

UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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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 2023-03

Providing Optional Administrative Leave to Support Community Flood Responses

WHEREAS, Utah has experienced high levels of precipitation this winter season, leading to snowpack levels exceeding 150% in most of the state;

WHEREAS, the precipitation is already causing flooding and creating risks of flooding throughout Utah;

WHEREAS, these risks may persist throughout the upcoming months, as snow melts and as Utah receives additional precipitation;

WHEREAS, in the face of these conditions, flood mitigation and relief is a crucial effort that depends on the support of Utah's communities;

WHEREAS, Utah's cities and counties would greatly benefit from volunteers to assist in flood mitigation and relief;

WHEREAS, Utah is the number one state in the nation for volunteerism and a place where people come together for the common good;

WHEREAS, Utah's public employees are unified in their devotion to their communities;

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, hereby order the following:

1. Application.

a. This executive order applies to all state executive branch agencies.

2. Definitions. As used in this order:

a. "Agency"

i. includes:

1. a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and

ii. does not include:

1. an institution of higher education;

2. the Utah Board of Higher Education;

3. the State Board of Education;

4. an independent entity as defined in Utah Code § 63E-1-102;

5. the Attorney General's Office;

6. the State Auditor's Office;

EXECUTIVE DOCUMENTS

7. the State Treasurer's Office;
 8. the Legislative Branch; or
 9. the Judicial Branch.
- b. "Employee" means a benefited agency employee.

3. Specific Requirements

- a. Each agency:
 - i. shall grant all employees up to eight (8) hours of administrative leave, as defined in Utah Administrative Code R477-1-1, and hereafter referred to as "flood response leave," to take time away from their normal state employment responsibilities to volunteer to assist with flood relief activities in the state of Utah, including flood prevention, mitigation, or any other response to flooding or potential flooding;
 - ii. shall set appropriate limitations and ensure that the agency's critical work is not unduly interrupted;
 - iii. shall postpone or deny the use of flood response leave if an employee's use of this leave will significantly harm the agency, including the agency incurring incremental costs, or if the employee's normal state employment responsibilities already include flood relief activities;
 - iv. shall inform all agency employees of this Order; and
 - v. may not count flood response leave toward the 18-week maximum of unprotected leave set forth in DHRM rule R477-7-1(11).
- b. Each employee wanting to use flood response leave shall:
 - i. request and receive individual permission from their agency leadership to use flood response leave; and
 - ii. acknowledge that serving in response to flooding is voluntary and that performing any work and travel to and from where they provide flood related service is completely separate and segregated from their employment with the state.
- c. Each employee may break up the flood response leave into hourly segments as long as the leave used for this purpose does not exceed eight (8) hours.
- d. Both full-time and part-time employees are eligible for participation. Part-time employees may receive a prorated amount of administrative leave time.
- e. The Division of Human Resource Management (DHRM) shall issue guidance and policies to ensure implementation of this Order.
- f. The Finance Division of the Department of Government Operations shall work with DHRM to support the implementation of this Order.

THIS ORDER is effective immediately and shall expire on August 31, 2023.

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 16th day of March, 2023.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

EXECUTIVE ORDER
2023-04

Enshrining the Continued Significance and Display of the Historic State Flag

WHEREAS, the historic state flag was created by the Daughters of the American Revolution in 1903 under the direction of Governor Heber M. Wells;

WHEREAS, the historic state flag included a blue background, an American eagle, the word "industry," and a beehive;

WHEREAS, the historic state flag displayed the year 1847 to commemorate the year Utah was settled and the year 1896 to commemorate the year Utah achieved statehood;

WHEREAS, the Utah State Legislature adopted the historic state flag on March 9, 1911, with the features above present on the flag;

WHEREAS, despite minor changes over the last century, these original features remain as powerful symbols on the historic state flag;

WHEREAS, the historic state flag is a symbol of the faith, diligence, and strength of the people of Utah;

WHEREAS, the historic state flag and its rich background continue to inspire the people of Utah;

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, hereby order and petition as follows:

1. Order

a. **Definitions.** As used in this order:

i. "Agency"

1. Includes:

a. a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and

2. does not include:

a. an institution of higher education;

b. the Utah Board of Higher Education;

c. the State Board of Education;

d. an independent entity as defined in Utah Code § 63E-1-102;

e. the Attorney General's Office;

f. the State Auditor's Office;

g. the State Treasurer's Office;

h. the Legislative Branch; or

i. the Judicial Branch.

ii. "Historic state flag" means the Utah state flag described in Utah Code § 63G-1-501 (63G-1-503, effective March 9, 2024).

iii. "State flag" means the Utah state flag, which will be described in Utah Code § 63G-1-501, effective March 9, 2024.

iv. "State property" means a facility or building under the care and control of an agency.

b. Requirements for Preserving the Significance of the Historic State Flag

i. All steps necessary shall be taken, including a convening of the State Capitol Preservation Board, to enable the following:

1. flying the historic state flag on top of the Utah state capitol building each day of the year; and

2. upon S.B. 31 (2023) taking effect, flying both the state flag and the historic state flag on separate flagpoles each day of the year on Utah state capitol grounds.

ii. Agencies shall fly the historic state flag on state property on each legal holiday listed in Utah Code § 63G-1-301.

iii. Agencies shall consider and adopt additional methods for maintaining the significance of the historic state flag, including flying the flag at significant agency events.

2. Petition

a. I hereby petition the legislature to amend Lines 118-121 of S.B. 31 (2023), so that when displaying the historic state flag on public grounds in any location where the state flag is also displayed, the governmental entity responsible for the display of the flags shall ensure that the historic state flag is displayed above the state flag.

THIS ORDER is effective immediately and shall remain in effect until otherwise 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 21st day of March, 2023.

