("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 largely clerical in nature and will not affect non-small businesses.  |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):   |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.  |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>F) Compliance costs for affected persons</b> (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 changes are largely clerical in nature.  |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (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   |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>6. A) Regulatory Impact Summary Table</b> (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.)   |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>Regulatory Impact Table</b>   |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td><b>Total Fiscal Cost</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> </tr> <tr> <td><b>Fiscal Benefits</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </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 | <b>Total Fiscal Cost</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> | <b>Fiscal Benefits</b> |  |  |  | State Government | \$0 | \$0 | \$0 | Local Governments | \$0 | \$0 | \$0 | Small Businesses | \$0 | \$0 | \$0 |
| 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        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>Total Fiscal Cost</b>   | <b>\$0</b>  | <b>\$0</b> | <b>\$0</b> |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| <b>Fiscal Benefits</b>   |             |            |            |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |               |     |     |     |                          |            |            |            |                        |  |  |  |                  |     |     |     |                   |     |     |     |                  |     |     |     |
| 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        |
| <b>Total Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>B) Department head approval of regulatory impact analysis:</b>  |            |            |            |
| 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-16-116 |  |
|-------------------|--------------------|--|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch, Public Information Officer | <b>Date:</b> | 08/26/2021 |
|--|---|--------------|------------|

**R590. Insurance, Administration.****R590-70. Insurance Holding Companies.****R590-70-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-16-116 adopted pursuant to:

- (1) Section 31A-2-201, which authorizes the commissioner to make rules to implement the Insurance Code; and
- (2) Section 31A-16-116, which authorizes the commissioner to make rules pertaining to an insurer subject to Title 31A, Chapter 16.

**R590-70-2. Purpose and Scope.**

(1)(a) The purpose of this regulation is to set forth rules and procedural requirements which rule is to establish procedures that are [the commissioner deems] necessary to carry out [the provisions of] the National Association of Insurance Commissioners[, NAIC,] Insurance Holding Company System Regulatory Act and Title 31A, Chapter 16, Insurance Holding Companies [Sections 31A-16-101 through 31A-16-119, hereinafter referred to as "the Act"].

(b) The commissioner declares that the information called for by [these regulations is hereby declared to be] the Act and Title 31A, Chapter 16, Insurance Holding Companies, is necessary and appropriate, in the public interest, and for the protection of the policyholders in [the State of Utah] this state.

(2) This rule applies to a person that is a member of an insurance group within an insurance holding company system.

**R590-70-3. Definitions.**

Terms used in this rule are defined in [The definitions in] Section 31A-1-301 and Title 31A, [Part 16 apply to this rule.] Chapter 16, Insurance Holding Companies. Additional terms are defined as follows:

(1) The "Act" means the NAIC Insurance Holding Company System Regulatory Act.

(2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the [foregoing officers under whatever title] officers listed above under any other title.

(2)(3) "NAIC" means the National Association of Insurance Commissioners.

(4) "Ultimate controlling person" means [that person which] a person that is not controlled by any other person.

**R590-70-4. Forms – General Requirements.**

(1)(a) Form A, Form B, Form C, Form D, Form E, and Form F are intended to be guides [in the preparation of the] for preparing statements required by Sections 31A-16-103, 31A-16-105, and 31A-16-106.

(b) The [y] forms listed in Subsection (1)(a) are [not intended to be] blank forms [which] that are not intended to be filled in.

(c) [The] Each statement[s] filed shall contain the numbers and captions of [all] each item[s], [but] except that the text of the items may be omitted [provided] if the answers [thereto are prepared in such a manner as to indicate] clearly indicate the scope and coverage of the items.

(d) [All] Any instructions[, whether] appearing under the items of the form or elsewhere [therein, are to] shall be omitted.

(e) Unless [expressly provided] otherwise required, if any item is inapplicable or the answer [thereto] to the item is in the negative, a [n appropriate] statement shall be made to that effect [shall be made].

(2)(a) Each statement, including exhibits and [all] any other [papers and] documents filed as a part [thereof] of the statement, shall be filed with the commissioner in a secure electronic form [by secure means].

(b) Each statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of [such] the power of attorney or other authority shall [also] be filed with the statement.

(3) If an applicant requests a consolidated hearing [on a consolidated basis] under Subsection 31A-16-103(10), the applicant shall file in electronic form:

(a) ~~[in addition to filing]~~ the Form A with the commissioner; and  
 (b) ~~[, the applicant shall file]~~ a copy of the Form A with the NAIC ~~[in electronic form].~~

(4)(a) [S]Each statement[s] should be prepared electronically.  
 (b) [S]Each statement[s] shall be easily readable and suitable for review and reproduction.

(c) ~~[Debits in credit categories and credits in debit categories shall be designated so as to be.]~~ A debit in a credit category and a credit in a debit category shall be clearly distinguishable.

(d) [S]Each statement[s] shall be in the English language.  
 (e) Monetary value[s] shall be stated in United States currency. ~~[If any]~~

(f) Any exhibit or other document filed with the statement [is] in a foreign language ~~[, it]~~ shall be accompanied by an English language translation. ~~[into the English language and any]~~

(g) Any monetary value shown in a foreign currency normally shall be converted into United States currency.

(5) Form [s] A, Form B, Form C, Form D, Form E, and Form F can be obtained from the [Utah Insurance D]epartment's website at ~~[www.]~~<https://insurance.utah.gov>.

#### **R590-70-5. Forms -- Incorporation by Reference, Summaries and Omissions.**

(1)(a) Information required by any item of Form A, Form B, Form D, Form E, or Form F may be incorporated by reference in answer or partial answer to any other item.

(b) Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E, or Form F, provided the document is filed as an exhibit to the statement.

(c) ~~[Excerpts of documents.]~~ An excerpt of a document may be filed as an exhibit[s] if the document[s] ~~are~~ is extensive.

(d) ~~[D]~~ A document[s] currently on file with the [Utah Insurance D]epartment ~~[which were]~~ that was filed within three ~~[(3)]~~ years need not be attached as an exhibit[s].

(e) A reference ~~[References]~~ to information contained in an exhibit[s] or in a document[s] already on file with the department shall:

(i) clearly identify the material; and  
 (ii) ~~[shall]~~ specifically indicate that ~~[such]~~ the material is to be incorporated by reference in answer to the item.

(f) Matter ~~[shall]~~ may not be incorporated by reference ~~[in any case where the incorporation would render]~~ if incorporating by reference makes the statement incomplete, unclear, or confusing.

(2)(a) ~~[Where]~~ When an item requires a summary or outline of the provisions of any document, only a brief statement of the document's pertinent provisions shall be ~~[made as to the pertinent provisions of the document]~~ summarized or outlined.

(b) ~~[In addition to the statement, the]~~ The summary or outline may incorporate by reference ~~[particular]~~ parts of any exhibit or document currently on file with the commissioner ~~[which]~~ that:

(i) was filed within three years; and  
 (ii) may be qualified in its entirety by ~~[such]~~ the incorporated reference.

~~[(b)]~~ ~~[In any case where]~~ When two or more documents required to be filed as exhibits are substantially identical in all material respects, except ~~[as to]~~ for the parties ~~[thereto]~~ to the document, the dates of execution, or other details, a copy of only one of the documents need be filed. ~~[with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed]~~

(d) The document referenced in Subsection (2)(b) to be filed shall be accompanied by a schedule that:

(i) identifies the omitted documents; and  
 (ii) provides material details regarding the differences between the documents.

#### **R590-70-6. Forms -- Information Unknown or Unavailable and Extension of Time to Furnish.**

(1) ~~[If]~~ A request for extension of time shall be filed with the commissioner when it is impractical to furnish any required information, document, or report at the required time ~~[it is required to be filed, there shall be filed with the commissioner a separate document].~~

(2) A request for extension of time shall:  
 (a) identify ~~[ing]~~ the information, document, or report in question;

(b) ~~[stating]~~ state why ~~[the filing thereof]~~ it is impractical to furnish the information, document, or report at the time required ~~[is impractical];~~ and

(c) request ~~[ing]~~ an extension of time ~~[for filing]~~ to file the information, document, or report ~~[to]~~ by a specified date.

~~[(2)]~~ ~~[The]~~ A request for extension shall be ~~[deemed]~~ granted unless the commissioner enters an order denying the request within 60 days after receipt ~~[thereof enters an order denying the request]~~ of the request.

#### **R590-70-7. Forms -- Additional Information and Exhibits.**

(1) In addition to the information ~~[expressly]~~ required to be included in Form A, Form B, Form C, Form D, Form E, and Form F, the commissioner may request ~~[such further material]~~ additional information ~~[, if any, as]~~ that may be necessary to ~~[make]~~ ensure the information contained ~~[therein]~~ in the form is not misleading.

(2) The person filing the form may also file ~~[such]~~ any other exhibit[s] as it may desire in addition to ~~[those expressly]~~ the exhibits required by the statement.

(3) ~~[The]~~ Any additional exhibit[s] shall be ~~[so]~~ clearly marked ~~[as]~~ to indicate ~~[clearly]~~ the subject matter[s] to which ~~[they refer]~~ the exhibit refers.

~~[(3)]~~ ~~[Changes]~~ Any change to Form A, Form B, Form C, Form D, Form E, and/or Form F shall include:

(a) the phrase "Change No. (insert number) to" at the top of the cover page; and

(b) the date the form was changed and not the original filing date ~~[on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing].~~

#### **R590-70-8. Subsidiaries of Domestic Insurers.**

The authority to invest in ~~[subsidiaries]~~ a subsidiary under Subsection 31A-16-102.5(2) is in addition to any authority to invest in ~~[subsidiaries which]~~ a subsidiary that may be contained in ~~[any other provision of]~~ Title 31A, Insurance Code.

#### **R590-70-9. Acquisition of Control -- Statement Filing (Form A).**

(1) A person required to file a statement ~~[pursuant to]~~ under Section 31A-16-103[;] shall furnish the required information on Form A.

(2) ~~[Such]~~ The person in Subsection (1) required to file a Form A shall also furnish the required information on Form E, as described in Section R590-70-13[12].

**R590-70-10. Amendments to Form A.**

~~The~~ (1)(a) An applicant shall promptly ~~advise~~ notify the commissioner of any change[s] in the information furnished on the Form A arising ~~subsequent to~~ after the date the applicant furnished the information to the commissioner.

(b) The applicant shall notify the commissioner of the change in information prior to the commissioner's final decision regarding the application ~~upon which the information was furnished but prior to the commissioner's disposition of the application~~.

**R590-70-11. Acquisition of Subsection 31A-16-103(1)(f)(i)—Insurers.**

(1) If ~~the~~ a person being acquired is ~~deemed to be~~ a "domestic insurer" ~~solely because of the provisions of~~ under Subsection 31A-16-103(1)(f)(i), the name of the domestic insurer on the cover page should be indicated as "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) ~~Where~~ When a Subsection 31A-16-103(1)(f)(i) insurer is being acquired, references to "the insurer" contained in the Form A shall refer to ~~both~~ the domestic subsidiary insurer and the person being acquired.

**R590-70-12. Pre-acquisition Notification (Form E).**

(1) If a domestic insurer, including any person controlling a domestic insurer, ~~is proposing~~ proposes a merger or acquisition ~~pursuant to~~ under Subsection 31A-16-103(1), that person shall file a Form E pre-acquisition notification form ~~Form E~~.

(2)(a) If a non-domiciliary insurer licensed to do business in this state ~~is proposing~~ proposes a merger or acquisition ~~pursuant to~~ under Section 31A-16-104.5, that person shall file a Form E pre-acquisition notification form ~~Form E~~.

(b) No pre-acquisition notification form need be filed if the acquisition is beyond the scope of Section 31A-16-104.5 as set forth in Subsection 31A-16-104.5(2)(b).

(3) In addition to the information required by Form E, the commissioner may ~~wish to~~ require an expert opinion ~~as to~~ regarding the competitive impact of the proposed acquisition.

**R590-70-13. Annual Registration of Insurers -- Statement Filing (Form B).**

An insurer required to file an annual registration statement pursuant to Section 31A-16-105 shall furnish the required information on Form B.

**R590-70-14. Summary of Registration -- Statement Filing (Form C).**

An insurer required to file an annual registration statement pursuant to Section 31A-16-105 ~~is also required to~~ shall furnish the required information ~~required~~ on Form C.

**R590-70-15. Amendments to Form B.**

(1) An amendment to Form B shall be filed within ~~fifteen~~ 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) An amendment[s] shall be filed in the Form B format ~~with~~ reporting only those items ~~which~~ that are being amended ~~reported~~.

(3) ~~Each~~ An amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)", and shall ~~indicate~~ provide the date of the change and not the original filing date ~~of the original filings~~.

**R590-70-16. Alternative and Consolidated Registrations.**

(1)(a) Any authorized insurer may file a registration statement on behalf of any affiliated insurer ~~or insurers which are~~ that is required to register under Section 31A-16-105.

(b) A registration statement may include information not required by the Act and Title 31A, Chapter 16, Insurance Holding Companies, regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this state.

(b)(c) In lieu of filing a registration statement on Form B, ~~the~~ an authorized insurer may file a copy of the required registration statement or similar report ~~which it is required to file in its~~ in the insurer's state of domicile, provided that:

(i) the statement or report contains substantially similar information required to be furnished on Form B; and

(ii) the filing insurer is the principal insurance company in the insurance holding company system.

(2) ~~The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system~~ An insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts that substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the commissioner, an unauthorized insurer may follow any ~~of the procedures which could be done by an authorized insurer under R590-70-16~~ procedure that an authorized insurer may follow under Subsection (1).

(4) Any insurer may ~~take advantage of the provisions of~~ use the procedures in Subsections 31A-16-105(8) or 31A-16-105(9) without ~~obtaining the commissioner's prior approval of the commissioner~~.

(5) The commissioner ~~however, reserves the right to~~ may require individual filings if the commissioner ~~deems such~~ determines that the filings are necessary ~~in the interest of~~ for clarity, ease of administration, or the public good.

**R590-70-17. Disclaimers and Termination of Registration.**

(1) A disclaimer of affiliation ~~pursuant to~~ or a request for termination of registration claiming that a person does not control any other person, or that a person will not control any other person upon the taking of some proposed action ~~control any other person~~, hereinafter the "other person" referred to as the "subject", shall contain the following information:

(a) the number of the subject's authorized, issued, and outstanding voting securities ~~of the subject~~;

(b) ~~with respect to~~ regarding the person ~~whose~~ denying control ~~is denied~~ and ~~all affiliates of such~~ the person's affiliates;

(i) the number and percentage of the subject's shares of ~~the subject's~~ voting securities ~~which~~ that are held of record or known to be beneficially owned; ~~and~~

(ii) the number of ~~such~~ the subject's shares ~~concerning~~ held of record or beneficially owned in which there is a right to acquire, directly or indirectly; and

(iii) information ~~as to~~ regarding all transactions in any voting securities of the subject ~~which were effected~~ effected by the person denying control or the person's affiliates during the past six months ~~by such persons~~.

(c) all material relationships and bases for affiliation between the subject and the person ~~whose~~ denying control ~~is denied~~ and ~~all~~ the person's affiliates ~~of such person~~; and

(d) a statement explaining why ~~[such] the person [should deny] control does not [be considered to] control the subject~~ ~~[and]~~.

(2) A request for termination of registration shall be ~~[deemed to have been]~~ granted unless the commissioner notifies the registrant that the request is denied~~;~~ within ~~[thirty]~~ 30 days after receipt of the request~~[, notifies the registrant otherwise]~~.

#### **R590-70-18. Transactions Subject to Prior Notice -- Notice Filing.**

(1) An insurer required to give notice of a proposed transaction pursuant to Section 31A-16-106 shall furnish the required information on Form D.

(2) An agreement~~[s]~~ for cost sharing services and management services shall at a minimum and as applicable:

(a) identify the person providing services and the nature of ~~[such]~~ the services;

(b) ~~[set forth]~~ provide the methods used to allocate costs;

(c) require timely settlement, not less frequently than on a quarterly basis, and in compliance with the requirements in the Accounting Practices and Procedures Manual;

(d) prohibit ~~[advancement of]~~ the insurer from advancing funds ~~[by the insurer]~~ to the affiliate except to pay for services defined in the agreement;

(e) state that the insurer will maintain oversight for ~~[functions]~~ services provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(f) define the insurer's books and records ~~[of the insurer]~~ to include all books and records developed or maintained under or related to the agreement;

(g) specify that ~~[all]~~ the insurer's books and records ~~[of the insurer]~~ are and remain the property of the insurer and are subject to the insurer's control~~[of the insurer]~~;

(h) state that all of the insurer's funds and invested assets ~~[of the insurer]~~ are the insurer's exclusive property~~[of the insurer]~~, held for the insurer's benefit~~[of the insurer]~~, and are subject to the insurer's control~~[of the insurer]~~;

(i) include standards for ~~[termination of]~~ terminating the agreement with and without cause;

(j) include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

(k) specify that, if the insurer is placed in receivership or seized by the commissioner under Title 31, Chapter 27a, Insurer Receivership Act:

(i) all of the insurer's rights ~~[of the insurer]~~ under the agreement shall extend to the receiver or the commissioner~~;~~ ~~[and]~~

(ii) all books and records will immediately be made available to the receiver or the commissioner~~;~~ and

(iii) all books and records shall immediately be turned over to the receiver or the commissioner ~~[immediately]~~ upon the receiver or the commissioner's request;

(l) specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 31, Chapter 27a, Insurer Receivership Act; and

(m) specify that the affiliate will continue to maintain any system~~[s]~~, program~~[s]~~, or other infrastructure notwithstanding a seizure by the commissioner under Title 31, Chapter 27a, Insurer Receivership Act, and will make ~~[them]~~ any system, program, or other infrastructure available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

#### **R590-70-19. Enterprise Risk Report.**

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Subsection 31A-16-105(12)~~[-]~~ shall furnish the required information on Form F.