EXECUTIVE DOCUMENTS

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

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 March 02, 2023, 12:00 a.m., and March 15, 2023, 11:59 p.m. are included in this, the April 01, 2023, 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 May 01, 2023. 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 July 31, 2023, 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		
Rule or Section Number:	R58-2	Filing ID: 55281

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amanda Price	801-982-2244	amandaprice@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	amberbrown@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R58-2. Diseases, Inspections and Quarantines
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule needs to be updated to current practices to provide clarity in the process for quarantine and inspections of animals. Additional changes and updates are needed to meet the requirements of the Utah 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):
The proposed change in text removes terminology in definitions to be more inclusive, updates reporting procedures, and aligns with federal requirements. The proposed text updates the process for the quarantine of animals by including a verbal option and removing non-applicable federal regulations. The last section added horses to restrict movements at livestock auctions. The updated text will align with the Utah Rulewriting Manual.

Fiscal Information

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

A) State budget:

The changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact the state budget.

B) Local governments:

The changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact local governments.

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

The changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact small businesses.

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

The changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact 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 changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact other persons.

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

The changes provide clarity and align with updated federal regulations. The administration of the program is not changing and should not impact compliance costs.

G) 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 the narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig Butters, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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 4-31-118	Subsection 4-2-103(1)(i)	Subsection 4-2-103(1)(c)(ii)

Public Notice Information

8. 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:	05/01/2023
9. This rule change MAY become effective on:	05/08/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W. Butters, Commissioner	Date:	01/10/2023
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R58. Agriculture and Food, Animal Industry.**R58-2. Diseases, Inspections, and Quarantines.****R58-2-1. Authority.**

Promulgated ~~[U]~~ under the ~~[A]~~ authority of Sections 4-31-115, 4-31-118, and Subsections 4-2-103(1)(c)(ii) and 4-2-103(1)(i).

R58-2-2. Definitions.

~~[A-](1)~~ "Animal exhibition" ~~[—]~~ An event where animals are congregated for ~~[the purpose of]~~ exhibition and judging.

~~[B-](2)~~ "Animals" ~~[—For the purpose of this chapter animals]~~ means ~~[poultry, rabbits, cattle, sheep, goats and swine]~~ vertebrates, except humans.

~~[C-](3)~~ "Terminal show" ~~[—]~~ A fair or livestock judging exhibition with designated species of animals that are declared "at risk animals" ~~[which]~~ and at the ~~[conclusion]~~ end of the event must be transported directly to slaughter.

R58-2-3. Reportable and Quarantinable Animal Diseases.

~~[A-](1)~~ Reporting of Diseases. It shall be the responsibility of veterinary diagnostic laboratories, veterinary practitioners, livestock inspectors, and livestock owners to report immediately by phone or written statement to the ~~[Department of Agriculture and Food]~~ State Veterinarian any of the diseases or conditions listed on the Utah ~~[Department of Agriculture and Food]~~ List of Reportable ~~[Disease list]~~ Conditions for Animals, which is available ~~[at the Utah Department of Agriculture and Food, Division of Animal Health, PO Box 146500, 350 North Redwood Road, Salt Lake City, UT 84114-6500]~~ on the Department website.

~~[1-](a)~~ ~~[A-]~~ Any swine moving within ~~[the State of]~~ Utah shall be identifiable to determine the farm of origin as per 9 CFR ~~[1-]~~ 71.19, ~~[January 1, 2010,]~~ October 31, 2022 ~~[—edition which is hereby adopted and is incorporated by reference within this rule].~~

~~[2-](b)~~ ~~[A-]~~ Any sheep and goats moving within ~~[the State of]~~ Utah shall ~~[—upon change of ownership,]~~ comply with federal Scrapie identification requirements as listed in 9 CFR Part 79, January 1, 2022~~[2014]~~, requiring official identification to determine the farm of origin.

~~[3-](c)~~ Sheep and goats from Scrapie infected, exposed, quarantined, or source flocks may not be permitted to move into or within the state, except to slaughter, unless a flock eradication and control plan, approved by the State Veterinarian in Utah, has been implemented in the flock where the diseased animal resides.

~~[4-](d)~~ Any live scrapie-positive, suspect, or high-risk sheep or goat of any age and any sexually intact exposed sheep or goat of more than one year of age shall be required to possess official individual identification as listed in 9 CFR Part 79, January 1, 2022~~[2014]~~.

~~[B-](2)~~ Quarantines. The Department ~~[of Agriculture and Food]~~ or its agent may issue quarantines on:

~~[1-](a)~~ Any animal infected with diseases listed on the Utah List of ~~[F]~~ Reportable ~~[disease list]~~ Conditions for Animals or any other contagious or infectious disease or ~~[dangerous entity]~~ any epidemic or poisoning which is determined to be a threat to other animals or humans.

[2-](b) Any animal which it believes may jeopardize the health of other animals, or humans.

[3-](c) Any area within[the State of] Utah to prevent the spread of infectious or contagious diseases.

[a-](i) Quarantines shall be[deemed] issued to owners or caretakers of animals affected with or exposed to infectious, contagious, or communicable diseases by serving an official notice of quarantine to the owner or caretaker in person[by phone, by public meetings,] or by registered mail to [his]their last known address.

[b-](ii) [On and after the effective date of quarantine no animals shall be moved or allowed to be moved from or onto the quarantined premises without the owner or caretaker of the quarantined livestock having first obtained a written permit from the Utah Department of Agriculture and Food or its authorized agent to move the animals]A verbal hold order may be placed on a facility as an immediate control measure until an official notice of quarantine is issued.

(iii) During the period of quarantine, no animals, animal products, or equipment shall be moved from or onto the quarantined premises without the owner or caretaker of the quarantined animals having first obtained a written permit from the Department to move the animals. Additional control measures may be required.

[e-](iv) Quarantines shall be released upon compliance with Section 4-31-11[6]5; as well as with 9 CFR 71.2, [January 1, 2014, edition; and Title 26, Chapter 6; Title 19, Chapter 4; and Title 19, Chapter 5]October 31, 2022 edition, and other applicable state and federal laws.

R58-2-4. Disease Control at Animal Exhibitions and Livestock Auctions.

[A-](1) To reduce the potential spread of disease from animal exhibitions and livestock auctions the [Utah]Department [of Agriculture and Food]may:

[4-](a) [Specify]Require an animal exhibition to be a terminal show for designated species coming to the event when the[Utah] Department [of Agriculture and Food]is aware that a disease risk exists in that local area or the state.

[2-](b) Give each county in the state the authority to designate a terminal show for any animal exhibition or fair being held within the county.

[3-](c) Give the specific show that is a member of the Junior Livestock Show Association the authority to designate a terminal show.

[4-](d) Restrict movement of livestock and horses into and out of a livestock auction or temporary livestock sale when the[Utah] Department [of Agriculture and Food]is aware of a disease risk[exists] in that local area or the state.

KEY: quarantines

Date of Last Change: [August 12, 2015]2023

Notice of Continuation: April 1, 2021

Authorizing, and Implemented or Interpreted Law: 4-31-115; 4-31-118; 4-2-103(1)(c)(ii); 4-2-103(1)(i)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R58-4	Filing ID: 55284
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amanda Price	801-982-2244	amandaprice@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	amberbrown@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R58-4. Use of Animal Drugs and Biologicals in the State of Utah
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This updated rule provides clarity and alignment with industry processes and terms. The text will align with the requirements of the Utah 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):
The proposed text updates a section with an industry common term and provides clarifying information about a current process by updating permit information to the State Veterinarian instead of the Commissioner. The rule updates to align with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The administration of the program is not changing and the proposed text is providing common industry terms. The updated text will not impact the state budget.

B) Local governments:

The text is clarifying and updated to current common practices and will not impact local governments because the administration of the program is not changing.

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

The text is clarifying and updated to current common practices and will not impact small businesses because the administration of the program is not changing.

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

The text is clarifying and updated to current common practices and will not impact non-small businesses because the administration of the program is not changing.

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 text is clarifying and updated to current common practices and will not impact other persons because the administration of the program is not changing.

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

The text is clarifying and updated to current common practices and will not impact compliance costs because the administration of the program is not changing.

G) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025

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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Craig Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 4-5-104		
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Public Notice Information**8. 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: 05/01/2023

9. This rule change MAY become effective on: 05/08/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	03/14/2023
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R58. Agriculture and Food, Animal Industry.

R58-4. Use of Animal Drugs and Biologicals~~[in the State of Utah]~~.

R58-4-1. Authority.

(1) Promulgated under the authority of Section 4-[5]31-10[4]9.

(2) This rule intends to provide the requirements for animal drugs and biologicals in accordance with ~~[and]~~ 9 CFR Parts 101, 102, and 103, January 1, 2006 edition.

R58-4-2. ~~[Manufacturing, Induction Specifications]~~Product Permitting.

~~[A.](1)~~ No person, firm, corporation, or other company shall manufacture in this state or transport or introduce into the state, in any manner, any ~~[virus or bacterial]~~ product carrying infective agents of ~~[infectious, contagious, or communicable]~~ diseases of domestic animals ~~[or poultry]~~ without first being licensed by ~~[Biologies Division of]~~ the United States Department of Agriculture and Food-Animal Plant Health Inspection Service Center for Veterinary Biologies (USDA APHIS) CVB and obtaining a written permit from the ~~[Commissioner of Agriculture and Food]~~ state veterinarian.

(2) Permitted products shall only be handled and administered by licensed veterinarians or persons authorized by the state veterinarian and by the conditional licensing requirements of CVB.

R58-4-3. Registration Requirements.

~~[Veterinary practitioners, or other p]~~Persons, firms, corporations, or manufacturers, except those licensed within the ~~[S]tate[~~of Utah~~]~~, engaged in the distribution or manufacture of animal biologics, including diagnostic tests, that carry[ing] infective agents, or inactivated agents, for the diagnosis, prevention, treatment or control of ~~[contagious, infectious or communicable]~~ animal disease ~~[of livestock]~~ shall register their names and receive written authority authorization from the Commissioner ~~[of Agriculture and Food]~~.

KEY: disease control

Date of Last Change: ~~[August 15, 1997]~~ 2023

Notice of Continuation: April 1, 2021

Authorizing, and Implemented or Interpreted Law: 4-~~[5]~~31-1022; ~~4-5-104~~4-31-118

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R58-6	Filing ID: 55285
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Agency Information

1. Department:	Agriculture and Food
Agency:	Animal Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state, and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 146500
City, state, and zip:	Salt Lake City, UT 84114-6500

Contact persons:

Name:	Phone:	Email:
Amanda Price	801-982-2244	amandaprice@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	amberbrown@utah.gov

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

General Information

2. Rule or section catchline:

R58-6. Poultry

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

Due to the USDA's recent update to standards and guidelines for small egg producers, this rule needed to be updated to current definitions. Outdated terms and definitions that are not recognized by USDA or the industry have been removed. Clarity of text and alignment with requirements of the Utah 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):

The definition of "Poultry" has been updated and a separate definition for "Gamebirds" has been included. Several of the definitions that are no longer applicable were removed. The National Poultry Improvement Plan (NPIP) program standards are incorporated and an updated process for a flock plan has been outlined. Commercial Gamebird facilities requirements have been included in this rule.