#### **R590-70-20. Extraordinary Dividends and Other Distributions.**

(1) ~~[Requests]~~ A request for approval of an extraordinary dividend~~[s]~~ or any other extraordinary distribution to shareholders shall include the following:

(a) the amount of the proposed dividend;

(b) the date established for payment of the dividend;

(c) a statement as to whether the dividend is to be in cash or other property ~~[and if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation]~~;

(d) for dividends in property, the statement referenced in Subsection (1)(c) shall include:

(i) a description of the property;

(ii) the cost of the property;

(iii) the fair market value of the property; and

(iv) an explanation of the basis for the valuation of the property;

(~~[d]~~e) ~~[a copy of the]~~ a work paper that shall include the following information:

(i) the calculations used to determine~~[determining]~~ that the proposed dividend is extraordinary~~;~~ ~~[The work paper shall include the following information:]~~

(ii) the amounts of the proposed dividend~~;~~ ~~[and]~~

(iii) the date of the proposed dividend~~;~~ ~~[and]~~

(iv) the form of payment of all dividends or distributions, including regular dividends ~~[but excluding]~~, except for distributions of the insurer's own securities~~;~~ that are paid within ~~[the period of twelve consecutive months ending]~~ a consecutive 12-month period that:

(A) ends on the date fixed for payment of the proposed dividend for which approval is sought; and ~~[commencing]~~

(B) begins on the day after the same day of the same month in the last preceding year;

(~~[iv]~~v) surplus as regards policyholders, total capital and surplus, as of the 31st day of December next preceding;

(~~[iii]~~vi) ~~[if the insurer is]~~ for a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(~~[iv]~~vii) ~~[if the insurer]~~ for an insurer that is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

(viii) ~~[if the insurer]~~ for an insurer that is not a life insurer, the dividends paid to stockholders in the preceding two calendar years, excluding distributions of the insurer's own securities ~~[in the preceding two calendar years]~~;

(~~[e]~~f) a balance sheet and income statement ~~[of income]~~ for the period ~~[intervening from]~~ beginning on the date the last annual statement was filed with the commissioner and concluding at the end of the month preceding the month in which the request for dividend approval is submitted; and

(~~[f]~~g) a brief statement ~~[as to]~~ regarding the proposed dividend's effect ~~[of the proposed dividend]~~ upon:

(i) the insurer's surplus and reasonableness of surplus in relation to the insurer's outstanding liabilities; and



(ii) the adequacy of the insurer's surplus relative to the insurer's financial needs.

(2)(a) Subject to Subsection 31A-16-106(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within ~~fifteen~~ 15 business days ~~[following the declaration thereof, including the same]~~ of declaring the dividend or other distribution.

(b) The report to the commissioner in Subsection (2)(a) shall include the information required by ~~R590-70-20~~ Subsection (1)(d)e).

#### R590-70-21. Adequacy of Surplus.

(1) ~~[The factors set forth in Subsection 31A-16-106(4) are not intended to be an exhaustive list.~~

(2) ~~[In determining the adequacy and reasonableness of an insurer's surplus, [no single factor is necessarily controlling. The] the commissioner [instead] will consider the net effect of [all of these factors plus] the factors set forth in Subsection 31A-16-106(4) and any other factors [bearing on the] that, alone or in combination, bear upon the insurer's financial condition[ of the insurer].~~

(3) ~~[2] In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each [of these factors] factor set forth in Subsection 31A-16-106(4) varies from company to company[ and in].~~

(3) ~~In determining the quality and liquidity of an insurer's investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow [its] the subsidiary's valuation [to the extent that] if warranted by the individual investments[ so warrant].~~

#### R590-70-22. 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.] If any provision of this rule, Rule R590-70, 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: insurance law

Date of Last Change: ~~2021~~ January 10, 2017

Notice of Continuation: January 9, 2017

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

#### NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

|                               |          |           |       |
|-------------------------------|----------|-----------|-------|
| Utah Admin. Code Ref (R no.): | R590-103 | Filing ID | 53858 |
|-------------------------------|----------|-----------|-------|

#### 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:

R590-103. Security Deposits

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

This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

##### 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. Others are changes to make the language of this rule more clear. It also updates Section R590-103-5 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 largely clerical in nature and will not change how the Department functions.

###### B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

## NOTICES OF PROPOSED RULES

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

**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 largely clerical in nature and will not affect non-small businesses.

**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 largely clerical in nature.

**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 changes are largely clerical in nature.

**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        |
| <b>Total Fiscal Cost</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>   |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

#### 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-2-201(3) | Subsection 31A-2-206(17) |  |
|-------------------------|--------------------------|--|

#### 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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch, Public Information Officer | <b>Date:</b> | 08/26/2021 |
|--|---|--------------|------------|

#### R590. Insurance, Administration.

##### R590-103. Security Deposits.

##### R590-103-1. Authority.

This rule is promulgated by the [Insurance C] commissioner pursuant to Subsections 31A-2-201(3) and 31A-2-206(17)[, which authorizes rules to implement the Utah Insurance Code].

**R590-103-2. Purpose and Scope.**

(1) The purpose of this rule is to ~~implement provisions relating to required deposits with the commissioner of insurance and adopt forms for that purpose~~ establish procedures and forms for a required deposit with the commissioner.

(2) This rule applies to ~~all insurance company~~ each insurer licensee[s] in this state.

**R590-103-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301.

**R590-103-4. Rules.**

~~A. The rule on the use of clearing corporations.~~ (1) Rule R590-178 and the federal book-entry system shall ~~be applicable when securities are to be used for purposes of deposit~~ apply to a security deposited with the state.

~~B. Securities.~~ (2) A security held by a qualified transfer deposit corporation may be a qualified deposit[s] if the security is held:

(a) in accordance with ~~the rule on the use of clearing corporations.~~ Rule R590-178; and

(b) through a qualified custodian.

~~C.~~ (3) If a declining balance security is deposited with the ~~insurance~~ commissioner, the ~~company~~ insurer depositing the security shall:

(a) report the balance to the commissioner at least on a quarterly basis; or

(b) if ordered by the commissioner, report the balance on a monthly basis. ~~The commissioner may order that a company report these balances monthly.~~

~~D.~~ (4)(a) The custodian institution holding a deposit[s], or the state treasurer, shall ~~provide an annual report~~ provide an annual report ~~on an annual basis~~ to the ~~insurance company~~ insurer and the commissioner indicating the amount of securities held on December 31~~st~~ of each year.

(b) ~~The~~ This report shall be submitted by January 15~~th~~ of the following year.

(c) The report shall provide a description of the securities, including:

(i) the Committee on Uniform Securities Identification Procedures (CUSIP) number;

(ii) the interest rate;

(iii) the par value; and

(iv) the maturity date.

(d) The report shall demonstrate that the securities held in the deposit satisfy the requirements of Subsection 31A-2-206(7).

(e) Failure to provide the report shall be grounds for appropriate action by the commissioner. ~~The form of this report shall state the description of the securities, including CUSIP number, the interest rate, the par value, and the date of maturity, and shall satisfy the requirement of Section 31A-2-206(7).~~

~~E.-C.~~ (5)(a) A certificate[s] of deposit may be deposited in an amount[s] not to exceed federal insurance limits.

(b) The face amount of the certificate of deposit shall be ~~deemed to be~~ the market value.

~~F. Depository Agreement, Deposit Request and Withdrawal Request forms are available on request from the Insurance Department.~~ (6) The following forms are available on the department's website at <https://insurance.utah.gov>:

(a) depository agreement;

(b) deposit request; and

(c) withdrawal request.

~~G.-D.~~ (7) A deposit[s] required under ~~these rules~~ this section shall apply to ~~all~~ each insurer licensee[s] in this state.

(8) A foreign ~~company~~ insurer may deposit a security~~ies~~ in~~its~~:

(a) the insurer's domiciliary state; or

(b) another state with comparable deposit statutes or rules.

(9) The only acceptable deposit~~s are those~~ is a deposit held for all policyholders.

**R590-103-5. ~~Separability~~ Severability.**

~~If any provision of this rule or its application to any person or circumstance is found for any reason to be invalid, the remainder of the rule may not be affected thereby.~~ If any provision of this rule, Rule R590-103, 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: insurance**

**Date of Last Change: 2021**~~May 9, 1997~~

**Notice of Continuation: December 12, 2016**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-206**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R590-120

**Filing ID**  
53859

**Agency Information**

|                             |                                    |                 |
|-----------------------------|------------------------------------|-----------------|
| <b>1. Department:</b>       | Insurance                          |                 |
| <b>Agency:</b>              | Administration                     |                 |
| <b>Room no.:</b>            | Suite 2300                         |                 |
| <b>Building:</b>            | Taylorsville State Office Building |                 |
| <b>Street address:</b>      | 4315 S 2700 W                      |                 |
| <b>City, state and zip:</b> | Taylorsville, UT 84129             |                 |
| <b>Mailing address:</b>     | PO Box 146901                      |                 |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-6901      |                 |
| <b>Contact person(s):</b>   |                                    |                 |
| <b>Name:</b>                | <b>Phone:</b>                      | <b>Email:</b>   |
| 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:**

R590-120. Surety Bond Forms

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

This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

**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. Others are changes to make the language of this rule more clear and Section R590-120-4 is being updated to use the Department's current language. The changes do 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 largely clerical in nature and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

**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 largely clerical in nature and will not affect non-small businesses.

**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 largely clerical in nature.

**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 changes are largely clerical in nature.

**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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**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<br>31A-2-201(3) | Subsection<br>31A-21-101(5) |  |
|----------------------------|-----------------------------|--|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch,<br>Public Information<br>Officer | <b>Date:</b> | 08/26/2021 |
|--|---|--------------|------------|

**R590. Insurance, Administration.****R590-120. Surety Bond Forms.****R590-120-1. Authority.**

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3) [~~which authorizes rules to implement the Utah Insurance Code, and Subsection ]and 31A-21-101(5)[~~which authorizes rules exempting classes of insurance contracts from any or all provisions of Chapter 21, Title 31A of the Utah Code~~].~~

**R590-120-2. Purpose and Scope.**

(1) The purpose of this rule is to exempt certain surety bond forms from [~~the form~~] filing requirements and other requirements [~~of Chapter 21~~] in Title 31A, Chapter 21, Insurance Contracts in General.

(2) This rule [~~shall apply to all~~] applies to each insurer[s] transacting surety insurance business in this state.

**R590-120-3. Rule.**

(1) Surety insurance forms, except bail bond insurance forms, are exempt from [~~the following provisions of Chapter 21:~~] Sections 31A-21-106, 31A-21-201, 31A-21-303, 31A-21-308 and 31A-21-312.

(2) Bail bond surety forms used by surety insurers and bail bond surety companies must be filed in accordance with 31A-21-201.

**R590-120-4. Severability.**

[~~If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstance may not be affected.~~] If any provision of this rule, Rule R590-120, 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: insurance rule**

**Date of Last Change:** 2021[~~June 4, 1999~~]

**Notice of Continuation:** April 4, 2017

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-21-101

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

|                                      |                 |                                  |
|--------------------------------------|-----------------|----------------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R590-124</b> | <b>Filing ID</b><br><b>53878</b> |
|--------------------------------------|-----------------|----------------------------------|

**Agency Information**

|                             |                                   |
|-----------------------------|-----------------------------------|
| <b>1. Department:</b>       | Insurance                         |
| <b>Agency:</b>              | Administration                    |
| <b>Room no.:</b>            | Suite 2300                        |
| <b>Building:</b>            | Taylorville State Office Building |
| <b>Street address:</b>      | 4315 S 2700 W                     |
| <b>City, state and zip:</b> | Taylorville, UT 84129             |
| <b>Mailing address:</b>     | PO Box 146901                     |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-6901     |
| <b>Contact person(s):</b>   |                                   |
| <b>Name:</b>                | <b>Phone: Email:</b>              |
| 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:**

R590-124. Loss Information Rule

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

This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.

**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. Others are changes to make the language of this rule more clear, and the proposed Section R590-124-5 is being updated to use the Department's current language. The changes do 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 largely clerical in nature and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

**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 largely clerical in nature and will not affect non-small businesses.

**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 largely clerical in nature.

**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 changes are largely clerical in nature.

**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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**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 |  |
|-------------------|---------------------|--|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch,<br>Public Information<br>Officer | <b>Date:</b> | 08/30/2021 |
|--|---|--------------|------------|

### R590. Insurance, Administration.

#### R590-124. Loss Information Rule.

##### R590-124-1. Authority.

This rule is promulgated by the ~~[insurance-]~~commissioner pursuant to ~~[the general authority granted under Subsection 31A-2-201(3) to adopt rules for the implementation of the Utah Insurance Code and under Subsection 31A-23a-402(8) authorizing the commissioner to define unfair methods of competition]~~Sections 31A-2-201 and 31A-23a-402.

##### R590-124-2. Purpose and Scope.

(1) ~~[Accurate loss information is necessary in underwriting and rating insurance policies.]~~The purpose of this rule is to provide for ~~[the-]~~prompt dissemination of loss information between an insurer[s] and [their-]an insured[s].

(2) ~~[This rule applies to every authorized property and liability insurer licensed to do business in Utah writing those lines of insurance commonly identified as commercial property and commercial liability, including workers' compensation but excluding disability, and including every recognized Surplus Line Company and the Workers' Compensation Fund of Utah]~~This rule applies to an insurer licensed in this state to do the following business:

- ~~(a) property and casualty;~~
- ~~(b) commercial property and commercial liability;~~
- ~~(c) workers' compensation; or~~
- ~~(d) surplus lines.~~

(3) This rule does not apply to disability insurance.

##### R590-124-3. Definitions.

~~[For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Section 31A-1-301 and in addition thereto, the following definitions]~~Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) ~~["Named Insured" shall mean the person(s) or organization(s) listed in the policy declarations as the policyholder, or the legal representative thereof.~~

~~(2) ["First [N]named [F]insured" [shall-]means the first entity named as a [N]named [F]insured in the declarations of the policy[;].~~

~~(3) ["Loss" [shall-]means the dollar amount paid to an insured or claimant by an insurer on a claim made against an insurance contract[;].~~

(3) "Named insured" means a person or organization listed in the policy declarations as the policyholder, or the policyholder's legal representative.

(4) "Notice of [O]ccurrence" ~~[shall-]~~means notice to an insurer of an occurrence~~[, which-]~~ that might result in a claim against an insurance contract.

##### R590-124-4. [Rule]Loss Information.

(1) ~~[All insurers issuing policies to which this rule applies]~~An insurer shall provide loss information to the first named insured

within 30 days ~~[from-]~~of the receipt of a written request from the named insured.

(a) Loss information shall be provided for the three most recent policy years in which coverage was provided, or complete loss information if the policy has been in effect less than three years.

~~(b) [If an insurer initiates the cancellation or the nonrenewal of a policy it-]~~An insurer shall advise the first named insured of ~~[this-]~~the right to request the loss information if the insurer initiates the cancellation or the nonrenewal of a policy.

(2) The following ~~[is the-]~~loss information ~~[that-]~~must be provided to comply with Subsection (1):

(a) ~~[F]~~information on closed claims where payment was allowed, including date of occurrence, type of loss, and amount of payments;

(b) ~~[F]~~information on all open claims, including date of occurrence, type of loss, and amount of payments, if any; and

(c) ~~[F]~~information on notices of occurrence, including date of occurrence.

(3) The required loss information need only be provided one time in any ~~[twelve-]~~12-month period and shall be provided at no ~~[charge-]~~cost to the insured.

(4) ~~[Loss-]~~A loss information request[s] received more than three years after the termination of coverage ~~[need not be honored]~~may be denied.

(5) The loss information required by this rule shall be provided in a format that is clear and understandable to the insured.

##### R590-124-5. [Penalties.

~~If a company fails to provide the information as required by this rule, such failure shall constitute an unfair trade practice as defined in Section 31A-26-303 and Rule R590-190 and shall be subject to the forfeiture and penalty provisions of Section 31A-2-308.~~

##### R590-124-6. Separability.

~~If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions shall not be affected thereby.~~

##### R590-124-7. Effective Date.

~~This rule shall be effective July 14, 1988]~~Severability.

If any provision of this rule, Rule R590-124, 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: insurance companies

Date of Last Change: **2021**~~[1988]~~

Notice of Continuation: December 8, 2017

Authorizing, and Implemented or Interpreted Law: 31A-23a-402

### NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): **R590-127**

Filing ID **53879**

### Agency Information

1. Department: Insurance

## NOTICES OF PROPOSED RULES

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

## General Information

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R590-127. Rate Filing Exemptions   |
| <b>3. Purpose of the new rule or reason for the change</b><br>(Why is the agency submitting this filing?):   |
| This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.   |
| <b>4. Summary of the new rule or change</b> (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. Others are changes to make the language of this rule more clear and the proposed Section R590-127-8 is being updated to use the Department's current language. A portion of the proposed Section R590-127-3 is being removed because it is an editorial aside that does not belong in this rule. Section R590-127-9 is being removed because penalties are already provided for in statute. The changes do not add, remove, or change any regulations or requirements. |

## Fiscal Information

|   |
|---|
| <b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>   |
| There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions. |

| <b>B) Local governments:</b>   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
|--|-------------|--------|--------|--------|------------------|-----|-----|-----|-------------------|-----|-----|-----|------------------|-----|-----|-----|----------------------|-----|-----|-----|
| There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.  |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.  |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>D) Non-small businesses</b> ("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 largely clerical in nature and will not affect non-small businesses.  |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.  |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>F) Compliance costs for affected persons</b> (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 changes are largely clerical in nature.  |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (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   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>6. A) Regulatory Impact Summary Table</b> (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.)   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <b>Regulatory Impact Table</b>   |             |        |        |        |                  |     |     |     |                   |     |     |     |                  |     |     |     |                      |     |     |     |
| <table border="1"> <tr> <th>Fiscal Cost</th> <th>FY2022</th> <th>FY2023</th> <th>FY2024</th> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </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 |
| 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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**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-19a-103 |  |
|-------------------|---------------------|--|

**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.)

|  |            |
|--|------------|
| <b>A) Comments will be accepted until:</b> | 10/15/2021 |
|--|------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b> | 10/22/2021 |
|--|------------|

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**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch, Public Information Officer | <b>Date:</b> | 08/30/2021 |
|--|---|--------------|------------|

**R590. Insurance, Administration.****R590-127. Rate Filing Exemptions.****R590-127-1. Authority.**

This rule is promulgated by the ~~[Insurance C]~~ commissioner pursuant to ~~[the general authority granted under]~~ Sections 31A-2-201(3), to adopt rules for the implementation of the Utah Insurance Code, and pursuant to ~~Section~~ and 31A-19a-103, which specifically authorizes the commissioner to exempt any market segment from any or all of the provisions of Chapter 19a of Title 31A.