Fiscal Information

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

A) State budget:

The proposed changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact the state's budget.

B) Local governments:

The proposed changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact local governments.

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

The proposed changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact small businesses.

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

The proposed changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact 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 changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact other persons.

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

The proposed changes remove text that is not relevant and provide clarity for preventing disease in poultry and gamebirds. The administration of the program is not changing and will not impact compliance costs.

G) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information**6. 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 4-31-119		
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	Title 9 CFR 145-147
Publisher	Code of Federal Regulations
Issue Date	03/10/2023
Issue or Version	2023 version

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	The NPIP Program Standards
Publisher	United States Department of Agriculture

Issue Date	December 2019
Issue or Version	2019 Version

Public Notice Information

8. 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:	05/01/2023
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9. This rule change MAY become effective on:	05/08/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig Butters, Commissioner	Date:	03/14/2023
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R58. Agriculture and Food, Animal Industry.

R58-6. Poultry and Captive-Raised Gamebirds.

R58-6-1. Authority.

(1) Promulgated under the authority of Section 4-31-119.

(2) ~~[It is the intent of t]~~This rule intends to prevent and control disease in poultry and captive-raised gamebirds in ~~[the state of]~~Utah.

R58-6-2. Definitions.

~~[(1) "Administrator" means the Administrator of the United States Department of Agriculture, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.~~

~~[(2) "Authorized agent" means a person designated to collect official samples for submission to an authorized laboratory.~~

~~[(3) "Authorized laboratory" means a laboratory that meets the requirements of the United States Department of Agriculture, Animal and Plant Health Inspection Service and is thus qualified to perform testing required to determine classification of poultry and to test for avian pathogens.~~

~~[(4) "Authorized testing agent" means a person designated to collect official samples for submission to an authorized laboratory and to perform the stained antigen, rapid whole blood test for pullorum typhoid.]~~

~~[(5)]1~~ "Avian influenza" means an infection or disease of poultry caused by viruses in the family Orthomyxoviridae, genus Influenza virus A.

~~[(6)]2~~ "[~~Baby poultry~~]Cleaning and disinfection" means [newly hatched poultry (chicks, poults, ducklings, goslings, keets, etc.)]to remove organic debris and treat with a product which is registered by the Environmental Protection Agency as to neutralize pathogens, by the specifications for use as shown on the label of each product.

~~[(3) "Commercial gamebird facility" means a facility licensed by the Department that raises more than 1,000 gamebirds per year.~~

~~[(7)]4~~ "Dealer" means a ~~[n individual or]~~ person engaged in the business ~~[that deals in commerce in -]of purchasing hatching eggs, [newly hatched poultry, and started poultry obtained from breeding flocks and hatcheries]~~poultry, or gamebirds for immediate resale.

~~[(8)]5~~ "Department" means the Utah Department of Agriculture and Food.

~~[(9)]6~~ "Exposed (Exposure)" means contact with birds, equipment, personnel, supplies, or any article infected with, or contaminated by, communicable ~~[poultry]~~avian disease organisms.

~~[(10)]7~~ "Flock" means ~~[all]~~any of the poultry or game birds on one farm.

~~[(11) "Flock-based number system" means a flock-based number system which combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.~~

~~[(12) "Flock identification number (FIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.~~

~~[(13) "Fowl typhoid or typhoid" means a disease of poultry caused by Salmonella Gallinarum.]~~

~~[(8) "Gamebird" means any captive-raised animal identified as a "Pen-reared Gamebird" in Section R657-4-2.~~

~~[(14)]9~~ "Group/lot identification number (GIN)" means an identification number used to uniquely identify a "unit of animals" of the same species that ~~[is]~~are managed together as one group throughout the preharvest production chain.

~~[(15)]0~~ "Hatchery" means ~~[hatchery equipment on one premises operated or controlled by any person for the production of baby poultry]~~a facility that hatches eggs for commercial sale or provides the service for other operations.

~~[(16)]1~~ "Infected flock" means a flock in which an authorized laboratory has discovered one or more birds infected with an ~~[communicable poultry]~~avian disease.

~~[(17)]2~~ "License" means a license issued by the Department to individuals that commercially produce or sell hatching eggs or ~~[poultry]~~live birds.

~~[(18)]3~~ "Live bird market" means a temporary facility or site that illegally receives live ~~[poultry]~~birds to be resold or slaughtered and sold on-site~~[, not including any producer or grower that prior to the sale of his own birds slaughters or processes them on site or at an approved slaughter facility or any producer or grower that sells live birds grown exclusively on his premises].~~

~~[(19) "Multiplier breeding flock" means a flock that is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg or meat production or for other nonbreeding purposes.]~~

~~[(20)]14~~ "National Poultry Improvement Plan (NPIP)" means a cooperative industry, state, and federal program through which new diagnostic technology can be effectively applied to the improvement of poultry and poultry products.

~~[(21)]15~~ "Person" means an individual, association, partnership, government agency,~~[or]~~ corporation, or any agent of the foregoing.

~~(16)~~ "Poultry" means domesticated fowl, including chickens, turkeys, ~~[ostriches, emus, rheas, cassowaries, waterfowl, game birds, doves]~~ guineas, ratites, and pigeons, or other captive bred birds not listed in Section R657-4-2 which are bred for the primary purposes of producing eggs or meat ~~whether kept for production or [for] exhibition[or sport]~~.

~~(23) "Premises identification number (PIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, or Federal animal health authority a geographically distinct location from other premises.~~

~~(24) "Primary breeding flock" means a flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.]~~

~~(17) "Public exhibition" means a public show of poultry.~~

~~(18) "Pullorum - Typhoid" means a disease of poultry caused by Salmonella[Pullorum].~~

~~(19) "Ratite" means an ostrich, emu, rhea, or cassowary.~~

~~(27) "Reactor" means a bird that has a positive reaction to a test for any poultry disease.~~

~~(28) "Sanitize" means to treat with a product which is registered by the Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, or tuberculocidal, in accordance with the specifications for use as shown on the label of each product.~~

~~(29) "Started poultry" means young poultry such as chicks, pullets, cockerels, capons, poult, ducklings, goslings, keets, etc. that have been fed and watered and are less than 6 months of age.~~

~~(30) "State Inspector" means any person employed or authorized to perform functions under the National Poultry Improvement Plan.~~

~~(31) "Stock" means a term used to identify the progeny of a specific breeding combination within a species of poultry. These breeding combinations may include pure strains, strain crosses, breed crosses, or combinations thereof.~~

~~(32) "Strain" means poultry breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.~~

~~(33) "Succeeding flock" means a flock brought onto a premises during the 12 months following removal of an infected flock.~~

~~(34) "Suspect flock" means a flock that has been exposed to a communicable poultry disease.]~~

R58-6-3. Importation of Poultry, Gamebirds, or Hatching Eggs.

(1) All poultry and hatching eggs being imported into Utah must meet the ~~[following]~~ requirements found in Section R58-1-9.~~;~~

~~(a) All poultry and hatching eggs must have an import permit from the Department.~~

~~(b) All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan Certificate.~~

~~(c) All poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state, or~~

~~(d) All poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for pullorum typhoid within the last 30 days.~~

~~(2) All poultry being imported into Utah must be officially identified with one of the following:~~

~~(a) a sealed and numbered band which has the flock based number system printed on the band; or~~

~~(b) the birds are moved under a Group or lot identification number (GIN).]~~

R58-6-4. Quarantine of Diseased Poultry and Gamebirds.

(1) The Commissioner ~~[of Agriculture]~~ or ~~[his]~~ their designated agent may quarantine diseased poultry or gamebirds and issue a flock plan for disease management, when~~[ever]~~ any infectious or contagious diseases have been identified.

(2) ~~[The quarantine notice shall be posted in a conspicuous place on the outside of the coops and premises.~~

~~(3) The coops and surroundings must be maintained in a sanitary condition.~~

~~(4) No live poultry shall under any circumstances be removed from the quarantined coop or premises, except under permit from the Department.~~

~~(5) All dead birds shall be destroyed by burning or by being placed in a pit properly constructed for disposal of dead birds.~~

~~(6) The attendant shall wear rubber footwear which shall be disinfected in a disinfectant recognized by U.S. Department of Agriculture each time before leaving the infected coops.~~

~~(7) All crates, utensils or other paraphernalia used around the infected coops shall be thoroughly cleaned and disinfected before being removed from the infected premises; except egg cases and those are to be handled in such manner as may be designated by the attending veterinarian.~~

~~(8) Truck drivers are forbidden to enter quarantined premises personally or with trucks.~~

~~(9) No unauthorized visitors will be allowed on infected premises.~~

~~(10) All droppings and litter shall be buried or burned or thoroughly disinfected before being removed from the premises.~~

~~(11) Vaccination shall be done by or under the direction of an accredited veterinarian only.]~~ The flock plan describes live bird management, site management, depopulation, disposal, testing, and cleaning and disinfection.

(12) The quarantine shall be in effect until withdrawn by the Commissioner~~[of Agriculture]~~ or ~~[his]~~ their designated agent.

R58-6-5. Poultry and Gamebird Dealer License.

(1) ~~[No dealer may sell baby or started poultry at a fixed location or via the internet unless they are first.]~~ Any poultry or gamebird dealer must be licensed by the Department.

~~(2) A poultry dealer does not hatch or sell eggs.]~~

~~(3)]~~ Individuals selling less than [20 birds a] 1,000 hatching eggs or birds per year are exempt from licensure.

(4) Each location in which poultry are sold ~~[from]~~ must be licensed separately on an annual basis.

(5) Any person desiring a license~~[to sell baby or started poultry]~~ shall apply to the Department on a department form and pay a fee based on the approved Department fee schedule.

~~(a) Application for a license will be made on a department form for a Poultry Dealer License.~~

~~(b) The number of birds sold the previous year at that location must be recorded on the form.~~

~~(c) A fee based on the approved Department fee schedule must be paid prior to license issuance.]~~

(6) Licensees must keep records for the calendar year of ~~[where poultry were purchased]~~ purchases and sales. Sales records for gamebirds must include the buyer's name, physical address, and

telephone number, as well as the number and types of eggs or gamebirds purchased.

(7) The area where the [poultry]birds are kept should be clean and appropriate for the type and age of the poultry.

(8) [Poultry]Bird care and handling should conform to recognized husbandry practices. Birds should be housed to prevent the spread of illness to other birds or people.

(9) All individuals purchasing [poultry]birds should receive written information on handling poultry safely to prevent human illness.

[~~———— (10) If poultry are housed in a public area, there must be signage that provides information on handling poultry safely to prevent human illness and hand cleaning materials must be provided.~~]

R58-6-6. Hatchery License.

(1) [~~No person may hatch or sell hatching eggs as well as sell baby or started poultry unless they are first~~]Hatcheries must be licensed with the Department[~~, unless, hatching eggs are for personal use only~~].

(2) [~~Any person desiring a license to hatch or sell hatching eggs as well as sell baby or started poultry shall apply to Department~~]Hatcheries processing less than 1,000 hatching eggs or birds per year are exempt from licensure.