**R590-127-2. Purpose and Scope.**

~~[Section 31A-19a-203 requires that all insurers and rate service organizations to which Chapter 19a applies file all rates and supplementary rate information, which includes any manual or plan of rates, classification, rating schedule, rating rule, and rate related underwriting rule, with the Insurance Commissioner within 30 days of the designated effective date. No exception is made in the statute for "(a) rates" or "refer to company" rates or rating plans for specialized or individual risks. All insurers using any of these types of rates or plans would be doing so in violation of the statute.~~

~~The purpose of this rule is to define these rates and plans, to make certain exemptions with regards to the filing requirements of Section 31A-19a-203, and to establish certain procedures for that market segment which uses these types of rates or plans](1) The purpose of this rule is to:~~

~~(a) identify permissible rates and plans under Section 31A-19a-203;~~

~~(b) make exemptions for filing rates and plans under Section 31A-19a-203; and~~

~~(c) establish procedures for the market segment that uses these types of rates or plans.~~

~~(2) This rule applies to each insurer licensed in this state to write liability insurance, professional liability insurance, property insurance, vehicle liability and physical damage insurance, and workers' compensation insurance.~~

~~(3) This rule applies to:~~

~~(a) an (a) rate, including an (a) rate for:~~

~~(i) a class of risks that are so different from each other that no single manual rate could be representative of all of them;~~

~~(ii) a class of risks that does not develop enough experience to warrant credibility for ratemaking purposes; and~~

~~(iii) a risk that involves a new product or coverage for which there is no past experience nor appropriate analogy to similar exposures for ratemaking purposes; and~~

~~(b) the procedure for rating an exposure that does not have a published prospective loss cost or manual rate, termed (a) rating.~~

**R590-127-3. [Scope.**

~~This rule applies to all insurers licensed to write liability insurance, professional liability insurance, property insurance, vehicle liability and physical damage insurance and workers' compensation insurance, as defined in Section 31A-1-103.~~

**R590-127-4. Definitions.**

[This rule is concerned with terminology which is commonly used in the insurance industry but for which no decisive definitions have been established. To promote understanding, some explanation is required.]

~~Manual classifications, prospective loss costs and rates are developed by pooling vast amounts of statistical data. They are, by nature, average. For many types of risks there does not exist enough statistical data to develop credible prospective loss costs, manual rates and classifications. Over time the industry has developed ways of dealing with these unconventional risks. The procedure for rating an exposure that does not have a published prospective loss cost or manual rate is termed "(a) rating". The term is derived from the fact that the manual contains the symbol "(a)" or the words "refer to company" opposite the applicable code number instead of a specific dollar and cent rate. There are generally three types of situations which require (a) rates: (1) For a class in which the risks are so different from each other that no single manual rate could be representative of all of them; (2) where a class does not develop enough experience to warrant any credibility for ratemaking purposes; or (3) risks that involve a new product or coverage for which there is no past experience nor appropriate analogy to similar exposures for ratemaking purposes.~~

~~For the purpose of this rule the commissioner adopts the definitions as particularly set forth in Section 31A-1-301, Section 31A-19a-103, and in addition, the following.] Terms in this rule are defined in Sections 31A-1-301 and 31A-19a-102. Additional terms are defined as follows:~~

(1) "(a) rate" means a rating rule or a rate expressed as the symbol "(a)" or the words "refer to company" listed opposite a classification code on the ~~[manual]~~ rule and rate pages of the Commercial Lines Manual.

(2) "(a) rating[;]" ~~[special risk rating, means the procedure an underwriter uses]~~ means a special risk rating underwriting procedure used for classifying and rating any risk ~~[which]~~ that presents a unique or unusual condition[s], exposure[s], or hazard[s] for which ~~[he]~~ the underwriter feels a ~~C[e]~~ commercial ~~L[H]~~ines ~~M[an]~~ual classification or rate is not appropriate.

(3) "Commercial Lines Manual" means the manual of rates, classifications, and underwriting rules for commercial lines insurance, including:

~~(a) [the plan known as] the Highly Protected Risk Plan, filed with the commissioner by the Insurance Services Office, Inc.; and~~

~~(b) [For the purpose of this rule, this term shall include] any similar rating plan, [or] manual, including Highly Protected Risk Plans, or large risk property rating plan[s], filed with the commissioner by another rate service organization[s] or individual insurer[s].~~

(4) "Excess ~~[H]~~insurance" means a coverage designed to be:

~~(a)(i) in excess over one or more primary coverages; or~~

~~(ii) a [S]self-[H]insured [R]etention; and [which]~~

~~(b) that does not pay a loss until the loss amount exceeds a certain sum.~~

(5) "Guide (a) ~~[R]~~rate[s]" means an advisory (a) rate[s] that ~~[have]~~ has been developed by a rate service organization[s] or company home office underwriter[s]. ~~They] that represents a rough average and [are] is used as a guide[s] or signpost[s].~~

(6) "Guide (a) Manual" means a collection of ~~[G]~~guide (a) ~~[R]~~rates with rules and procedures for ~~[their]~~ use with (a) rates.

(7) "Increased ~~[L]~~imits ~~[F]~~actor" means a rating factor used to adjust a manual rate to a limit[s] higher than the basic manual limit[s].

(8) ~~["Individual Risk Filing" means a filing of the insurance policy of an individual risk which is submitted to the commissioner. It shall consist of a copy of the Declarations Page, copies of any pertinent~~

coverage forms and rating schedules, the underwriter's explanation for the filing, premium development, and the appropriate filing transmittal forms and filing fee.

~~(9) "Self-[H]insured [R]etention" means [that] the portion of a risk or potential loss [which is] assumed by an insured in an amount of at least \$50,000 and in the form of a deductible, self-insurance, or no insurance. It may be in the form of a deductible, self-insurance, or no insurance. For the purpose of this rule, "self-insured retention" is limited to amounts of at least \$50,000 or more].~~

(10) "Umbrella ~~[L]~~iability ~~[H]~~insurance" means ~~[a coverage basically affording high limit] insurance providing coverage in excess of the limits of [the] a primary [policies as well as] policy and additional basic liability coverages. These additional coverages are usually subject to a substantial self-insured retention. The term "umbrella" is derived from the fact that it is a separate policy over and above any other basic liability policies the insured may have].~~

**R590-127-5. Filing of Procedures.**

~~(1) Each insurer to which this rule applies shall maintain [on file with the commissioner] a general statement of company policies and procedures for underwriting and developing (a) rates and (a) rating. [This]~~

~~(2) The general statement shall include:~~

~~(a) a delineation of the extent of home office and branch office authority [with regards to] regarding the promulgation of (a) rates. [This statement should include any]; and~~

~~(b) formal guidelines the insurer has established [by the insurer for these situations. Any changes in general policy made subsequent to this initial filing will be subject to filing at the time of the change] for a situation described in Subsection (2)(a).~~

~~(3) The general statement shall be made available to the commissioner upon request.~~

**R590-127-6. (a) Rates.**

~~(1) [All] An (a) rate[s] shall be exempt from the filing requirements of Section 31A-19a-203.~~

~~(2) When [ever] an (a) rate is used, the underwriting file shall contain full and supporting factual documentation verifying that [it] the rate is an (a) rate [as defined] and showing the development of the (a) rate assigned by the underwriter[;].~~

~~(a) If the insurer has a [G]uide (a) Manual, the underwriter [must] shall:~~

~~(i) start rate development with the [G]uide (a) [R]rate suggested in the manual. [If the underwriter feels adjustments to the suggested rate are appropriate, he shall];~~

~~(ii) document the steps in the development of [the] an adjusted rate; and~~

~~(iii) show that [he has followed] the insurer's established procedure in the (a) rate development has been followed.~~

~~(b) If [no] the insurer does not have a [G]uide (a) [R]rate [is available], the underwriter shall document the steps in the development of the (a) rate, including: [This development should contain]~~

~~(i) an analysis of [such things as] the specific definable loss potential characteristics[;];~~

~~(ii) a comparison to similar risks and their manual rates[;];~~

~~(iii) available loss frequency and severity data[;];~~

~~(iv) an analysis of current engineering reports[;]; and~~

~~(v) a discussion of any other pertinent underwriting criteria.~~

~~(3) As individual risk experience and characteristics are considered by the underwriter in developing the (a) rate, the only rate modification factors that may be applied to an (a) rate are:~~

~~(a) [H]increased [L]imits [F]actors[;];~~

~~\_\_\_\_\_~~ (b) package factors~~;~~;  
~~\_\_\_\_\_~~ (c) premium size factors~~;~~;  
~~\_\_\_\_\_~~ (d) expense modification factors; and  
~~\_\_\_\_\_~~ (e) deductible factors.  
 \_\_\_\_\_ (4) If automated rating procedures automatically apply other modification factors, the underwriter should consider this fact ~~[should be considered in the development of]~~ when developing the initial rate.

~~[(3)](5)~~ If an underwriter ~~[determines to use]~~ uses an ~~[F]increased [L]limits [F]factor [which] that~~ is different from the [G]guide (a) [F]increased [L]limits [F]factor[s of] in the Commercial Lines Manual, the underwriting file shall contain full and supporting factual data justifying the change in the [G]guide (a) [F]increased [L]limits [F]factor.

~~[(4)](6)(a)~~ When~~[ever]~~ an insurer renews a risk ~~[which] that~~ contains an (a) rate[s], the underwriting file shall contain the following documentation~~[of]~~:

~~\_\_\_\_\_~~ (i) the underwriter's reevaluation of the (a) rate assigned; and  
~~\_\_\_\_\_~~ (ii) justification for the continuation of the (a) rate or the development of any new (a) rate.

~~\_\_\_\_\_~~ (b) If the (a) rate previously assigned is revised more than ~~[+/-]plus or minus 25%, the [underwriter shall submit an individual risk filing to the commissioner within 30 days of the effective date of the policy. This filing shall contain the underwriter's documentation of]underwriter's file documenting~~ the (a) rate development for the prior year and the development and explanation for the new (a) rate shall be made available to the commissioner upon request.

#### **R590-127-~~[7]~~6. (a) Rating, Special Risk Rating.**

(1) ~~[Rates that are.]A rate that~~ is developed by an underwriter through an (a) rating process ~~[are]is~~ exempt from the filing requirements of Section 31A-19a-203.

(2) An underwriter is permitted to use (a) rating only in the following circumstances:

~~(a) [When it can be]when the underwriter can~~ clearly demonstrate~~[d]~~ that a risk described by specific classifications in the Commercial Lines Manual presents unique or unusual conditions of exposure or hazard such that the application of the normal manual rate for that classification does not produce a reasonable and equitable rate for the risk~~[. The]~~:

~~\_\_\_\_\_~~ (i) the underwriter should bear in mind that a manual classification~~[s are]~~ is understood to be general in nature and~~[, thus,]~~ may not exactly describe the risk being considered~~[. For this reason]~~; and

~~\_\_\_\_\_~~ (ii) an (a) rating is not to be used simply because the risk does not exactly match the manual classification description~~[, but must be substantially different.]~~:

~~(b) [When]when~~ the coverage to be written is broader or more restricted than ~~[that provided for by]the coverage~~ the manual definition of coverage provides as limited by applicable manual exclusions~~;~~;

~~(c) [When]when~~ the insurer has developed a program for ~~[types of risks or coverages that are]a type of risk or coverage that~~ is not included in the Commercial Lines Manual and for which there is limited statistical data for ratemaking purposes~~[of]~~;

~~(d) [When]when~~ a risk develops more than \$100,000 in annual manual basic limits unmodified premium for automobile liability, general liability, glass, and theft insurance, individually, or \$250,000 in any combination~~[. Boiler and machinery risks may be (a) rated provided:]~~; or

~~\_\_\_\_\_~~ (e) when the one-year deposit premium charged for the coverages afforded is \$50,000 or more for boiler and machinery risks.

(3)~~(a)~~ When~~[ever]~~ an underwriter uses (a) rating~~[. (special risk rating)]~~, the underwriting file shall contain the following:

~~\_\_\_\_\_~~ (i) a full explanation showing that the risk fits one of the circumstances described in Subsection (2)~~[. The file shall also contain]~~; and

~~\_\_\_\_\_~~ (ii) full and supporting factual documentation showing the development of the rate[s] assigned by the underwriter~~[. This development should contain]containing~~ an analysis of~~[such things as]~~:

~~\_\_\_\_\_~~ (A) the specific definable loss potential characteristics~~;~~;

~~\_\_\_\_\_~~ (B) a comparison to similar risks and their manual rates, available loss frequency, and severity data~~;~~;

~~\_\_\_\_\_~~ (C) an analysis of current engineering reports~~;~~; and

~~\_\_\_\_\_~~ (D) any other pertinent underwriting criteria.

~~\_\_\_\_\_~~ (b) The underwriting file shall be made available to the commissioner upon request.

~~(4)(a)~~ When~~[ever]~~ an insurer renews a risk ~~[which] that~~ has been (a) rated according to ~~[this section]Section R590-127-6~~, the underwriting file shall contain documentation of the underwriter's reevaluation of the (a) rating and justification for the continuation of the (a) rating~~[. Except for changes in premium basis, if]~~

~~\_\_\_\_\_~~ (b) If the (a) rating produces a renewal premium ~~[which] that~~ varies more than ~~[+/-]plus or minus 25% from the expiring policy premium, [the underwriter shall submit an individual risk filing to the commissioner within 30 days of the effective date of the policy. This filing shall contain the underwriter's documentation of]the underwriting file documenting~~ the rate development for the prior term and the renewal term, and an explanation for the change in premium, shall be made available to the commissioner upon request.

#### **R590-127-~~[8]~~7. Commercial Excess and Umbrella Liability Insurance.**

(1) Rates and rating plans for commercial excess insurance ~~[and]or~~ umbrella liability insurance are exempt from the filing requirements of Section 31A-19a-203.

(2)~~(a)~~ The underwriting files of ~~[all]any~~ excess insurance ~~[and]or~~ umbrella liability insurance risk[s] must contain full and supporting factual documentation justifying the rate and showing the development of the rate. ~~[This]~~

~~\_\_\_\_\_~~ (b) The rate development documentation should ~~[contain an analysis of such things as]analyze~~ the specific definable loss potential characteristics ~~[with regards to its]regarding~~ the risk's excess exposure and any other pertinent underwriting criteria.

(3) When~~[ever]~~ an insurer renews a commercial excess or umbrella liability policy, the underwriting file shall contain the following documentation~~[of]~~:

~~\_\_\_\_\_~~ (a) the underwriter's reevaluation of the rate assigned; and

~~\_\_\_\_\_~~ (b) justification for the continuation of the rate or the development of any new rate.

~~\_\_\_\_\_~~ (4) The underwriting file shall be made available to the commissioner upon request.

#### **R590-127-~~[9]~~9. Penalties.**

~~\_\_\_\_\_~~ Failure to comply with this rule and to maintain the documentation as outlined shall be deemed a violation of this rule. Pursuant to Section 31A-2-308, any person found to be in violation shall forfeit to the state not more than \$1,000 for each violation.

#### **R590-127-10. Separability~~]~~8. Severability.**

~~\_\_\_\_\_~~ [If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.]If any provision of this rule, Rule R590-127, or its

## NOTICES OF PROPOSED RULES

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:** insurance companies

**Date of Last Change:** 2021[December 14, 1999]

**Notice of Continuation:** August 20, 2019

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-19a-103

### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

|                                      |                 |                                  |
|--------------------------------------|-----------------|----------------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R590-129</b> | <b>Filing ID</b><br><b>53880</b> |
|--------------------------------------|-----------------|----------------------------------|

### Agency Information

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

### General Information

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R590-129. Unfair Discrimination Based Solely Upon Blindness or Physical or Mental Impairment   |
| <b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>  |
| This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. |
| <b>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):</b>                 |

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Others are changes to make the language of this rule more clear, and to add Section R590-129-5. The changes do 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 largely clerical in nature and will not change how the Department functions.

#### B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect 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 largely clerical in nature and will not affect small businesses.

#### 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 largely clerical in nature and will not affect non-small businesses.

#### 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 largely clerical in nature.

#### 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 changes are largely clerical in nature.

#### 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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**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-2-201(3) | Subsection 31A-23a-402(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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Steve Gooch, Public Information Officer | <b>Date:</b> | 08/30/2021 |
|--|---|--------------|------------|

**R590. Insurance, Administration.**

**R590-129. Unfair Discrimination Based Solely Upon Blindness or Physical or Mental Impairment.**

**R590-129-1. Authority.**

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3)(a), which empowers the commissioner to enforce Title 31A and to make rules to implement its provisions, and Subsection 31A-23a-402(8), which empowers the commissioner to define and prohibit unfair marketing practices.

**R590-129-2. Purpose and Scope.**

(1) The purpose of this rule is to identify and define certain practices ~~which~~ that the commissioner finds are unfair and discriminatory.

(2) This rule applies to an insurance policy offered for sale in Utah.

**R590-129-3. [Scope]Definitions.**

~~[This rule applies to all new or renewal insurance contracts offered for sale in Utah]~~ Terms used in this rule are defined in Section 31A-1-301.

**R590-129-4. Prohibited Acts and Practices.**

(1) The following acts and practices are prohibited ~~because of blindness, partial blindness, or physical or mental impairment:~~

~~[1-](a)~~ refusing to insure ~~[or];~~

~~[2-](b)~~ refusing to continue to insure;

~~[2-](c)~~ limiting the amount, extent, or kind of coverage available to an individual; or

~~[3-](d)~~ charging a higher rate for the same coverage ~~[solely because of blindness, partial blindness, or physical or mental impairment]~~ except where the refusal, limitation, or rate differential is based upon sound actuarial principles or reasonably anticipated loss experience.

~~[Refusal]~~ (2) Refusing to insure includes ~~[denial by an insurer of disability insurance]~~ an insurer denying coverage ~~[on the basis that]~~ when the policy defines "disability" as being presumed ~~[in the event that]~~ if the insured suffers the loss of sight.

(3) Unless otherwise provided by law, it ~~[is]~~ is not a violation of this rule to exclude from coverage any disability consisting of

## NOTICES OF PROPOSED RULES

blindness, partial blindness, or physical or mental impairment when the condition existed at the time the policy was issued.

### **R590-129-5. Severability.**

If any provision of this rule, Rule R590-129, 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: insurance companies**

**Date of Last Change: 2021[1989]**

**Notice of Continuation: August 20, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402**

### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

|                                      |                |                        |
|--------------------------------------|----------------|------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R657-10</b> | <b>Filing ID 53885</b> |
|--------------------------------------|----------------|------------------------|

### **Agency Information**

|  |                                 |                     |
|--|---------------------------------|---------------------|
| <b>1. Department:</b>  | Natural Resources               |                     |
| <b>Agency:</b>   | Wildlife Resources              |                     |
| <b>Room no.:</b>   | 2110                            |                     |
| <b>Building:</b>   | Department of Natural Resources |                     |
| <b>Street address:</b>   | 1594 W North Temple             |                     |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116        |                     |
| <b>Mailing address:</b>  | PO Box 146301                   |                     |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-6301   |                     |
| <b>Contact person(s):</b>  |                                 |                     |
| <b>Name:</b>   | <b>Phone:</b>                   | <b>Email:</b>       |
| Staci Coons  | 801-450-3093                    | stacicoons@utah.gov |
| Please address questions regarding information on this notice to the agency. |                                 |                     |

### **General Information**

|  |
|--|
| <b>2. Rule or section catchline:</b>   |
| R657-10. Taking Cougar   |
| <b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>  |
| This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule regulating the take of Cougars. |
| <b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the</b>  |

substantive differences between the repealed rule and the reenacted rule):

The proposed amendments to this rule: 1) eliminate text under legal weapon requirements to make them consistent with Rule R657-5 Taking Big Game; 2) replace "written permission" with "authorization" to remove dead cougar accidentally caught in a trap; 3) remove "cougar control permits"; 4) remove the call in hotline for reporting cougar take; and 5) make technical changes and housekeeping as needed.

### **Fiscal Information**

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

#### **A) State budget:**

The proposed rule amendments simplify weapon restriction language and types of cougar permits available. These changes can be initiated within the current workload and resources of DWR, therefore, the DWR determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

#### **B) Local governments:**

Since the proposed amendments only clarify weapon restrictions and eliminates cougar control permits and the accompany language, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

The proposed rule amendments will not directly impact small businesses nor is there a service required of them.

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

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

**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**):

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in taking cougar in the state as they do not require either a service or a purchased good from them.

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

DWR has determined that this amendment could not create additional costs for those pursuing or taking cougar in Utah as they do not require either a service or a purchased good from them.

**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 small businesses. Brian Steed, 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        |
| <b>Total Fiscal Cost</b>     | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Fiscal Benefits</b>       |            |            |            |
| 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        |
| <b>Total Fiscal Benefits</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Natural Resources, Brian Steed, 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 23-14-18    Section 23-14-19   

**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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |                                      |              |            |
|--|--------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Justin Shirley,<br>Wildlife Director | <b>Date:</b> | 08/30/2021 |
|--|--------------------------------------|--------------|------------|

**R657. Natural Resources, Wildlife Resources.**

**R657-10. Taking Cougar.**

**R657-10-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking cougar.

**R657-10-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted [for the purpose of] to allow[ing] a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing cougar for any purpose.

(c) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

~~[(d)]~~ "Cougar control permit" means a harvest objective permit that authorizes a person to take a second cougar on harvest objective units that have an unlimited quota.]

~~[(e)]~~(d) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

~~[(f)]~~(e) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

~~[(g)]~~(f) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

~~[(h)]~~(g) "Green pelt" means the untanned hide or skin of any cougar.

~~[(i)]~~(h) "Harvest objective" means an identified limit on the number of cougars that may be harvested during the season on a particular unit.

(i) "Harvest objective ~~[hunt]~~permit" means any ~~[hunt]~~permit that can be obtained without entering a drawing and is identified as harvest objective in the hunt table of the guidebook for taking cougar.]

~~[(j)]~~(i) "Harvest objective permit" means any permit valid on ~~[harvest objective]~~all units~~[-including-]~~during non-limited~~[-]~~entry ~~[permits for split units after the split unit transition date]~~seasons. A person may use dogs to hunt cougars with this permit.

~~[(k)]~~(j) "Immediate family member" means a livestock owner's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild and grandchild.

~~[(l)]~~(k) "Kitten" means a cougar that has obvious spots on its sides or its back or has obvious leg barring coloration.

~~[(m)]~~(l) "Limited entry ~~[hunt]~~season" means any ~~[hunt]~~season listed in the hunt tables of the guidebook of the Wildlife Board for taking cougar, which is identified as limited entry and ~~[does not include harvest objective hunts]~~a person must draw a permit to hunt that season.

~~[(n)]~~(m) "Limited entry permit" means any permit obtained for a limited entry ~~[hunt]~~season by any means, including conservation permits and sportsman permits. Limited entry permits may only be used on the specific unit they are issued for during the limited entry season. Limited entry permits may be used on any unit open to cougar hunting once the limited entry season for which the permit is valid ends.

(n) "Location of Harvest" means the exact location that the cougar is killed. GPS coordinates are preferred.

(o) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

(p) "Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

(q) "Pursue" means to chase, tree, corner or hold a cougar at bay.

(r) "[~~Split unit~~] means a cougar hunting unit that begins as a limited entry unit then transitions into a harvest objective unit.]Spot-and-stalk permit" means a cougar permit available over the counter for seasons and units designated by the Division Director as per Statute 23-16-10. A hunter who obtains this permit may not use dogs to take a cougar.

(s) "[~~Unlimited quota~~]Predator management unit" means a ~~[harvest objective]~~unit managed under direction of DWR W1AG-4 to reduce cougar densities. This type of unit~~[-that]~~ does not have a

limit on the number of ~~[cougar]~~cougars that may be harvested during the ~~[open-]~~season.

(t) "Waiting period" means a specified period of time that a person who has obtained a cougar permit must wait before applying for any other limited entry cougar ~~[permit]~~season.

(u) "Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

(i) the name and signature of the owner or person in charge;  
(ii) the address and phone number of the owner or person in charge;

(iii) the name of the dog handler given permission to enter the private lands;

(iv) a brief description of the pursuit activity authorized;

(v) the appropriate dates; and

(vi) a general description of the property.

### **R657-10-3. Permits for Taking Cougar.**

(1)(a) To harvest a cougar, a person must first obtain a valid limited entry cougar permit, harvest~~[-]~~objective cougar permit, or ~~[cougar control]~~spot-and-stalk permit, for the specified management units as provided in the guidebook of the Wildlife Board for taking cougar.

(b) Any person who obtains a limited entry cougar season permit, harvest objective cougar permit, or ~~[cougar control]~~spot-and-stalk permit, may pursue cougar ~~[on]~~during the ~~[unit]~~season for which the permit is valid.

(2) A person may not apply for or obtain more than one cougar permit for the same season, except:

(a) as provided in Subsection R657-10-25(3);

~~(b) as provided in Subsection R657-10-33;~~

~~[(c)]~~(e) if the person is unsuccessful in the limited entry drawing, the person may purchase a harvest objective or ~~[cougar control]~~spot-and-stalk permit; or

~~[(d)]~~(c) a person may acquire and use a permit issued pursuant to ~~[Utah Code]~~Section 23-16-10 in addition to another lawfully acquired cougar permit.

(3) Any cougar permit purchased after the season opens is not valid until three days after the date of purchase.

(4) To obtain a cougar limited entry permit, harvest objective permit, ~~[cougar control]~~spot-and-stalk permit, or pursuit permit, a person must possess a Utah hunting or combination license.

### **R657-10-4. Permits for Pursuing Cougar.**

(1)(a) To pursue cougar without a limited entry, harvest objective~~[-, or cougar control]~~ permit, the dog handler must:

(i) obtain a valid cougar pursuit permit from a division office; or

(ii) possess the documentation and certifications required in Subsection R657-10-25(2) to pursue cougar for compensation.

(b) A cougar pursuit permit or exemption there from does not allow a person to kill a cougar.

(2) Residents and nonresidents may purchase cougar pursuit permits consistent with the requirements of this rule and the guidebooks of the Wildlife Board.

(3) To obtain a cougar pursuit permit, a person must possess a Utah hunting or combination license.

### **R657-10-6. Firearms, Archery Equipment, Crossbows, and Airguns.**

(1) ~~[For cougar hunt identified in the Wildlife Board's guidebook for taking cougar that allow harvest of a cougar, a]~~A



person may only use ~~[the following]~~ weapons identified in Section R657-5-8, Rifles, Shotguns, Airguns, and Crossbows to take cougar[;]

~~— (a) any firearm not capable of being fired fully automatic, except a firearm using rimfire cartridge;~~

~~— (b) archery equipment meeting the following requirements:~~

~~— (i) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;~~

~~— (ii) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;~~

~~— (iii) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and~~

~~— (iv) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock;~~

~~— (e) a crossbow meeting the following requirements:~~

~~— (i) a minimum draw weight of 125 pounds;~~

~~— (ii) a positive mechanical safety mechanism; and~~

~~— (iii) an arrow or bolt that is at least 16 inches long with:~~

~~— (A) a fixed broadhead that is at least 7/8 inch wide at the widest point; or~~

~~— (B) an expandable, mechanical broadhead that is at least 7/8 inch wide at the widest point when the broadhead is in the open position; and~~

~~— (d) an airgun used to hunt cougar must:~~

~~— (i) be pneumatically powered;~~

~~— (ii) be pressurized solely through a separate charging device; and~~

~~— (iii) may only fire a bolt or arrow:~~

~~— (A) no less than 16 inches long;~~

~~— (B) with a fixed or expandable broadhead at least 7/8 inch wide at its widest position; and~~

~~— (C) traveling no less than 400 feet per second at the muzzle.~~

~~— (2) Arrows and bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.~~

~~— (3) A cougar hunt authorized pursuant to Utah Code Section 23-16-10 does not constitute a centerfire rifle hunt for the purposes of hunter orange requirements on any overlapping big game hunt in the area.~~

#### **R657-10-7. Traps and Trapping Devices.**

(1) Cougar may not be taken with a trap, snare or any other trapping device, except as authorized by the Division of Wildlife.

(2) Cougar accidentally caught in any trapping device must be released unharmed, and must not be pursued or taken.

(3)(a) ~~[Written permission]~~ Authorization must be obtained from a division representative to remove the carcass of a cougar from any trapping device.

(b) The carcass shall remain the property of the state ~~[of Utah]~~ and must be surrendered to the division.

#### **R657-10-9. Prohibited Methods.**

(1) Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the guidebook of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to pursue, possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.

(2)~~—~~(a) A person may not pursue a single cougar in repeated pursuits such that it renders the cougar physically unable to escape.

(b) After a cougar has been pursued, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

(c) A person must make reasonable efforts to call dogs off of a cougar that has been cornered or held at bay.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

(5) Electronic locating equipment may not be used to locate ~~[cougar]~~ cougars wearing electronic radio devices.

#### **R657-10-21. Livestock Depredation and Human Health and Safety.**

(1) If a cougar is harassing, chasing, disturbing, harming, attacking or killing livestock, or has committed such an act within the past 96 hours:

(a) in depredation cases, the livestock owner, an immediate family member or an employee of the owner on a regular payroll, and not hired specifically to take cougar, may kill the cougar;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who shall authorize a local hunter to take the offending cougar or notify a USDA, Wildlife Services specialist; or

(c) the livestock owner may notify a USDA, Wildlife Services specialist of the depredation who may take the depredating cougar.

(2) Depredating cougar may be taken at any time by a USDA, Wildlife Services specialist, supervised by the Wildlife Services program, while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3)(a) A depredating cougar may be taken by those persons authorized in Subsection (1)(a) with:

(i) any weapon authorized for taking cougar; or

(ii) with the use of snares only with written authorization from the director of the division and subject to each condition and restriction set out in the written authorization.

(b) The option in Subsection (3)~~(b)~~(a)(ii) may only be authorized in the case of a chronic depredation situation where numerous livestock have been killed by a depredating cougar and must be verified by Wildlife Services or division personnel.

(4)(a) The division may issue depredation permits to take cougar on specified private lands and public land grazing allotments with a chronic depredation situation where numerous livestock have been killed by cougar.

(b) The division may:

(i) issue one or more depredation permits to the affected livestock owner or a designee, provided the livestock owner does not receive monetary consideration from the designee for the opportunity to use the depredation permit;

(ii) determine the legal weapons and methods of take allowed; and

(iii) specify the area and season that the permit is valid.

(5)(a) Any cougar taken under Subsection (1)(a) or (4)(a) shall remain the property of the state and must be ~~[delivered]~~ reported to a division office or employee within 96 hours.

(b) The division may issue a cougar damage permit to a person who has killed a depredating cougar under Subsection (1)(a) that authorizes the person to keep the carcass.

## NOTICES OF PROPOSED RULES

(c) A person that takes a cougar under Subsection (1)(a) or (4)(a) may acquire and use a limited entry permit or harvest objective cougar permit in the same year.

(d) Notwithstanding Subsections (5)(b) and (5)(c), a person may retain no more than one cougar annually taken with a cougar depredation permit.

(6)(a) A hunter interested in taking depredating cougar as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating cougar as needed.

### **R657-10-23. Taking Cougar.**

(1)(a) For each permit issued, a person may only take one cougar during the season and from the area specified on the permit.

(b) A limited entry permit may be obtained by following the application procedures provided in this rule and the guidebook of the Wildlife Board for taking cougar.

(c) A harvest[-]objective permit may be purchased on a first-come, first-served basis as provided in guidebook of the Wildlife Board for taking cougar.

~~[(d) A cougar control permit may be purchased as provided in the guidebook of the Wildlife Board for taking cougar.]~~

(2) A person may not:

(a) take or pursue a female cougar with a kitten; or

(b) repeatedly pursue, chase, tree, corner, or hold at bay, the same cougar during the same day after the cougar has been released.

(3) Any cougar may be taken during the prescribed seasons, except a kitten or any cougar accompanied by one or more kittens.

(4) A person may not take a cougar wearing a radio or gps collar on any unit identified in the guidebook of the Wildlife Board for taking cougar as being closed to the take of collared animals.

(5) The division may authorize a hunter who has obtained a valid cougar permit to take cougar in a specified area of the state in the interest of protecting wildlife from depredation.

(6) Season dates, closed areas, harvest objective~~[-permit]~~ areas, ~~[unlimited quota]~~ predator management units, and limited entry ~~[permit]~~ season areas are published in the guidebook of the Wildlife Board for taking cougar.

(7)(a) A person who obtains a limited entry cougar permit~~[on a split unit]~~ may hunt on all ~~[harvest objective]~~ open units after the end date ~~[split units transition into harvest objective units. The split unit transition date is]~~ of the limited entry season. Limited entry season dates are provided in the guidebook of the Wildlife Board for taking cougar.

(b) A person who obtains a limited entry cougar permit~~[on a split unit]~~ and chooses to hunt on any ~~[harvest objective]~~ open unit after the transition date is subject to all harvest objective unit closure requirements provided in ~~[Sections]~~ Section R657-10-29.

### **R657-10-25. Cougar Pursuit.**

(1)(a) Except as provided in ~~[rule]~~ Subsection R657-10-3(1)(b) and Subsection (2), cougar may be pursued only by persons who have obtained a cougar pursuit permit.

(b) The cougar pursuit permit does not allow a person to:

(i) kill a cougar; or

(ii) pursue cougar for compensation.

(c) A person may pursue cougar for compensation only as provided in Subsection (2).

(d) To obtain a cougar pursuit permit, a person must possess a Utah hunting or combination license.

(2)(a) A person may pursue cougar on public lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue cougar;

(ii) is a licensed hunting guide or outfitter under Title 58, Chapter 79, Hunting Guides and Outfitters Registration Act~~[of the Utah Code]~~ and authorized to pursue cougar;

(iii) possesses on ~~[his or her]~~ the person the Utah hunting guide or outfitter license;

(iv) possesses on ~~[his or her]~~ the person all permits and authorizations required by the applicable public lands managing authority to pursue cougar for compensation; and

(v) is accompanied by the client or customer at all times during pursuit.

(b) A person may pursue cougar on private lands for compensation, provided the dog handler:

(i) receives compensation from a client or customer to pursue cougar;

(ii) is accompanied by the client or customer at all times during pursuit; and

(iii) possesses on ~~[his or her]~~ the person written permission from all private landowners on whose property pursuit takes place.

(c) A person who is an employee or agent of the Division of Wildlife Services may pursue cougar on public lands and private lands while acting within the scope of their employment.

(3) A pursuit permit is not required to pursue cougar under Subsection (2).

(4)(a) A person pursuing cougar for compensation under ~~[s]~~ Subsections (2)(a) and (2)(b) shall comply with all other requirements and restrictions in statute, rule and the guidebooks of the Wildlife Board regulating the pursuit and take of cougar.

(b) Any violation of, or failure to comply with ~~[the provisions of]~~ Title 23, Wildlife Resources Code of Utah~~[of the Utah Code]~~, this rule, or the guidebooks of the Wildlife Board may be grounds for suspension of the privilege to pursue cougar for compensation under this subsection, as determined by a division hearing officer.

(5) A cougar pursuit permit authorizes the holder to pursue cougar with dogs on any unit open to pursuing cougar during the seasons and under the conditions prescribed by the Wildlife Board in guidebook.

(6) A person may not:

(a) take or pursue a female cougar with a kitten;

(b) repeatedly pursue, chase, tree, corner or hold at bay, the same cougar during the same day;~~[-or]~~

~~[(c) possess a firearm or any device that could be used to kill a cougar while pursuing cougar.]~~

~~[(i) The weapon restrictions set forth in the subsection do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing or attempting to utilize the concealed weapon to injure or kill cougar.]~~

~~[(7)]~~ (c) If eligible, a person who has obtained a cougar pursuit permit may also obtain a limited entry ~~[cougar]~~ season permit, harvest objective cougar permit, or ~~[cougar control]~~ spot-and-stalk permit.

~~[(8)]~~ (7) Cougar may be pursued ~~[only]~~ on ~~[limited entry]~~ any units~~[-, harvest objective units, or unlimited quota units]~~ open to cougar hunting during the dates provided in the guidebook of the Wildlife Board for taking cougar.

~~[(9)]~~ (8) A cougar pursuit permit is valid on a calendar year basis.

(~~10~~9) A person must possess a valid hunting or combination license to obtain a cougar pursuit permit.

#### **R657-10-27. Harvest Objective Permit General Information.**

(1) Harvest objective permits are valid only for open harvest objective management units or predator management units and for the specified seasons published in the guidebook of the Wildlife Board for taking cougar.

(2) Harvest objective permits are not valid in a specified management unit after the harvest objective has been met for that unit.

#### **R657-10-29. Units with Harvest Objective ~~Unit~~ Closures.**

(1) To hunt in a unit with a harvest objective~~[unit]~~, a hunter must ~~call 1-888-668-LION or~~ visit the division's website to verify that the harvest objective unit is still open. The ~~[phone line and]~~ website will be updated each day by 12 noon. Updates become effective the following day ~~[thirty]~~30 minutes before official sunrise.

(2) ~~[Harvest]~~Units with harvest objective~~[units]~~ are open to hunting until:

(a) the ~~[quota for that]~~ harvest objective for that unit is met and the division closes the unit; or

(b) the end of the hunting season as provided in the guidebook of the Wildlife Board for taking cougar.

(3) Upon closure of a unit with a harvest objective~~[unit]~~, a hunter may not take or pursue cougar except as provided in Section R657-10-25.

#### **R657-10-30. Harvest Objective Unit Reporting.**

(1) Any person taking a cougar on a unit with a harvest objective~~[permit or a cougar control permit]~~ must report to the division, within 48 hours, ~~[where]~~the ~~[cougar was taken]~~location of harvest and have a permanent tag affixed pursuant to Section R657-10-15.

(2) Failure to accurately report the correct~~[harvest objective]~~ unit where the cougar was killed is unlawful.

(3) Any conviction for failure to accurately report, or aiding or assisting in the failure to accurately report as required in Subsection (1) shall be considered ~~[prima facie]~~probable cause evidence of a knowing, intentional or reckless violation for purposes of permit suspension.