[~~———— (a) Application for a license will be made on a department form for a Hatchery License.~~]

[~~———— (b) The number of eggs and birds sold the previous year at that location must be recorded on the form.~~]

[~~———— (c) A fee based on the approved Department fee schedule must be paid prior to license issuance.~~]

(3) [~~Licensees must keep records for the calendar year of whom the eggs or birds were sold to.~~]

[~~———— (a) Name, physical address, and telephone number, as well as number and types of eggs or poultry purchased should be kept for each purchase~~]Any person desiring a license shall apply to the Department on a department form and pay a fee based on the approved Department fee schedule.

(4) [~~The area where the poultry are kept should be clean and appropriate for the type and age of the poultry~~]Licensees must keep records for the calendar year of purchases or sources and sales. Records for gamebirds must include the buyer's name, physical address, and telephone number, as well as the number and types of eggs or gamebirds purchased.

(5) [~~Poultry care and handling should conform to recognized husbandry practices~~]The area where the birds are kept should be clean and appropriate for the type and age of the poultry.

(6) [~~All individuals purchasing eggs or poultry should receive written information on the handling of poultry safely to prevent human illness~~]Bird care and handling should conform to recognized husbandry practices.

(7) All individuals purchasing live birds should receive written information on safe handling to prevent human illness.

R58-6-7. Commercial Gamebird Facilities and Release of Gamebirds[and Prohibition of Live Bird Markets].

[~~———— (1) No person may release gamebirds into the wild unless the birds originate from a NPIP Pullorum Typhoid Clean facility or are tested negative for pullorum typhoid.~~]

[~~———— (2) Live bird markets are prohibited in the State of Utah to reduce the spread of avian diseases in the state.~~]

(1) Private Aviculture - Gamebird facilities propagating less than 1,000 gamebirds per year are exempt from licensure through the Department but must have a Certificate of Registration with the Division of Wildlife Resources.

(2) Commercial Gamebird Propagation Facilities

(a) Any commercial gamebird propagation facilities must be licensed by the Department.

(i) Each applicant for a license shall apply on a Department-issued form.

(ii) A complete facility inspection by the Department and approval shall be conducted before the issuing of a license.

(iii) All licenses expire on June 30 in the year following the year of issuance.

(iv) Annual inspections and record reviews must be completed before re-licensure.

(b) All facilities must maintain NPIP certification as US Pullorum-Typhoid Clean and conduct quarterly avian influenza monitoring performed by the Department.

(c) Licensees must keep records for three years of purchases or sources and sales. Records must include the buyer or source's name, physical address, and telephone number, as well as the number and types of eggs or gamebirds.

(3) Any gamebird released into the wild shall comply with Division of Wildlife Resources Rule R657-4.

R58-6-8. [National Poultry Improvement Plan]Prohibition of Live Birds Markets.

(1) [Participation]Live bird markets are prohibited in Utah to reduce the spread of avian diseases in the state.

[~~———— (a) Any person producing or dealing in products may participate in the Plan when they have demonstrated, to the satisfaction of the Department, that their facilities, personnel, and practices are adequate for carrying out the applicable provisions of the Plan, and have signed an agreement with the Department to comply with the general and the applicable specific provisions of the Plan and any regulations of the Department.~~]

[~~———— (b) A participant in the plan shall participate with all of their poultry hatching egg supply flocks and hatchery operations.~~]

[~~———— (c) They shall report to the Official State Agency on VS Form 9-2 or through other appropriate means each breeding flock before the birds reach 24 weeks of age or, in the case of ostriches, emus, rheas, cassowaries, before the birds reach 20 months of age. This report will include:~~]

[~~———— (i) name and address of flock owner;~~]

[~~———— (ii) flock location and designation;~~]

[~~———— (iii) type: Primary or Multiplier;~~]

[~~———— (iv) breed, variety, strain, or trade name of stock;~~]

[~~———— (v) source of males;~~]

[~~———— (vi) source of females;~~]

[~~———— (vii) number of birds in the flock; and~~]

[~~———— (viii) intended classification of flock.~~]

[~~———— (d) No person shall be compelled by the Department to qualify products for any of the other classifications as a condition of qualification for the U.S. Pullorum Typhoid Clean classification.~~]

[~~———— (e) Participation in the Plan shall entitle the participant to use the Plan emblem.~~]

[~~———— (2) General provisions for all participants.~~]

[~~———— (a) Records of purchases and sales and the identity of products handled shall be maintained in a manner satisfactory to the Department.~~]

~~(b) Products, records of sales and purchase of products, and material used to advertise products shall be subject to inspection by the Department at any time.~~

~~(c) Except as provided by this paragraph, participants in the Plan may not buy or receive products for any purpose from nonparticipants unless they are part of an equivalent program, as determined by the Department.~~

~~(d) Participants in the Plan may buy or receive products from flocks that are neither participants nor part of an equivalent program, for use in breeding flocks or for experimental purposes, under the following conditions only:~~

~~(i) with the permission of the Department and the concurrence of the USDA; and~~

~~(ii) by segregation of all birds before introduction into the breeding flock.~~

~~(iii) Upon reaching sexual maturity, the segregated birds must be tested and found negative for pullorum typhoid. The Department may require a second test at its discretion.~~

~~(e) Each participant shall be assigned a permanent approval number by the USDA.~~

~~(i) This number, prefaced by the numerical code of the State, will be the official approval number of the participant and may be used on each certificate, invoice, shipping label, or other document used by the participant in the sale of his products.~~

~~(ii) The approval number shall be withdrawn when the participant no longer qualifies for participation in the Plan.~~

~~(3) Specific provisions for participating flocks.~~

~~(a) Poultry equipment, and poultry houses and the land in the immediate vicinity thereof, shall be kept in sanitary condition.~~