#### **R657-10-32. Poaching-Reported Reward Permits.**

(1) Cougar poaching-reported reward permits are issued pursuant to ~~[F]~~Rule R657-51 Poaching-Reported Reward Permits.

#### **~~R657-10-33. Cougar Control Permits.~~**

~~(1)(a) The division, with approval of the Wildlife Board, may identify a harvest objective unit as an unlimited quota unit.~~

~~(b) An individual may acquire a cougar control permit to hunt on an unlimited quota unit if they first obtain:~~

~~(i) a harvest objective permit; or~~

~~(ii) a limited entry permit for a split unit and the split unit has transitioned to harvest objective status.~~

~~(c) An individual may retain a cougar lawfully harvested under a cougar control permit regardless of whether they lawfully harvested and retained a cougar under a permit listed in Subsections (1)(b)(i) or (ii).~~

~~(2) An individual may only acquire one cougar control permit each season.~~

~~(3) Cougar control permits are only valid within the boundaries of unlimited quota units and during the dates described~~

~~on the permit and in the guidebook of the Wildlife Board for taking cougar.]~~

**KEY: wildlife, cougar, game laws**

**Date of Last Change: 2021**~~[November 9, 2020]~~

**Notice of Continuation: July 2, 2021**

**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19**

#### **NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R657-41-9

**Filing ID**  
53886

#### **Agency Information**

|                             |                                  |
|-----------------------------|----------------------------------|
| <b>1. Department:</b>       | Natural Resources                |
| <b>Agency:</b>              | Wildlife Resources               |
| <b>Room no.:</b>            | 2110                             |
| <b>Building:</b>            | Department of Natural Resources  |
| <b>Street address:</b>      | 1594 W North Temple              |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116         |
| <b>Mailing address:</b>     | PO Box 146301                    |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-6301    |
| <b>Contact person(s):</b>   |                                  |
| <b>Name:</b>                | <b>Phone:</b> <b>Email:</b>      |
| Staci Coons                 | 801-450-3093 stacicoons@utah.gov |

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

#### **General Information**

##### **2. Rule or section catchline:**

R657-41-9. Conservation Permit Funds and Reporting

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

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule regulating Conservation and Sportsman Permits.

##### **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 proposed amendments to this rule: 1) set the requirements for direct purchase of permits; and 2) make technical changes as needed.

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

The proposed rule amendments clarify the direct purchase of Conservation and Sportsman permits for conservation groups, these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

**B) Local governments:**

Since the proposed amendments only clarify direct purchase requirements, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

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

The proposed rule amendments will not directly impact small businesses nor is there a service required of them.

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

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

**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**):

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in applying for or purchasing Conservation or Sportsman permits as they do not require either a service or a purchased good from them.

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

DWR has determined that this amendment could not create additional costs for those participating in the Conservation or Sportsman permit program as they do require either a service or a purchased good from them.

**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 small businesses. Brian Steed, 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**

| <b>Fiscal Cost</b>           | <b>FY2022</b> | <b>FY2023</b> | <b>FY2024</b> |
|------------------------------|---------------|---------------|---------------|
| 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           |
| <b>Total Fiscal Cost</b>     | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Fiscal Benefits</b>       |               |               |               |
| 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           |
| <b>Total Fiscal Benefits</b> | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Net Fiscal Benefits</b>   | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Natural Resources, Brian Steed, 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 23-14-18 | Section 23-14-19 |  |
|------------------|------------------|--|

**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:** 10/15/2021

**10. This rule change MAY become effective on:** 10/22/2021

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**

|  |                                      |              |            |
|--|--------------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Justin Shirley,<br>Wildlife Director | <b>Date:</b> | 08/30/2021 |
|--|--------------------------------------|--------------|------------|

**R657. Natural Resources, Wildlife Resources.****R657-41. Conservation and Sportsman Permits.****R657-41-9. Conservation Permit Funds and Reporting.**

(1) All permits must be auctioned or distributed by August 15, annually.

(2) Within 30 days of the last event, but no later than August 15 annually, the conservation organization must submit to the division:

- (a) a final report on the distribution of permits;
- (b) the total funds raised on each permit; and
- (c) the funds due to the division.

(3)(a) Conservation permits shall not be issued to a person possessing a conservation permit voucher unless the person redeeming the voucher:

- (i) possesses a valid Utah hunting or combination license;
- (ii) remits to the division the applicable permit fee[-]; and
- (iii) is otherwise legally eligible to possess the particular hunting permit.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by August 15 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before August 15 of each year.

(d) The permit revenue payable to the division under this subsection shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the division by the August 15 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4, ~~Theft of the Utah Code~~, and may further disqualify the conservation organization from obtaining any future conservation permits.

(5) A conservation organization may retain 70% of the permit revenue generated from auctioning conservation permits, as follows:

(a) 10% of the permit revenue may be withheld and used by the conservation organization for administrative expenses.

(b) 60% of the permit revenue and accrued interest, excluding standard banking fees assessed on the account where the permit revenue is deposited, may be retained and used by the conservation organization only for eligible projects, as provided in Subsections (i) through ~~(ix)~~ (xii).

(i) ~~[eligible]~~ Eligible projects include habitat improvement, habitat acquisition, transplants, targeted education efforts and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

(ii) ~~[retained]~~ Retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iii) ~~[retained]~~ Retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species or other protected wildlife located in Utah.

(iv) ~~[cash]~~ For direct purchases, the division may require conservation organizations to engage in a competitive bid process or otherwise document benefits to a conservation permit species as a prerequisite to division approval.

(v) Cash donations to the Wildlife Habitat Account created under Section 23-19-43, Division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

~~(vi)~~ Funds committed to approved, division projects will be transferred to the division within 60 days of being invoiced by the division.

~~(vii)~~ If the division-approved project to which funds are committed is completed under projected budget or is canceled, funds committed to the project that are not used will be kept by the division and credited back to the conservation organization but will be made available for the group to use on other approved projects during the current or subsequent year.

~~(viii)~~ Retained revenue shall not be used on any project that is inconsistent with division policy, including feeding programs, depredation management, or predator control.

~~(ix)~~ Retained revenue under this subsection must be placed in a federally insured account. All interest revenue earned thereon must be accounted for and used consistent with the requirements of this subsection.

~~(x)~~ Retained revenue shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

~~(xi)~~ Retained revenue must be completely expended on approved eligible projects or transferred to the division by August 15, two years following the year in which the relevant conservation permits are awarded to the conservation organization by

## NOTICES OF PROPOSED RULES

the Wildlife Board. Failure to expend or transfer to the division retained revenue by the August 15 deadline will disqualify the conservation organization from obtaining any future conservation permits until the unspent retained revenue is expended on an approved eligible project or transferred to the division.

(~~[x]~~xii) ~~[a]~~All records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall perform annual audits on project expenditures and conservation permit accounts.

**KEY: wildlife, wildlife permits**

**Date of Last Change: ~~[July 9,]~~ 2021**

**Notice of Continuation: September 8, 2020**

**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19**

**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 15, 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 January 13, 2022, 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.):     | R539-11 | Filing ID: 53734 |

**Agency Information**

|  |                                       |                   |
|--|---------------------------------------|-------------------|
| <b>1. Department:</b>  | Human Services                        |                   |
| <b>Agency:</b>   | Services for People with Disabilities |                   |
| <b>Building:</b>   | MASOB                                 |                   |
| <b>Street address:</b>   | 195 N 1950 W                          |                   |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116              |                   |
| <b>Contact person(s):</b>  |                                       |                   |
| <b>Name:</b>   | <b>Phone:</b>                         | <b>Phone:</b>     |
| Kelly Thomson  | 435-669-4855                          | kthomson@utah.gov |
| Jonah Shaw   |                                       | jshaw@utah.gov    |
| Please address questions regarding information on this notice to the agency. |                                       |                   |

**General Information**

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| R539-11. Intermediate Care Facility Advisory Committee  |
| <b>3. Publication date of previous proposed rule or change in proposed rule:</b>  |
| 08/01/2021  |
| <b>4. Reason for this change</b> (Why is the agency submitting this filing?):   |
| The new name more accurately reflects the purpose and authority of the Intermediate Care Facility Advisory Committee (Committee).   |
| <b>5. Summary of this change</b> (What does this filing do?):   |
| The change renames the Committee to the Strategy Report Advisory Committee. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the August 1, 2021, issue of the Utah State Bulletin, on page 27. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.) |

**Fiscal Information**

|  |
|--|
| <b>6. Aggregate anticipated cost or savings to:</b>  |
| <b>A) State budget:</b>  |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated cost or savings to the state budget.   |
| <b>B) Local government:</b>  |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated cost or savings to local governments.  |
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):   |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated cost or savings to small businesses.   |
| <b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):   |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated cost or savings to non-small businesses.   |
| <b>E) Persons other than small businesses, non-small businesses, or state or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ): |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.   |
| <b>F) Compliance costs for affected persons:</b>   |
| The change is a nonsubstantive change that will not affect the operation of the Committee. No anticipated compliance costs for affected persons.   |
| <b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):   |
| After conducting a thorough analysis, it was determined that this proposed new rule and this change will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director   |
| <b>6. A) Regulatory Impact Summary Table</b> (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.)                               |



| <b>Regulatory Impact Table</b>  |               |               |               |
|---|---------------|---------------|---------------|
| <b>Fiscal Cost</b>  | <b>FY2022</b> | <b>FY2023</b> | <b>FY2024</b> |
| 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           |
| <b>Total Fiscal Cost</b>  | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Fiscal Benefits</b>  |               |               |               |
| 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           |
| <b>Total Fiscal Benefits</b>  | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>Net Fiscal Benefits</b>  | <b>\$0</b>    | <b>\$0</b>    | <b>\$0</b>    |
| <b>B) Department head approval of regulatory impact analysis:</b>   |               |               |               |
| The Executive Director of the Department of Human Services, Tracy Gruber, reviewed and approved this fiscal analysis. |               |               |               |

**Citation Information**

|   |                            |                            |
|---|----------------------------|----------------------------|
| <b>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:</b> |                            |                            |
| Subsection 62A-5-103(2)(b)  | Subsection 62A-5-103(2)(r) | Subsection 62A-5-103(2)(n) |

**Public Notice Information**

|   |
|---|
| <b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (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.) |
|---|

|  |                          |
|--|--------------------------|
| <b>A) Comments will be accepted until:</b> | No formal comment period |
|--|--------------------------|

|  |            |
|--|------------|
| <b>10. This rule change MAY become effective on:</b>   | 10/15/2021 |
| 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**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Tracy Gruber, Executive Director | <b>Date:</b> | 08/27/2021 |
|--|----------------------------------|--------------|------------|

**R539. Human Services, Services for People with Disabilities.****R539-11. ~~[Intermediate Care Facility]~~Strategy Report Advisory Committee.****R539-11-1. Purpose and Authority.**

(1) The purpose of this rule is to establish an advisory committee as required by the Christensen v. Miner Settlement Agreement, resolving Case No. 2:18CV37DAK in the United States District Court for the District of Utah, as approved by Judge Dale A. Kimball on December 19, 2019.

(2) The ~~[Intermediate Care Facility]~~Strategy Report Advisory Committee develops and proposes policy and practice to further reduce the intermediate care facility population.

(3) This rule is authorized by Subsections 62A-5-103(2)(b), 62A-5-103(2)(n), and 62A-5-103(2)(r).

**R539-11-2. Definitions.**

(1) Terms used in this rule are defined in Sections 62A-5-101, R539-1-3, and R414-510.

(2) "Committee" means the ~~[Intermediate Care Facility]~~Strategy Report Advisory Committee.

(3) "HCBS" means home and community-based services. Home and community-based services are long term services and supports provided to individuals in their homes or other community settings that satisfy the requirements of 42 CFR Subsection 441.301(c)(4).

(4) "Large Intermediate Care Facility" means a facility with a bed count of 16 or more.

(5) "Medium Intermediate Care Facility" means a facility with a bed count of more than six and less than 16.

(6) "Settlement Agreement" means the Christensen v. Miner Settlement Agreement.

(7) "Small Intermediate Care Facility" means a facility with a bed count of six or fewer.

**R539-11-3. Membership.**

(1) The committee shall include:

(a) a representative of the division;

(b) a representative of the Utah Department of Health Division of Medicaid and Health Financing;

## NOTICES OF CHANGES IN PROPOSED RULES

- (c) a representative of the Disability Law Center;
  - (d) at least one resident of an intermediate care facility;
  - (e) at least one individual living in the community;
  - (f) at least one family member of a resident of an intermediate care facility;
  - (g) at least one family member of an individual living in the community;
  - (h) a large intermediate care facility provider;
  - (i) a medium intermediate care facility provider;
  - (j) an approved provider of an HCBS residential service;
  - (k) at least one approved provider of an HCBS supported living service;
  - (l) at least one approved provider of HCBS support coordination;
  - (m) a representative of the Utah Parent Center; and
  - (n) a representative of the Center for Persons with Disabilities at Utah State University.
- (2) Subsection R539-11-3(1) lists the minimum representation required for committee membership.

### **R539-11-4. Duties.**

- (1) The committee shall operate in a manner that ensures information, work product, and activity are accessible to each member.
- (2) The committee shall identify any barrier to HCBS for a resident or an individual at risk of residing in an intermediate care facility.
- (3) The committee shall recommend policy and practice to further reduce the intermediate care facility population.
  - (a) A recommendation may include a change to legislative or administrative policy and practice.
  - (b) The committee shall address each of the following:
    - (i) strategy to further reduce the number of licensed intermediate care facilities;
    - (ii) strategy to further reduce the number of licensed intermediate care facility beds;
    - (iii) strategy to further reduce the number of large and medium size intermediate care facilities;

- (iv) strategy to shift to greater reliance on small intermediate care facilities;
  - (v) strategy to ensure the competency of intermediate care facility staff and appropriate staffing ratio;
  - (vi) strategy to increase funding and any other available resource for HCBS; and
  - (vii) strategy to remove a barrier to HCBS.
- (c) The committee may address any other topic that further reduces the intermediate care facility population.
- (d) The committee may consider data and information that includes:
- (i) data and information developed as a result of the Settlement Agreement;
  - (ii) information about economic development; and
  - (iii) information about a disability population that resides in any other institutional setting.

### **R539-11-5. Report.**

- (1) The committee shall prepare a written report on or before the termination date of the Settlement Agreement.
- (2) The report shall include each recommendation for policy and practice that further reduces the intermediate care facility population over a ten-year period.

### **R539-11-6. Termination.**

- (1) Each duty and requirement of the committee shall end on the Settlement Agreement termination date.
- (2) The committee shall stop meeting after the Settlement Agreement termination date.

**KEY: disabilities, intermediate care facility**

**Date of Enactment or Last Substantive Amendment: 2021**

**Authorizing, and Implemented or Interpreted Law: 62A-5-103**

## **End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

### NOTICE OF EMERGENCY (120-DAY) RULE

|                               |        |                  |
|-------------------------------|--------|------------------|
| Utah Admin. Code Ref (R no.): | R68-29 | Filing ID: 53855 |
|-------------------------------|--------|------------------|

#### Agency Information

|                             |                          |                      |
|-----------------------------|--------------------------|----------------------|
| <b>1. Department:</b>       | Agriculture and Food     |                      |
| <b>Agency:</b>              | Plant Industry           |                      |
| <b>Street address:</b>      | 350 N Redwood Road       |                      |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114 |                      |
| <b>Mailing address:</b>     | PO Box 146500            |                      |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116 |                      |
| <b>Contact person(s):</b>   |                          |                      |
| <b>Name:</b>                | <b>Phone:</b>            | <b>Email:</b>        |
| Amber Brown                 | 801-982-2204             | ambermbrown@utah.gov |
| Cody James                  | 801-982-2376             | codyjames@utah.gov   |
| Kelly Pehrson               | 801-982-2202             | kwpehrson@utah.gov   |

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

#### General Information

##### 2. Rule or section catchline:

R68-29. Quality Assurance Testing on Cannabis

##### 3. Effective Date:

08/24/2021

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

A clarification is needed in this rule to ensure that a cannabis testing laboratory is not required to test for all of the microbial contaminants listed in Table 2. Due to laboratory equipment shortages testing for some of the specific microbials listed in Table 2 is not currently possible. A second emergency rule is needed because the testing equipment in question is still not available. The Department is hopeful that equipment will be available soon.

##### 5. Summary of the new rule or change (What does this filing do?):

Language has been added to Section R68-29-8, Microbial Standards, to clarify that specific microbial testing requirements will be at the discretion of the Department of Agriculture and Food (Department). The requirement for microbial testing generally and the limitations in Table 2 will remain in place.

**6. A) The agency finds that regular rulemaking would:**

X cause an imminent peril to the public health, safety, or welfare;

cause an imminent budget reduction because of budget restraints or federal requirements; or

place the agency in violation of federal or state law.

**B) Specific reasons and justifications for this finding:**

If this rule is not clarified, the Department may not be able to allow cannabis products to be sold because all required testing cannot be performed. This could cause imminent financial harm to the cannabis industry and limit their ability to sell the products they have produced. It could also threaten the health and welfare of the public because patients will have less access to the medically prescribed cannabis products they need.

**Fiscal Information**

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

**A) State budget:**

There would be an anticipated savings to the state budget due to less required testing. The Department estimates that this would amount to a savings of \$50 per sample and a reduction in the cost of testing 900 samples per year, for a total of \$45,000. There would also be a reduction in fee revenue collected at an estimated \$50 per sample and 900 samples per year, or \$45,000. This reduced fee revenue would be due to the Department charging \$70 per sample rather than \$120 due to reduced testing requirements given this change.

**B) Local governments:**

There is no anticipated cost or savings to local governments because they do not operate as cannabis licensees or laboratories.

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

There would be a savings to small businesses due to the reduced cost of testing in the Department cannabis laboratory, from \$120 per sample to \$70 per sample. The Department estimates that 75% of the samples tested per year are tested for small businesses, for a total savings of \$33,750 (675 samples at a savings of \$50 per sample).

**D) 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 would be a savings to non-small businesses due to the reduced cost of testing in the Department cannabis laboratory, from \$120 per sample to \$70 per sample. The Department estimates that 25% of the samples tested per year are tested for non-small businesses, for a total savings of \$11,250 (225 samples at a savings of \$50 per sample).

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

Compliance costs for affected persons would be reduced due to the reduced cost of testing a cannabis sample. Cost would go from \$120 per sample to \$70 sample for a reduction of \$50 per sample.

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

This rule change will not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

**Citation Information**

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

|                            |  |  |
|----------------------------|--|--|
| Subsection<br>4-41a-701(3) |  |  |
|----------------------------|--|--|

**Agency Authorization Information**

|  |                                |              |            |
|--|--------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Craig W. Buttars, Commissioner | <b>Date:</b> | 08/25/2021 |
|--|--------------------------------|--------------|------------|

**R68. Agriculture and Food, Plant Industry.**

**R68-29. Quality Assurance Testing on Cannabis.**

**R68-29-1. Authority and Purpose.**

1) Pursuant to Subsection 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

**R68-29-2. Definitions.**

1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- a) pesticides;
- b) heavy metals;
- c) solvents;
- d) microbial life;
- e) toxins; or
- f) foreign matter.

2) "Analyte" means a substance or chemical component that is undergoing analysis.

3) "Batch" means a quantity of:

a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or

c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "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.

5) "Cannabis" means any part of the marijuana plant.

6) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

7) "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b) grows or intends to grow cannabis; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

9) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.

10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.

11) "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment;

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

12) "Cannabis product" means a product that:

a) is intended for human use; and

b) contains cannabis or delta 9-tetrahydrocannabinol.

13) "CBD" means cannabidiol (CAS 13956-29-1).

14) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).

15) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for that testing was performed.

16) "Department" means the Utah Department of Agriculture and Food.

17) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

18) "Foreign matter" means:

a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient.

19) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

20) "Industrial hemp waste" means:

a) a cannabinoid extract derived from industrial hemp with greater than 0.3% THC by mass; or

b) industrial hemp biomass with a THC concentration of less than 0.3% by dry weight.

21) "Lot" means the quantity of:

a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

22) "Pest" means:

a) any insect, rodent, nematode, fungus, weed; or

b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

23) "Pesticide" means any:

a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid in the application or effect of a pesticide.

24) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:

a) an employee of the department;

b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or

c) a person authorized by the department to perform sampling.

25) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.

26) "THC" means delta-9-tetrahydrocannabinol (CAS 1972-08-3).

27) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

28) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

29) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

30) "Unit" means each individual portion of an individually packaged product.

31) "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

#### **R68-29-3. Required Cannabis and Cannabis Product Tests.**

1) Prior to the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility must make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

2) A cannabis cultivation facility may not transfer a cannabis plant product to a cannabis processing facility unless an independent

## NOTICES OF 120-DAY (EMERGENCY) RULES

cannabis testing laboratory has tested a representative sample of the cannabis to determine:

- a) the water activity of the sample;
- b) the amount of total delta-9-THC and total CBD present in the sample; and
- c) the presence of adulterants in the sample, as specified in table 1.

3) Cannabis cultivation byproduct shall either be:

- a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or
- b) destroyed pursuant to Section 4-41a-405.

4) Prior to its incorporation into a cannabis derivative product, cannabis concentrate shall be tested by an independent cannabis testing laboratory to determine:

- a) the amount of total THC and total CBD present in the sample; and
- b) the presence of adulterants in the sample, as specified in table 1.

5) Prior to the transfer of a cannabis product to a medical cannabis pharmacy a representative sample of the product shall be tested by an independent cannabis testing laboratory to determine:

- a) the water activity of the sample, as determined applicable by the department;
- b) the quantity of any cannabinoid or terpene to be listed on the product label; and
- c) the presence of adulterants in the sample, as specified in table 1.

6) Testing results for cannabis plant product and cannabis concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

7) Mycotoxin testing of a cannabis plant product, cannabis concentrate, or cannabis product may be required if the department has reason to believe that mycotoxins may be present.

8) A cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards may be remediated by a cannabis cultivation facility or cannabis processing facility after submitting and gaining approval for a remediation plan from the department.

9) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

10) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

11) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

12) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time period shall be destroyed pursuant to Section 4-41a-405.

13) In the event that tests results cannot be retained in the Inventory Control System, the laboratory shall:

- a) keep a record of test results;
- b) issue a certificate of analysis for required tests; and
- c) retain a copy of the certificate of analysis on the laboratory premises.

14) Industrial hemp waste purchased by a cannabis cultivation facility in the form of a plant product or a concentrate must meet department cannabis testing standards as determined by an independent cannabis testing laboratory prior to its transfer to a cannabis cultivation facility.

15) Industrial hemp waste that is transferred to a cannabis cultivation facility shall be considered to be cannabis for all testing and regulatory purposes of the department.

TABLE 1  
Required Tests by Sample Type

| Test              | Cannabis Plant Product | Cannabis Concentrate | Cannabis Product |
|-------------------|------------------------|----------------------|------------------|
| Moisture Content  | Required               | X                    | X                |
| Water Activity    | Required               | X                    | X                |
| Foreign Matter    | Required               | Required             | Required         |
| Potency           | Required               | Required             | Required         |
| Microbial         | Required               | Required             | Required         |
| Pesticides        | Required               | Required             | Required         |
| Residual Solvents | X                      | Required             | Required         |
| Heavy Metals      | Required               | Required             | Required         |
| Mycotoxins        | X                      | Required             | X                |

### R68-29-4. Sampling Cannabis and Cannabis Products.

1) The entity that requests testing of a cannabis plant product lot or cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

4) The owner of the cannabis lot or cannabis product batch and any of their employees shall not assist in the selection of the sample.

5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

6) When collecting the representative sample, the sampling technician shall:

- a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- b) place tamper proof tape on the container; and
- c) appropriately label the sample pursuant to Section R68-30-6.

7) For cannabis plant product lots the minimum representative sample shall be taken according to the following schedule:

- a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;
- b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;
- c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;
- d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;
- e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

8) For cannabis concentrate the minimum representative sample shall be taken according to the following schedule:

- a) 10 mL for batches of one liter or less; or
- b) 20 mL for batches of four liters or less.

9) For cannabis products in their final product form the following minimum number of sample units must be taken, the combined total weight of which must be at least 10 grams, not including packaging materials:

- a) four units for a sample product batch with 5-500 products;

- b) six units for a sample product batch with 501-1000 products;
- c) eight units for a sample product batch with 1,001-5,000 products; and
- d) ten units for a sample product batch with 5,001-10,000 products.

10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

#### R68-29-5. Moisture Content Testing and Water Activity Standards.

1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

#### R68-29-6. Foreign Matter Standards.

1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

a) the sample contains foreign matter visible to the unaided human eye;

b) the sample is found to contain microscopic foreign matter estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or

c) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

#### R68-29-7. Potency Testing.

1) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have their potency determined and listed on a COA as total delta-9-THC and total CBD.

#### R68-29-8. Microbial Standards.

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 2.

2) Each sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall be tested for total aerobic microbial count and total combined yeast and mold. The specific pathogens listed in Table 2 may be tested for at the discretion of the department.

TABLE 2  
Microbial Analytes and Action Levels

| Material         | Microbial Limit Requirement (cfu)  |
|------------------|--|
| Flower           | Total Aerobic Microbial Count ≤100,000<br>Absence of E. Coli and Salmonella spp.<br>Absence of Aspergillus |
| Concentrated oil | Total Aerobic Microbial Count ≤10,000  |
| Wax              | Total Combined Yeast and Mold Count ≤1,000   |
| Resin            | Absence of STEC<br>Absence of Pseudomonas<br>Absence of Staph  |
| Tablet           | Total Aerobic Microbial Count ≤10,000  |
| Capsule          | Total Combined Yeast and Mold Count ≤1,000   |

|                   |  |
|-------------------|--|
| Liquid Suspension | Absence of E. Coli and Salmonella spp.   |
| Gelatinous cube   | Absence of Staph   |
| Transdermal       | Total Aerobic Microbial Count ≤100<br>Total Yeast and Mold ≤10<br>Absence of Pseudomonas<br>Absence of Staph |

#### R68-29-9. Pesticide Standards.

1) Only pesticides allowed by the department may be used in the cultivation of cannabis.

2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

3) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth in Table 3.

TABLE 3  
Pesticide Analytes and Action Levels

| Analyte             | Chemical Abstract Service (CAS) Registry number | Action Level ppm |
|---------------------|---|------------------|
| Abamectin           | 71751-41-2                                      | 0.5              |
| Acephate            | 30560-19-1                                      | 0.4              |
| Acequinocyl         | 57960-19-7                                      | 2                |
| Acetamiprid         | 135410-20-7                                     | 0.2              |
| Aldicarb            | 116-06-3  | 0.4              |
| Azoxystrobin        | 131860-33-8                                     | 0.2              |
| Bifenazate          | 149877-41-8                                     | 0.2              |
| Bifenthrin          | 82657-04-3                                      | 0.2              |
| Boscalid            | 188425-85-6                                     | 0.4              |
| Carbaryl            | 63-25-2   | 0.2              |
| Carbofuran          | 1563-66-2                                       | 0.2              |
| Chlorantraniliprole | 500008-45-7                                     | 0.2              |
| Chlorfenapyr        | 122453-73-0                                     | 1                |
| Chlorpyrifos        | 2921-88-2                                       | 0.2              |
| Clofentezine        | 74115-24-5                                      | 0.2              |
| Cyfluthrin          | 68359-37-5                                      | 1                |
| Cypermethrin        | 52315-07-8                                      | 1                |
| Daminozide          | 1596-84-5                                       | 1                |
| DDVP (Dichlorvos)   | 62-73-7   | 0.1              |
| Diazinon            | 333-41-5  | 0.2              |
| Dimethoate          | 60-51-5   | 0.2              |
| Ethoprophos         | 13194-48-4                                      | 0.2              |
| Etofenprox          | 80844-07-1                                      | 0.4              |
| Etoxazole           | 153233-91-1                                     | 0.2              |
| Fenoxycarb          | 72490-01-8                                      | 0.2              |
| Fenpyroximate       | 134098-61-6                                     | 0.4              |
| Fipronil            | 120068-37-3                                     | 0.4              |
| Flonicamid          | 158062-67-0                                     | 1                |
| Fludioxonil         | 131341-86-1                                     | 0.4              |
| hexythiazox         | 78587-05-0                                      | 1                |
| imazalil            | 35554-44-0                                      | 0.2              |
| Imidacloprid        | 138261-41-3                                     | 0.4              |
| Kresoxim-methyl     | 143390-89-0                                     | 0.4              |
| Malathion           | 143390-89-0                                     | 0.2              |
| Metaxyl             | 57837-19-1                                      | 0.2              |
| Methiocarb          | 2032-65-7                                       | 0.2              |
| Methomyl            | 16752-77-5                                      | 0.4              |
| Methyl parathion    | 298-00-0  | 0.2              |
| MGK-264             | 113-48-4  | 0.2              |
| Myclobutanil        | 88671-89-0                                      | 0.2              |
| Naled               | 300-76-5  | 0.5              |
| Oxamyl              | 23135-22-0                                      | 1                |
| Paclobutrazol       | 76738-62-0                                      | 0.4              |
| Permethrins         | 52645-53-1                                      | 0.2              |
| Phosmet             | 732-11-6  | 0.2              |
| Piperonyl butoxide  | 51-03-6   | 2                |
| Prallethrin         | 23031-36-9                                      | 0.2              |
| Propiconazole       | 60207-90-1                                      | 0.4              |
| Propoxur            | 114-26-1  | 0.2              |
| Pyrethrins          | 8003-34-7                                       | 1                |
| Pyridaben           | 96489-71-3                                      | 0.2              |

## NOTICES OF 120-DAY (EMERGENCY) RULES

|                 |             |     |
|-----------------|-------------|-----|
| Spinosad        | 168316-95-8 | 0.2 |
| Spiromesifen    | 283594-90-1 | 0.2 |
| Spirotetramat   | 203313-25-1 | 0.2 |
| Spiroxamine     | 118134-30-8 | 0.4 |
| Tebuconazole    | 80443-41-0  | 0.4 |
| Thiacloprid     | 111988-49-9 | 0.2 |
| Thiamethoxam    | 153719-23-4 | 0.2 |
| Trifloxystrobin | 141517-21-7 | 0.2 |

4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

5) Pyrethrins should be measured as the cumulative residues of pyrethrin 1 (CAS 121-21-1), cinerin 1 (CAS 25402-06-6), and jasmolin 1 (CAS 4466-14-2).

6) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

### R68-29-10. Residual Solvent Standards.

1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 4 unless the solvent is:

- a component of the product formulation;
- listed as an ingredient; and
- generally considered to be safe for the intended form of use.

TABLE 4  
List of Solvents and Action Levels

| Solvent             | Chemical Abstract Service (CAS) Registry number | Action level ppm |
|---------------------|---|------------------|
| 1,2 Dimethoxyethane | 110-71-4  | 100              |
| 1,4 Dioxane         | 123-9   | 380              |
| 1-Butanol           | 71-36-3   | 5000             |
| 1-Pentanol          | 71-41-0   | 5000             |
| 1-Propanol          | 71-23-8   | 5000             |
| 2-Butanol           | 78-92-2   | 5000             |
| 2-Butanone          | 78-93-3   | 5000             |
| 2-Ethoxyethanol     | 110-80-5  | 160              |
| 2-methylbutane      | 78-78-4   | 5000             |
| 2-Propanol (IPA)    | 67-63-0   | 5000             |
| Acetone             | 67-64-1   | 5000             |
| Acetonitrile        | 75-05-8   | 410              |
| Benzene             | 71-43-2   | 2                |
| Butane              | 106-97-8  | 5000             |
| Cumene              | 98-82-8   | 70               |
| Cyclohexane         | 110-82-7  | 3880             |
| Dichloromethane     | 75-09-2   | 600              |
| 2,2-dimethylbutane  | 75-83-2   | 290              |
| 2,3-dimethylbutane  | 79-29-8   | 290              |
| 1,2-dimethylbenzene | 95-47-6   | See Xylenes      |
| 1,3-dimethylbenzene | 108-38-3  | See Xylenes      |
| 1,4-dimethylbenzene | 106-42-3  | See Xylenes      |
| Dimethyl sulfoxide  | 67-68-5   | 5000             |
| Ethanol             | 64-17-5   | 5000             |
| Ethyl acetate       | 141-78-6  | 5000             |
| Ethylbenzene        | 100-41-4  | See Xylenes      |
| Ethyl ether         | 60-29-7   | 5000             |
| Ethylene glycol     | 107-21-1  | 620              |
| Ethylene Oxide      | 75-21-8   | 50               |

|                       |           |      |
|-----------------------|-----------|------|
| Heptane               | 142-82-5  | 5000 |
| n-Hexane              | 110-54-3  | 290  |
| Isopropyl acetate     | 108-21-4  | 5000 |
| Methanol              | 67-56-1   | 3000 |
| Methylpropane         | 75-28-5   | 5000 |
| 2-Methylpentane       | 107-83-5  | 290  |
| 3-Methylpentane       | 96-14-0   | 290  |
| N,N-dimethylacetamide | 127-19-5  | 1090 |
| N,N-dimethylformamide | 68-12-2   | 880  |
| Pentane               | 109-66-0  | 5000 |
| Propane               | 74-98-6   | 5000 |
| Pyridine              | 110-86-1  | 100  |
| Sulfolane             | 126-33-0  | 160  |
| Tetrahydrofuran       | 109-99-9  | 720  |
| Toluene               | 108-88-3  | 890  |
| Xylenes               | 1330-20-7 | 2170 |

2) Xylenes is a combination of the following:

- 1,2-dimethylbenzene;
- 1,3-dimethylbenzene;
- 1,4-dimethylbenzene; and
- ethyl benzene.

### R68-29-11. Heavy Metal Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for heavy metals if the results exceed the limits provided in Table 5.

TABLE 5  
Heavy Metals

| Metals  | Natural Health Products Acceptable limits in parts per million |
|---------|--|
| Arsenic | <2   |
| Cadmium | <0.82  |
| Lead    | <1.2   |
| Mercury | <0.4   |

### R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 6.

TABLE 6  
Mycotoxin

| Test  | Specification        |
|---|----------------------|
| The total of Aflatoxin B1, Aflatoxin B2, Aflatoxin G1, and Aflatoxin G2 | <20 ppb of substance |
| Ochratoxin A.   | <20 ppb of substance |

**KEY: cannabis testing, quality assurance, cannabis laboratory**  
**Date of Enactment or Last Substantive Amendment: August 24, 2021**

**Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)**

## End of the Notices of 120-Day (Emergency) 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](http://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

|                                      |                 |                         |
|--------------------------------------|-----------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-101</b> | <b>Filing ID: 52770</b> |
|--------------------------------------|-----------------|-------------------------|

### Agency Information

|  |                               |                                  |
|--|-------------------------------|----------------------------------|
| <b>1. Department:</b>  | Education                     |                                  |
| <b>Agency:</b>   | Administration                |                                  |
| <b>Building:</b>   | Board of Education            |                                  |
| <b>Street address:</b>   | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>  | PO Box 144200                 |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>  |                               |                                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings  | 801-538-7830                  | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. |                               |                                  |

### General Information

|   |  |
|---|--|
| <b>2. Rule catchline:</b>   | R277-101. Public Participation in Utah State Board of Education Meetings |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b> |  |

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Title 52, Chapter 4, Open and Public Meetings Act, directs that the deliberations and actions of the Board be conducted openly; Section 52-4-207 allows the Board to adopt a rule governing the use of electronic meetings; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

### 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 were no written comments received.

### 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 continues to be necessary because it describes procedures to be followed by the Board in its conduct of the public's business in order to hear from those who desire to be heard on public education matters in the state; effectively and efficiently utilize the time of the Board; balance desire for public information with other demands on the Board's time; and allow the Board to conduct electronic meetings as needed. Therefore, this rule should be continued.