~~(b) The participating flock, its eggs, and all equipment used in connection with the flock shall be separated from nonparticipating flocks, in a manner acceptable to the Department.~~

~~(c) All flocks shall consist of healthy, normal individuals characteristic of the breed, variety, cross, or other combination which they are stated to represent.~~

~~(d) A flock shall be deemed to be a participating flock at any time only if it has qualified for the U.S. Pullorum-Typhoid Clean classification.~~

~~(e) Each bird shall be identified with a sealed and numbered band obtained through or approved by the Department.~~

~~(4) Specific provisions for participating hatcheries.~~

~~(a) Hatcheries must be kept in sanitary condition, acceptable to the Department. The minimum requirements with respect to sanitation include the following:~~

~~(i) Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week.~~

~~(ii) Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer.~~

~~(iii) Incubator rooms should not be used for storage.~~

~~(iv) Egg trays and buggies should be cleaned and disinfected after each transfer.~~

~~(v) Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch.~~

~~(vi) Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage.~~

~~(vii) Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch.~~

~~(viii) Chick/poult boxes should be cleaned and disinfected before being reused.~~

~~(ix) Vaccination equipment should be cleaned and disinfected after each use.~~

~~(x) Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Department.~~

~~(xi) The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.~~

~~(xii) Effective insect and rodent control programs should be implemented.~~

~~(b) A hatchery that keeps started poultry must keep such poultry separated from the incubator room in a manner satisfactory to the Department.~~

~~(c) All baby and started poultry offered for sale under Plan terminology should be normal and typical of the breed, variety, cross, or other combination represented.~~

~~(d) Eggs incubated should be sound in shell, typical for the breed, variety, strain, or cross thereof and reasonably uniform in shape.~~

~~(e) Hatching eggs should be trayed and the baby poultry boxed with a view to uniformity of size.~~

~~(f) Any nutritive material provided to baby poultry must be free of the avian pathogens.~~

~~(g) If a person is responsibly connected with more than one hatchery, all of such hatcheries must participate in the Plan if any of them participate. A person is deemed to be responsibly connected with a hatchery if he or she is a partner, officer, director, holder, owner of 10 percent or more of the voting stock, or an employee in a managerial or executive capacity.~~

~~(5) Specific provisions for participating dealers.~~

~~(a) Dealers in poultry breeding stock, hatching eggs, or baby or started poultry shall comply with all provisions in this section which apply to their operations.~~

~~(6) Terminology and classification; general.~~

~~(a) The official classification terms and the various designs illustrative of the official classifications may be used only by participants and to describe products that have met all the specific requirements of such classifications.~~

~~(b) Products produced under the Plan shall lose their identity under Plan terminology when they are purchased for resale by or consigned to nonparticipants.~~

~~(c) Participating flocks, their eggs, and the baby and started poultry produced from them may be designated by their strain or trade name.~~

~~(d) When a breeder's trade name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either birds hatched from eggs produced under the direct supervision of the breeder of such strain, or stock multiplied by persons designated and so reported by the breeder to the Department.~~

~~(7) Terminology and classification; hatcheries and dealers.~~

~~(a) Participating hatcheries and dealers shall be designated as "National Plan Hatchery" and "National Plan Dealer", respectively.~~

~~(b) The Department shall be notified by the USDA of additions, withdrawals, and changes in classification.~~

~~(8) Terminology and classification; flocks and products.~~

~~(a) Participating flocks, products produced from them that have met the requirements of a classification in this part may be designated as:~~

~~(i) U.S. Pullorum Typhoid Clean;~~

~~(ii) U.S. M. Gallisepticum Clean;~~

~~(iii) U.S. Sanitation Monitored;~~
~~(iv) U.S. M. Synoviae Clean;~~
~~(v) U.S. M. Meleagridis Clean;~~
~~(vi) U.S. Sanitation Monitored, Turkeys;~~
~~(vii) U.S. S. Enteritidis Clean;~~
~~(viii) U.S. Salmonella Monitored;~~
~~(ix) U.S. M. Gallisepticum Monitored;~~
~~(x) U.S. M. Synoviae Monitored;~~
~~(xi) U.S. Avian Influenza Clean; or~~
~~(xii) U.S. H5/H7 Avian Influenza Clean.~~
~~(9) Supervision.~~
~~(a) The Department may designate qualified persons as Authorized Agents to do the sample collecting provided for in this section and may designate qualified persons as Authorized Testing Agents to do the sample collecting and blood testing provided for in this section.~~
~~(b) The Department shall employ or authorize qualified persons as State Inspectors to perform the qualification testing of participating flocks, and to perform the official inspections necessary to verify compliance with the requirements of the Plan.~~
~~(c) Authorities issued under the provisions of this section shall be subject to cancellation by the Department on the grounds of incompetence or failure to comply with the provisions of the Plan or regulations of the official State agency.~~
~~(i) Such actions shall not be taken until a thorough investigation has been made by the Department and the authorized person has been given notice of the proposed action and the basis therefore and an opportunity to present his views.~~
~~(10) Inspections.~~
~~(a) Each participating hatchery shall be audited at least one time annually or a sufficient number of times each year to satisfy the Department that the operations of the hatchery are in compliance with the provisions of the Plan.~~
~~(b) The records of all flocks maintained primarily for production of hatching eggs shall be examined annually by a State Inspector.~~
~~(i) Records shall include:~~
~~(A) VS Form 9 2, "Flock Selecting and Testing Report";~~
~~(B) VS Form 9 3, "Report of Sales of Hatching Eggs, Chicks, and Poults";~~
~~(C) set and hatch records;~~
~~(D) egg receipts; and~~
~~(E) egg and chick orders or invoices.~~
~~(ii) Records shall be maintained for 3 years.~~
~~(iii) On site inspections of flocks and premises will be conducted if the State Inspector determines that a breach of sanitation, blood testing, or other provisions has occurred for Plan programs for which the flocks have or are being qualified.~~
~~(11) Debarment from participation.~~
~~(a) Participants in the Plan, who after investigation by the Department or its representative, are notified in writing of their apparent noncompliance with the Plan provisions or regulations of the Department, shall be afforded a reasonable time, as specified by the Department, within which to demonstrate or achieve compliance.~~
~~(b) If compliance is not demonstrated or achieved within the specified time, the Department may debar the participant from further participation in the Plan for such period, or indefinitely, as the Department may deem appropriate.~~
~~(c) The debarred participant shall be afforded notice of the bases for the debarment and opportunity to present their views with respect to the debarment in accordance with procedures adopted by the Department.~~