### Agency Authorization Information

|  |  |              |            |
|--|--|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings, Deputy Superintendent of Policy | <b>Date:</b> | 08/19/2021 |
|--|--|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                               |          |                  |
|-------------------------------|----------|------------------|
| Utah Admin. Code Ref (R no.): | R277-407 | Filing ID: 53187 |
|-------------------------------|----------|------------------|

**Agency Information**

|                             |                               |                                  |
|-----------------------------|-------------------------------|----------------------------------|
| <b>1. Department:</b>       | Education                     |                                  |
| <b>Agency:</b>              | Administration                |                                  |
| <b>Building:</b>            | Board of Education            |                                  |
| <b>Street address:</b>      | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>     | PO Box 144200                 |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>   |                               |                                  |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings             | 801-538-7830                  | angie.stallings@schools.utah.gov |

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

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R277-407. School Fees   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| This rule is authorized under the Utah Constitution, Article X, Section 3 which vests general control and supervision over public education in the Board; Utah Constitution, Article X, Section 2 provides that public elementary schools shall be free; and secondary schools shall be free, unless the Legislature authorizes the imposition of fees; Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; Subsection 53G-7-503(2) requires the Board to adopt rules regarding student fees; and Subsection 53G-7-504 authorizes waiver of fees for eligible students with appropriate documentation. This rule also serves to comply with the order arising from the Permanent Injunction issued in Doe v. Utah State Board of Education, Civil No. 920903376 (3rd District 1994). |
| <b>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:</b>  |
| There were no written comments received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |

This rule continues to be necessary because it permits the orderly establishment of a system of reasonable fees, provides adequate notice to students and families of fees and fee waiver requirements, and practices that would exclude those unable to pay from participation in school-sponsored activities or create a burden on a student or family as to have a detrimental impact on participation. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |  |              |            |
|--|--|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings, Deputy Superintendent of Policy | <b>Date:</b> | 08/23/2021 |
|--|--|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                               |          |                  |
|-------------------------------|----------|------------------|
| Utah Admin. Code Ref (R no.): | R277-409 | Filing ID: 52835 |
|-------------------------------|----------|------------------|

**Agency Information**

|                             |                               |                                  |
|-----------------------------|-------------------------------|----------------------------------|
| <b>1. Department:</b>       | Education                     |                                  |
| <b>Agency:</b>              | Administration                |                                  |
| <b>Building:</b>            | Board of Education            |                                  |
| <b>Street address:</b>      | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>     | PO Box 144200                 |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>   |                               |                                  |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings             | 801-538-7830                  | angie.stallings@schools.utah.gov |

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

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R277-409. Public School Memberships in Association   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. |

**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 were no written comments received.

**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 continues to be necessary because it places limitations on public school membership in certain associations with rules or policies that conflict with Board policies. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings,<br>Deputy<br>Superintendent of<br>Policy | <b>Date:</b> | 08/23/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                         |
|--------------------------------------|-----------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-419</b> | <b>Filing ID: 53607</b> |
|--------------------------------------|-----------------|-------------------------|

**Agency Information**

|                             |                               |                                  |
|-----------------------------|-------------------------------|----------------------------------|
| <b>1. Department:</b>       | Education                     |                                  |
| <b>Agency:</b>              | Administration                |                                  |
| <b>Building:</b>            | Board of Education            |                                  |
| <b>Street address:</b>      | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>     | PO Box 144200                 |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>   |                               |                                  |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings             | 801-538-7830                  | angie.stallings@schools.utah.gov |

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

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R277-419. Pupil Accounting  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>           |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3- |

401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; Subsection 53E-3-501(1)(e) directs the Board to establish rules and standards regarding cost-effectiveness, school budget formats and financial, statistical, and student accounting requirements; Subsection 53E-3-602(2) requires a local school board's auditing standards to include financial accounting and student accounting; Subsection 53E-3-301(3)(d) requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs; Section 53G-4-404 requires annual financial reports from all school districts; and Subsection 53G-5-404(4) requires charter schools to make the same annual reports required of other public schools.

**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 were no written comments received.

**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 continues to be necessary because it specifies pupil accounting procedures used in apportioning and distributing state funds for education. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings,<br>Deputy<br>Superintendent of<br>Policy | <b>Date:</b> | 08/23/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                         |
|--------------------------------------|-----------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-445</b> | <b>Filing ID: 53208</b> |
|--------------------------------------|-----------------|-------------------------|

**Agency Information**

|                             |                               |
|-----------------------------|-------------------------------|
| <b>1. Department:</b>       | Education                     |
| <b>Agency:</b>              | Administration                |
| <b>Building:</b>            | Board of Education            |
| <b>Street address:</b>      | 250 E 500 S                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84111      |
| <b>Mailing address:</b>     | PO Box 144200                 |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4200 |
| <b>Contact person(s):</b>   |                               |

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

| Name:  | Phone:       | Email:                           |
|--|--------------|----------------------------------|
| Angie Stallings  | 801-538-7830 | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. |              |                                  |

## General Information

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R277-445. Classifying Small Schools as Necessarily Existent  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53F-2-304(3) requires the Board to adopt rules that govern the approval of necessarily existent small schools consistent with state law, and ensures that districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area; Subsection 53F-2-304(7) requires the Board to define isolating conditions, which may qualify a non-NESS school for additional funding; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. |
| <b>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:</b>   |
| There were no written comments received.   |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>   |
| This rule continues to be necessary because it specifies the standards for schools and districts to received funding under the Necessarily Existent Small School (NESS) program. Therefore, this rule should be continued.   |

## Agency Authorization Information

|  |  |              |            |
|--|--|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings, Deputy Superintendent of Policy | <b>Date:</b> | 08/23/2021 |
|--|--|--------------|------------|

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

|                                      |          |                   |       |
|--------------------------------------|----------|-------------------|-------|
| <b>Utah Admin. Code Ref (R no.):</b> | R277-460 | <b>Filing ID:</b> | 52852 |
|--------------------------------------|----------|-------------------|-------|

## Agency Information

|  |                               |                                  |
|--|-------------------------------|----------------------------------|
| <b>1. Department:</b>  | Education                     |                                  |
| <b>Agency:</b>   | Administration                |                                  |
| <b>Building:</b>   | Board of Education            |                                  |
| <b>Street address:</b>   | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>  | PO Box 144200                 |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>  |                               |                                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings  | 801-538-7830                  | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. |                               |                                  |

## General Information

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R277-460. Distribution of Substance Abuse Prevention Account  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53G-10-405 directs the Board to adopt rules providing for instruction on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances; Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Section 51-9-405 provides for funds from the Substance Abuse Prevention Account to be allocated to the Board for substance abuse prevention and education, substance abuse prevention training for teachers and administrators, and LEA programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities. |
| <b>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:</b>  |
| There were no written comments received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |
| This rule continues to be necessary because it provides for the distribution of the Board's share of the money from the Substance Abuse Prevention Account. Therefore, this rule should be continued.   |

**Agency Authorization Information**

|  |  |              |            |
|--|--|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings, Deputy Superintendent of Policy | <b>Date:</b> | 08/23/2021 |
|--|--|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                   |              |
|--------------------------------------|-----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-488</b> | <b>Filing ID:</b> | <b>52962</b> |
|--------------------------------------|-----------------|-------------------|--------------|

**Agency Information**

|  |                               |                                  |
|--|-------------------------------|----------------------------------|
| <b>1. Department:</b>  | Education                     |                                  |
| <b>Agency:</b>   | Administration                |                                  |
| <b>Building:</b>   | Board of Education            |                                  |
| <b>Street address:</b>   | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>  | PO Box 144200                 |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>  |                               |                                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings  | 801-538-7830                  | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. |                               |                                  |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R277-488. Dual Language Immersion Program   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53F-2-502 requires the Board to establish a Dual Language Immersion program; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. |
| <b>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:</b>  |
| There were no written comments received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |

This rule continues to be necessary because it establishes criteria and procedures for distributing funds to elementary and secondary schools participating in the Dual Language Immersion Program, increases the number of students who reach proficiency in world languages, builds overall world language capacity in the , and increases the number of biliterate and bilingual students. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |  |              |            |
|--|--|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings, Deputy Superintendent of Policy | <b>Date:</b> | 08/23/2021 |
|--|--|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                   |              |
|--------------------------------------|-----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-489</b> | <b>Filing ID:</b> | <b>52779</b> |
|--------------------------------------|-----------------|-------------------|--------------|

**Agency Information**

Agency information:

|  |                               |                                  |
|--|-------------------------------|----------------------------------|
| <b>1. Department:</b>  | Education                     |                                  |
| <b>Agency:</b>   | Administration                |                                  |
| <b>Building:</b>   | Board of Education            |                                  |
| <b>Street address:</b>   | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>  | PO Box 144200                 |                                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>  |                               |                                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings  | 801-538-7830                  | angie.stallings@schools.utah.gov |
| Please address questions regarding information on this notice to the agency. |                               |                                  |

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R277-489. Kindergarten Entry and Exit Assessment - Enhanced Kindergarten Program   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and Section 53F-2-507 directs the Board to distribute funds appropriated for the |

enhanced kindergarten program to local education agencies (LEAs) that apply for the funds.

**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 were no written comments received.

**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 continues to be necessary because it requires LEAs to administer a kindergarten entry and exit assessment and establishes criteria and procedures to administer the enhanced kindergarten program. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings,<br>Deputy<br>Superintendent of<br>Policy | <b>Date:</b> | 08/23/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                   |              |
|--------------------------------------|-----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R277-800</b> | <b>Filing ID:</b> | <b>53281</b> |
|--------------------------------------|-----------------|-------------------|--------------|

**Agency Information**

|                             |                               |                                  |
|-----------------------------|-------------------------------|----------------------------------|
| <b>1. Department:</b>       | Education                     |                                  |
| <b>Agency:</b>              | Administration                |                                  |
| <b>Building:</b>            | Board of Education            |                                  |
| <b>Street address:</b>      | 250 E 500 S                   |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84111      |                                  |
| <b>Mailing address:</b>     | PO Box 144200                 |                                  |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-4200 |                                  |
| <b>Contact person(s):</b>   |                               |                                  |
| <b>Name:</b>                | <b>Phone:</b>                 | <b>Email:</b>                    |
| Angie Stallings             | 801-538-7830                  | angie.stallings@schools.utah.gov |

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

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>                         |
| R277-800. Utah Schools for the Deaf and the Blind |

**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 the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53E-8-204 authorizes the Board to make rules regarding the administration of the Utah Schools for the Deaf and the Blind (USDB); Section 53E-8-402 directs the Board to establish entrance policies and procedures to be considered, consistent with the Individuals with Disabilities Education Act (IDEA), for student placement recommendations at the USDB; Section 53E-8-409 directs the Board to establish the Utah State Instructional Materials Access Center (USIMAC) and outline collaboration and operating procedures for USIMAC and USDB resources; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

**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 were no written comments received.

**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 continues to be necessary because it provides standards and procedures for the operation of the USDB and the USDB outreach programs and services. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Angie Stallings,<br>Deputy<br>Superintendent of<br>Policy | <b>Date:</b> | 08/23/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |               |                   |              |
|--------------------------------------|---------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-2</b> | <b>Filing No.</b> | <b>51219</b> |
|--------------------------------------|---------------|-------------------|--------------|

**Agency Information**

|                           |                           |
|---------------------------|---------------------------|
| <b>1. Department:</b>     | Human Services            |
| <b>Agency:</b>            | Child and Family Services |
| <b>Building:</b>          | MASOB                     |
| <b>Street address:</b>    | 195 N 1950 W              |
| <b>City, state, zip:</b>  | Salt Lake City, UT 84116  |
| <b>Contact person(s):</b> |                           |

| Name:  | Phone:       | Email:               |
|--|--------------|----------------------|
| Carol Miller   | 801-557-1772 | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |              |                      |

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R512-2. Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including adopting federal requirements applicable to Titles IV-B and IV-E of the Social Security Act. |
| <b>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:</b>   |
| No written comments were received.   |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>   |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to adopt federal requirements applicable to Titles IV-B and IV-E of the Social Security Act.   |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 04/27/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-31</b> | <b>Filing ID:</b> | <b>51214</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                             |                           |
|-----------------------------|---------------------------|
| <b>1. Department:</b>       | Human Services            |
| <b>Agency:</b>              | Child and Family Services |
| <b>Building:</b>            | MASOB                     |
| <b>Street address:</b>      | 195 N 1950 W              |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116  |

| Contact person(s):   |              |                      |
|--|--------------|----------------------|
| Name:  | Phone:       | Email:               |
| Carol Miller   | 801-557-1772 | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |              |                      |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R512-31. Foster Parent Due Process  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including defining the due process rights of foster parents when a decision is made to remove a foster child from their home. |
| <b>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:</b>  |
| No written comments were received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to define the due process rights of foster parents when a decision is made to remove a foster child from their home.  |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/03/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-32</b> | <b>Filing ID:</b> | <b>51223</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                             |                           |
|-----------------------------|---------------------------|
| <b>1. Department:</b>       | Human Services            |
| <b>Agency:</b>              | Child and Family Services |
| <b>Building:</b>            | MASOB                     |
| <b>Street address:</b>      | 195 N 1950 W              |
| <b>City, state and zip:</b> | Salt Lake City, UT 84116  |

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

|  |               |                      |
|--|---------------|----------------------|
| <b>Contact person(s):</b>  |               |                      |
| <b>Name:</b>   | <b>Phone:</b> | <b>Email:</b>        |
| Carol Miller   | 801-557-1772  | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |               |                      |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R512-32. Children with Reportable Communicable Diseases   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including establishing standards for confidentiality and testing of children with reportable communicable diseases. |
| <b>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:</b>  |
| No written comments were received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to establish standards for confidentiality and testing of children with reportable communicable diseases.   |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/17/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-40</b> | <b>Filing ID:</b> | <b>53821</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                        |                           |
|------------------------|---------------------------|
| <b>1. Department:</b>  | Human Services            |
| <b>Agency:</b>         | Child and Family Services |
| <b>Building:</b>       | MASOB                     |
| <b>Street address:</b> | 195 N 1950 W              |

|  |                          |                      |
|--|--------------------------|----------------------|
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116 |                      |
| <b>Contact person(s):</b>  |                          |                      |
| <b>Name:</b>   | <b>Phone:</b>            | <b>Email:</b>        |
| Carol Miller   | 801-557-1772             | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |                          |                      |

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R512-40. Recruitment, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to establish criteria for recruitment of adoptive families, standards for conducting adoptive home studies, and requirements for approval of adoptive homes.                                   |
| <b>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:</b>   |
| No written comments were received.   |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>   |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to continue to establish criteria for recruitment of adoptive families, standards for conducting adoptive home studies, and requirements for approval of adoptive homes. |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/17/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-42</b> | <b>Filing ID:</b> | <b>53823</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                       |                           |
|-----------------------|---------------------------|
| <b>1. Department:</b> | Human Services            |
| <b>Agency:</b>        | Child and Family Services |
| <b>Building:</b>      | MASOB                     |



|  |                          |                      |
|--|--------------------------|----------------------|
| <b>Street address:</b>   | 195 N 1950 W             |                      |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116 |                      |
| <b>Contact person(s):</b>  |                          |                      |
| <b>Name:</b>   | <b>Phone:</b>            | <b>Email:</b>        |
| Carol Miller   | 801-557-1772             | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |                          |                      |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R512-42. Adoption by Relatives  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>                                   |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to specify requirements for relatives to adopt a child in the custody of Child and Family Services.                       |
| <b>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:</b>                                |
| No written comments were received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>                                    |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to specify requirements for relatives to adopt a child in the custody of Child and Family Services. |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/17/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-51</b> | <b>Filing ID:</b> | <b>51221</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                        |                           |
|------------------------|---------------------------|
| <b>1. Department:</b>  | Human Services            |
| <b>Agency:</b>         | Child and Family Services |
| <b>Building:</b>       | MASOB                     |
| <b>Street address:</b> | 195 N 1950 W              |

|  |                          |                      |
|--|--------------------------|----------------------|
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116 |                      |
| <b>Contact person(s):</b>  |                          |                      |
| <b>Name:</b>   | <b>Phone:</b>            | <b>Email:</b>        |
| Carol Miller   | 801-557-1772             | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |                          |                      |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R512-51. Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>                 |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to collect fees for processing criminal background screenings.  |
| <b>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:</b>              |
| No written comments were received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>                  |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to collect fees for processing criminal background screenings.                    |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/18/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                |                   |              |
|--------------------------------------|----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R512-80</b> | <b>Filing ID:</b> | <b>52801</b> |
|--------------------------------------|----------------|-------------------|--------------|

**Agency Information**

|                        |                           |
|------------------------|---------------------------|
| <b>1. Department:</b>  | Human Services            |
| <b>Agency:</b>         | Child and Family Services |
| <b>Building:</b>       | MASOB                     |
| <b>Street address:</b> | 195 N 1950 W              |

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

|  |                          |                      |
|--|--------------------------|----------------------|
| <b>City, state and zip:</b>  | Salt Lake City, UT 84116 |                      |
| <b>Contact person(s):</b>  |                          |                      |
| <b>Name:</b>   | <b>Phone:</b>            | <b>Email:</b>        |
| Carol Miller   | 801-557-1772             | carolmiller@utah.gov |
| Please address questions regarding information on this notice to the agency. |                          |                      |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R512-80. Definitions of Abuse, Neglect, and Dependency  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>             |
| Section 62A-4a-102 authorizes the Division of Child and Family Services to specify definitions utilized by the Division of Child and Family Services.                       |
| <b>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:</b>          |
| No written comments were received.  |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>              |
| Continuation of this rule is necessary in order for the Division of Child and Family Services to specify definitions utilized by the Division of Child and Family Services. |

**Agency Authorization Information**

|  |                       |              |            |
|--|-----------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Diane Moore, Director | <b>Date:</b> | 05/17/2021 |
|--|-----------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |               |                   |              |
|--------------------------------------|---------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R527-3</b> | <b>Filing ID:</b> | <b>51269</b> |
|--------------------------------------|---------------|-------------------|--------------|

**Agency Information**

|                             |                               |
|-----------------------------|-------------------------------|
| <b>1. Department:</b>       | Human Services                |
| <b>Agency:</b>              | Recovery Services             |
| <b>Street address:</b>      | 515 E 100 S                   |
| <b>City, state and zip:</b> | Salt Lake City, UT 84102-4211 |

|  |                               |                  |
|--|-------------------------------|------------------|
| <b>Mailing address:</b>  | PO Box 45033                  |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84145-0033 |                  |
| <b>Contact person(s):</b>  |                               |                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>    |
| Scott Weight   | 801-741-7435                  | sweigh2@utah.gov |
| Casey Cole   | 801-741-7523                  | cacole@utah.gov  |
| Jonah Shaw   | 385-310-2389                  | jshaw@utah.gov   |
| Please address questions regarding information on this notice to the agency. |                               |                  |

**General Information**

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R527-3. Definitions   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| Section 62A-1-111 gives the Department of Human Services (DHS) the authority to create rules necessary to carry out its responsibilities. Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Sections 62A-11-103, 62A-11-303, 62A-11-401, and 78B-14-102 provide definitions of terms and acronyms used by the ORS. |
| <b>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:</b>  |
| There have been no comments received during or since the last five-year review.   |
| <b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>  |
| It is necessary to continue this rule to provide the public with knowledge of commonly used acronyms and terms associated with ORS or its programs that are not available in statute.   |

**Agency Authorization Information**

|  |                               |              |            |
|--|-------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Liesa Stockdale, ORS Director | <b>Date:</b> | 06/25/2021 |
|--|-------------------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                               |          |                  |
|-------------------------------|----------|------------------|
| Utah Admin. Code Ref (R no.): | R527-253 | Filing ID: 51286 |
|-------------------------------|----------|------------------|

**Agency Information**

|  |                               |                  |
|--|-------------------------------|------------------|
| <b>1. Department:</b>  | Human Services                |                  |
| <b>Agency:</b>   | Recovery Services             |                  |
| <b>Street address:</b>   | 515 E 100 S                   |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84102-4211 |                  |
| <b>Mailing address:</b>  | PO Box 45033                  |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84145-0033 |                  |
| <b>Contact person(s):</b>  |                               |                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>    |
| Scott Weight   | 801-741-7435                  | sweigh2@utah.gov |
| Casey Cole   | 801-741-7523                  | cacole@utah.gov  |
| Jonah Shaw   | 385-310-2389                  | jshaw@utah.gov   |
| Please address questions regarding information on this notice to the agency. |                               |                  |

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R527-253. Collection of Child Support Judgments  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| Pursuant to Section 62A-11-107, the Office of Recovery Services (ORS) is authorized to adopt, amend and enforce rules as necessary to provide services. Under Section 62A-11-320, ORS is given the authority to demand payment in full or to set or reset payment schedules to collect past-due support. This rule makes it clear that the interests of the state determine whether immediate payment in full should be required, or if it is in the best interest of the state to set or reset payment schedules to collect the past-due support. It also provides a listing of some of the legal remedies available to collect a judgment. |
| <b>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:</b>   |
| There have been no comments received 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:**

The state laws and federal regulations cited in this rule are still in effect. This rule also clarifies that the office is not limited to taking only one legal remedy at a time. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |                                  |              |            |
|--|----------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Liesa Stockdale,<br>ORS Director | <b>Date:</b> | 06/25/2021 |
|--|----------------------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                               |          |                  |
|-------------------------------|----------|------------------|
| Utah Admin. Code Ref (R no.): | R527-258 | Filing ID: 52710 |
|-------------------------------|----------|------------------|

**Agency Information**

|  |                               |                  |
|--|-------------------------------|------------------|
| <b>1. Department:</b>  | Human Services                |                  |
| <b>Agency:</b>   | Recovery Services             |                  |
| <b>Street address:</b>   | 515 E 100 S                   |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84102-4211 |                  |
| <b>Mailing address:</b>  | PO Box 45033                  |                  |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84145-0033 |                  |
| <b>Contact person(s):</b>  |                               |                  |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>    |
| Scott Weight   | 801-741-7435                  | sweigh2@utah.gov |
| Casey Cole   | 801-741-7523                  | cacole@utah.gov  |
| Jonah Shaw   | 385-310-2389                  | jshaw@utah.gov   |
| Please address questions regarding information on this notice to the agency. |                               |                  |

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>              |
| Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. |

Section 62A-11-320 allows ORS to establish support payment schedules for ex-prisoner obligors or obligors in or just released from a mental health or substance abuse treatment program and the conditions under which an obligor may contest a payment schedule. Section 62A-11-320 is also the basis for this rule in working with IV-A child support debts that may accrue during a period of incarceration or enrollment in an in-patient treatment program. Section 62A-11-326.1 provides the requirements for ORS to issue a notice to a parent's or legal guardian's employer to enroll a dependent child in the insurance plan available, which is available through the parent's or legal guardian's employer, and that ORS will also provide notice to the parent or legal guardian that the notice was sent to the employer.

45 CFR 303.31 and 45 CFR 303.32 respectively provide the requirements for ORS to include private health insurance in new or modified orders for support and to establish written criteria to identify orders that do not address health care needs of children and enforce the provision of health care coverage for the children using the federally mandated National Medical Support Notice (NMSN).

**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 comments received 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:**

It is necessary to continue this rule as the federal regulations and state statutes are still in effect. The payment schedule program including the program providing for the discharge of the IV-A debt when support payments are made as required for the year following the NCP's incarceration or enrollment in a treatment program is still beneficial from a child support perspective as well as a corrections/rehabilitation perspective. The rule also provides the procedures for ORS to set up payment schedules and clarifies that the federal NMSN will be used to enroll a dependent child in the parent's or legal guardian's health insurance plan through the parent's or legal guardian's employer, even when the responsible parent has recently been incarcerated or in a treatment program.

**Agency Authorization Information**

|  |                              |              |            |
|--|------------------------------|--------------|------------|
| <b>Agency head or designee, and title:</b> | Liesa Stockdale,<br>Director | <b>Date:</b> | 07/01/2021 |
|--|------------------------------|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |                 |                         |
|--------------------------------------|-----------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R671-202</b> | <b>Filing ID: 51808</b> |
|--------------------------------------|-----------------|-------------------------|

**Agency Information**

|                             |                             |                     |
|-----------------------------|-----------------------------|---------------------|
| <b>1. Department:</b>       | Pardons (Board of)          |                     |
| <b>Agency:</b>              | Administration              |                     |
| <b>Street address:</b>      | 448 E Winchester, Suite 300 |                     |
| <b>City, state and zip:</b> | Murray, UT 84107            |                     |
| <b>Contact person(s):</b>   |                             |                     |
| <b>Name:</b>                | <b>Phone:</b>               | <b>Email:</b>       |
| Mike Haddon                 | 801-261-6467                | mikehaddon@utah.gov |

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

**General Information**

|  |
|--|
| <b>2. Rule catchline:</b>  |
| R671-202. Notification of Hearings   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>  |
| Subsection 63G-3-201(2) is a reference to Utah's Administrative Rulemaking Act and outlines specific rulemaking processes. Subsection 77-27-9(5) specifies the general rulemaking authority of the Utah Board of Pardons and Parole (Board). It allows the Board to adopt rules for its government, meetings and hearings, conduct of proceedings, and other statutory responsibilities. Subsection 77-27-7(6) more specifically authorizes the Board to establish rules necessary related to the hearing process, alienist examinations, and petitions for the termination of parole. |

**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 by the Board regarding Rule R671-202 during or since the last five-year review.

**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 needs to continue because it outlines notification to offenders of the date, time, location, and type of hearing being scheduled. This rule provides a minimum of a seven-day notice in advance of the hearing. This rule also notes that the offender can waive this notice and that, under extraordinary circumstance, the hearing can be conducted without the seven-day notice. Finally, this rule

directs the Board to provide public notice of their hearings one week in advance of a scheduled hearing.

#### Agency Authorization Information

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Mike Haddon,<br>Director of<br>Administrative<br>Services | <b>Date:</b> | 08/28/2021 |
|--|---|--------------|------------|

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

|                                      |                 |                   |              |
|--------------------------------------|-----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R671-302</b> | <b>Filing ID:</b> | <b>53263</b> |
|--------------------------------------|-----------------|-------------------|--------------|

#### Agency Information

|  |                             |                     |
|--|-----------------------------|---------------------|
| Agency information   |                             |                     |
| <b>1. Department:</b>  | Pardons (Board of)          |                     |
| <b>Agency:</b>   | Administration              |                     |
| <b>Street address:</b>   | 448 E Winchester, Suite 300 |                     |
| <b>City, state and zip:</b>  | Murray, UT 84107            |                     |
| <b>Contact person(s):</b>  |                             |                     |
| <b>Name:</b>   | <b>Phone:</b>               | <b>Email:</b>       |
| Mike Haddon  | 801-261-6467                | mikehaddon@utah.gov |
| Please address questions regarding information on this notice to the agency. |                             |                     |

#### General Information

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R671-302. Public Access to Hearings   |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>   |
| Subsection 63G-3-201(3) is a reference to Utah's Administrative Rulemaking Act and outlines specific rulemaking processes. Subsection 77-27-9(5) specifies the general rulemaking authority of the Utah Board of Pardons and Parole (Board). It allows the Board to adopt rules for its government, meetings and hearings, conduct of proceedings, and other statutory responsibilities. Subsection 77-27-5(1) is a general statutory reference to the Board's authority. |
| <b>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:</b>  |
| No written comments have been received by the Board of Pardons and parole regarding Rule R671-302 during or since the last five-year review, including recent notice and public hearing provided when the rule was significantly updated.   |

#### 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 needs to continue because it establishes specific requirements associated with the public's access to Board hearings. This rule also outlines who can attend hearings and seating priority. This rule also establishes the requirements for those attending in-person Board hearings and assists in making clear unique requirements the media must follow if attending an in-person hearing.

#### Agency Authorization Information

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Mike Haddon,<br>Director of<br>Administrative<br>Services | <b>Date:</b> | 08/28/2021 |
|--|---|--------------|------------|

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

|                                      |                 |                   |              |
|--------------------------------------|-----------------|-------------------|--------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R765-431</b> | <b>Filing ID:</b> | <b>53603</b> |
|--------------------------------------|-----------------|-------------------|--------------|

#### Agency Information

|  |  |                    |
|--|--|--------------------|
| <b>1. Department:</b>  | Higher Education (Utah Board of)       |                    |
| <b>Agency:</b>   | Administration                         |                    |
| <b>Building:</b>   | Board of Regents Building, The Gateway |                    |
| <b>Street address:</b>   | 60 S 400 W                             |                    |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84101               |                    |
| <b>Contact person(s):</b>  |  |                    |
| <b>Name:</b>   | <b>Phone:</b>                          | <b>Email:</b>      |
| Kevin V. Olsen   | 801-556-3461                           | kvolsen@agutah.gov |
| Geoffrey T. Landward   | 801-321-7136                           | glandward@ushe.edu |
| Please address questions regarding information on this notice to the agency. |  |                    |

#### General Information

|   |
|---|
| <b>2. Rule catchline:</b>   |
| R765-431. State Authorization Reciprocity Agreement Rule  |
| <b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b> |
| This rule is authorized by Section 53B-16-109.  |

**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:**

This rule was recently amended, and no written comments have been received.

**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 continuation of this rule is justified because the Utah Board of Higher Education continues to act as the Portal Agency for the interstate reciprocity agreement referred to as SARA.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Kevin V. Olsen, Designee and Assistant Attorney General | <b>Date:</b> | 09/01/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |               |                         |
|--------------------------------------|---------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R916-7</b> | <b>Filing ID: 52113</b> |
|--------------------------------------|---------------|-------------------------|

**Agency Information**

|                             |                                 |                        |
|-----------------------------|---------------------------------|------------------------|
| <b>1. Department:</b>       | Transportation                  |                        |
| <b>Agency:</b>              | Operations, Construction        |                        |
| <b>Room no.:</b>            | Administrative Suite, 1st Floor |                        |
| <b>Building:</b>            | Calvin Rampton                  |                        |
| <b>Street address:</b>      | 4501 S 2700 W                   |                        |
| <b>City, state and zip:</b> | Taylorsville, UT                |                        |
| <b>Mailing address:</b>     | PO Box 148455                   |                        |
| <b>City, state and zip:</b> | Salt Lake City, UT 84114-8455   |                        |
| <b>Contact person(s):</b>   |                                 |                        |
| <b>Name:</b>                | <b>Phone:</b>                   | <b>Email:</b>          |
| 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:**

R916-7. Appeals to UDOT Decisions on, and Requesting Compliance with Nighttime Noise Permits

**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 72-6-112.5(6) requires the Department of Transportation (Department) to make this rule. The Department makes this rule under Subsections 72-6-112.5(6) and 72-1-201(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 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:**

Subsection 72-6-112.5(6) requires the Department to make this rule. The Department must maintain this rule in effect until Subsection 72-6-112.5(6) is repealed or amended to state otherwise. Therefore, this rule should be continued.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Carlos M. Bracerias, PE, Executive Director | <b>Date:</b> | 08/16/2021 |
|--|---|--------------|------------|

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

|                                      |               |                         |
|--------------------------------------|---------------|-------------------------|
| <b>Utah Admin. Code Ref (R no.):</b> | <b>R933-1</b> | <b>Filing ID: 52150</b> |
|--------------------------------------|---------------|-------------------------|

**Agency Information**

|                             |   |  |
|-----------------------------|---|--|
| <b>1. Department:</b>       | Transportation                            |  |
| <b>Agency:</b>              | Preconstruction, Right of Way Acquisition |  |
| <b>Room no.:</b>            | Administrative Suite, 1st Floor           |  |
| <b>Building:</b>            | Calvin Rampton                            |  |
| <b>Street address:</b>      | 4501 S 2700 W                             |  |
| <b>City, state and zip:</b> | Taylorsville, UT                          |  |

|  |                               |                        |
|--|-------------------------------|------------------------|
| <b>Mailing address:</b>  | PO Box 148455                 |                        |
| <b>City, state and zip:</b>  | Salt Lake City, UT 84114-8455 |                        |
| <b>Contact person(s):</b>  |                               |                        |
| <b>Name:</b>   | <b>Phone:</b>                 | <b>Email:</b>          |
| 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:**

R933-1. Right of Way Acquisition

**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 provides the Department of Transportation's (Department) procedures for relocations required as a result of right of way acquisition (see Section 57-12-9), as well as procedures that ensure that when the Department buys, sells, or exchanges real property the value of the real

property is congruent with the proposed price and other terms of the purchase, sale, or exchange (see Section 72-7-117).

**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 comments relating to how the Department makes determinations relative to when property is eligible for relocation assistance (i.e., determining when something constitutes personal property).

**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 is required by statute. Therefore, this rule should be continued.

The Department disagrees with the comments that it should revise how it determines what constitutes personal property because this determination has been established by longstanding case law, and it would not be appropriate for the Department to revise how this determination is made. Any such change would properly be done by the Legislature, not by an Executive agency.

**Agency Authorization Information**

|  |   |              |            |
|--|---|--------------|------------|
| <b>Agency head or designee, and title:</b> | Carlos M. Braceras, PE,<br>Executive Director | <b>Date:</b> | 08/18/2021 |
|--|---|--------------|------------|

**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

#### Administration

No. 53652 (Repeal and Reenact) R51-4: ADA Compliant Procedure  
Published: 07/15/2021  
Effective: 09/01/2021

#### Animal Industry

No. 53678 (Amendment) R58-1: Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals  
Published: 08/01/2021  
Effective: 09/08/2021

#### Plant Industry

No. 53549 (Repeal and Reenact) R68-7: Utah Pesticide Control Rule  
Published: 06/01/2021  
Effective: 09/01/2021

No. 53549 (Change in Proposed Rule) R68-7: Utah Pesticide Control Rule  
Published: 08/01/2021  
Effective: 09/01/2021

No. 53567 (Amendment) R68-29: Quality Assurance Testing on Cannabis  
Published: 07/01/2021  
Effective: 09/01/2021

No. 53567 (Change in Proposed Rule) R68-29: Quality Assurance Testing on Cannabis  
Published: 08/01/2021  
Effective: 09/01/2021

No. 53637 (Repeal) R68-31: Cannabis Licensing Process  
Published: 07/15/2021  
Effective: 09/01/2021

No. 53642 (New Rule) R68-36: Industrial Hemp Testing Laboratory  
Published: 07/15/2021  
Effective: 09/01/2021

#### Regulatory Services

No. 53656 (Amendment) R70-550: Utah Inland Shellfish Safety Program  
Published: 08/01/2021  
Effective: 09/08/2021

### 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. 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

## NOTICES OF RULE EFFECTIVE DATES

No. 53598 (Amendment) R277-607: Absenteeism and Truancy Prevention  
Published: 07/01/2021  
Effective: 08/12/2021

No. 53646 (Amendment) R277-607: Absenteeism and Truancy Prevention  
Published: 07/15/2021  
Effective: 08/25/2021

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

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

### Environmental Quality

#### Air Quality

No. 53562 (Amendment) R307-840: Lead-Based Paint Program Purpose, Applicability, and Definitions  
Published: 07/01/2021  
Effective: 09/01/2021

No. 53563 (Amendment) R307-841: Residential Property and Child-Occupied Facility Renovation  
Published: 07/01/2021  
Effective: 09/01/2021

No. 53564 (Amendment) R307-842: Lead-Based Paint Activities  
Published: 07/01/2021  
Effective: 09/01/2021

#### Environmental Response and Remediation

No. 53576 (Amendment) R311-200: Underground Storage Tanks: Definitions.  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53577 (Amendment) R311-201: Underground Storage Tanks: Certification Programs and UST Operator Training  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53580 (Amendment) R311-203: Underground Storage Tanks: Technical Standards  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53581 (Amendment) R311-204: Underground Storage Tanks: Closure and Remediation  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53582 (Amendment) R311-205: Underground Storage Tanks: Site Assessment Protocol  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53583 (Amendment) R311-206: Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53584 (Amendment) R311-207: Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53585 (Amendment) R311-208: Underground Storage Tank Penalty Guidance  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53586 (Amendment) R311-209: Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation  
Published: 07/01/2021  
Effective: 09/13/2021

No. 53587 (Amendment) R311-212: Administration of the Petroleum Storage Tank Loan Program  
Published: 07/01/2021  
Effective: 09/13/2021

#### Waste Management and Radiation Control, Radiation

No. 53543 (Amendment) R313-19: Transportation  
Published: 06/15/2021  
Effective: 09/13/2021

### Government Operations

#### Records Committee

No. 53712 (Amendment) R35-1: Procedures for Appeal Hearings  
Published: 08/01/2021  
Effective: 09/08/2021

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. 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

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

No. 53742 (Amendment) R592-7: Title Insurance Continuing Education  
Published: 08/01/2021  
Effective: 09/08/2021

No. 53743 (Amendment) R592-11: Title Insurance Producer Annual Reports  
Published: 08/01/2021  
Effective: 09/08/2021

Labor Commission

Adjudication

No. 53711 (Amendment) R602-1: Official Record  
Published: 08/01/2021  
Effective: 09/08/2021

No. 53700 (Amendment) R602-2-1: Adjudicative Process  
Published: 08/01/2021  
Effective: 09/08/2021

## NOTICES OF RULE EFFECTIVE DATES

### Occupational Safety and Health

No. 53701 (Amendment) R614-1: Incorporation of Federal Standards

Published: 08/01/2021

Effective: 09/08/2021

### Boiler, Elevator and Coal Mine Safety

No. 53702 (Amendment) R616-3: Safety Codes for Elevators

Published: 08/01/2021

Effective: 09/08/2021

### Natural Resources

#### Wildlife Resources

No. 53636 (Amendment) R657-9: Taking Waterfowl, Wilson's Snipe and Coot

Published: 07/15/2021

Effective: 08/23/2021

### Public Safety

#### Highway Patrol

No. 53703 (New Rule) R714-164: School Bus Inspection, Maintenance and Auditing Requirements

Published: 07/15/2021

Effective: 08/23/2021

No. 53710 (New Rule) R714-165: Standards for School Buses

Published: 08/01/2021

Effective: 09/08/2021

### Peace Officer Standards and Training

No. 53740 (Amendment) R728-403: Procedures for Certification

Published: 08/01/2021

Effective: 09/08/2021

### School and Institutional Trust Lands

#### Administration

No. 53745 (Amendment) R850-6: Government Records Access and Management

Published: 08/01/2021

Effective: 09/08/2021

No. 53747 (New Rule) R850-13: Confidential Treatment of Proprietary Information

Published: 08/01/2021

Effective: 09/08/2021

### Workforce Services

#### Unemployment Insurance

No. 53602 (Amendment) R994-204-405: Remote Service Marketplace Platforms

Published: 07/01/2021

Effective: 09/09/2021

**End of the Notices of Rule Effective Dates Section**