~~(d) The Department shall thereupon decide whether the debarment order shall continue in effect.~~
~~(e) Such decision shall be final unless the debarred participant, within 30 days after the issuance of the debarment order, requests the Administrator to determine the eligibility of the debarred participant for participation in the Plan.~~
~~(i) In such event the Administrator shall determine the matter de novo in accordance with the rules of practice in 7 CFR part 50, which are hereby made applicable to proceedings before the Administrator under this section.~~
~~(ii) The definitions in 7 CFR 50.10 and the following definitions shall apply with respect to terms used in such rules of practice.~~
~~(12) Testing.~~
~~(a) Poultry must be more than 4 months of age when tested for an official classification except:~~
~~(i) that turkey candidates may be tested at more than 12 weeks of age;~~
~~(ii) that game bird candidates may be tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first; and~~
~~(iii) that ostrich, emu, rhea, and cassowary candidates may be tested when more than 12 months of age.~~
~~(b) Samples for official tests shall be collected by an Authorized Agent, Authorized Testing Agent, or State Inspector and tested by an authorized laboratory, except that the stained antigen, rapid whole blood test for pullorum typhoid may be conducted by an Authorized Testing Agent or State Inspector.~~
~~(c) For Plan programs in which a representative sample may be tested in lieu of an entire flock, except the ostrich, emu, rhea, and cassowary program, the minimum number tested shall be 30 birds per house, with at least 1 bird taken from each pen and unit in the house. The ratio of male to female birds in representative samples of birds from meat type chicken, waterfowl, exhibition poultry, and game bird flocks must be the same as the ratio of male to female birds in the flock. In houses containing fewer than 30 birds other than ostriches, emus, rheas, and cassowaries, all birds in the house must be tested.~~
~~(d) The Department adopts all sampling and testing procedures specified in Title 9 CFR 145-147 (2013) which incorporated by reference.]~~

R58-6-9. National Poultry Improvement Plan.

~~(1) The Department is the Official State Agency for the National Poultry Improvement Plan.~~

~~(2) Participants must follow all procedures specified in Title 9 CFR 145-147 and the NPIP Program Standards (2019) which are incorporated by reference.~~

KEY: disease control, NPIP, hatchery, poultry

Date of Last Change: ~~[March 25, 2013]~~**2023**

Notice of Continuation: December 28, 2021

Authorizing, and Implemented or Interpreted Law: 4-31-119

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:

R58-14

Filing ID:
55283

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amanda Price	801-982-2244	amandaprice@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	amberbrown@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R58-14. Holding Live Raccoons or Coyotes in Captivity
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Department Agriculture and Food needed to clarify the text for the parameters of who can be in possession of a raccoon or a coyote. Section 4-23-111 will only allow a variance in rules if the Agricultural and Wildlife Damage Prevention Board approves the rules. The changes in the text will align with the Utah 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):
The proposed text advises that it is unlawful for an individual to possess a raccoon or a coyote and could be subject to a citation and fines. This rule provides current procedures for an organization to apply for a variance for possessing a raccoon or coyote for research purposes. This rule aligns more with Section 4-23-111 and removes any confusing language for permits and enforcement of this rule. The text provides clarity and alignment with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed changes clarify the current practice of possession of a raccoon or coyote and do not change the program's administration. It will not impact the state's budget because the program's administration is not changing.
B) Local governments:
The proposed changes remove the ability of an individual to possess a raccoon or a coyote and will not change how the program is administered. It will not impact local governments because the program's administration is not changing.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed changes remove the ability of an individual to possess a raccoon or a coyote and will not change how the program is administered. It will not impact small businesses because the program's administration is not changing.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed changes remove the ability of an individual to possess a raccoon or a coyote and will not change how the program is administered. It will not impact non-small businesses because the program's administration is not changing.
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 <i>agency</i>):
The proposed changes remove the ability of an individual to possess a raccoon or a coyote and will not change how the program is administered. It will not impact other persons because the program's administration is not changing.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The proposed changes remove the ability of an individual to possess a raccoon or a coyote and will not change how the program is administered. It will not impact compliance costs because the program's administration is not changing.

G) 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 the narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Subsection 4-2-2(1)(j)	Section 4-23-111	
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Public Notice Information

8. 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: 05/01/2023

9. This rule change MAY become effective on: 05/08/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	03/14/2023
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R58. Agriculture and Food, Animal Industry.

R58-14. Holding Live Raccoons or Coyotes in Captivity.

R58-14-1. Authority.

[A-](1) Promulgated under the authority of Subsection 4-2-103(1)(j) and Section 4-23-111.

[B-](2) [Scope: It is the intent of t]This rule intends to protect the health and safety of individuals by prohibiting the [holding]possession of a raccoon or coyote[in captivity except as provided by this rule].

R58-14-2. Definitions.

[For the purpose of this rule the following definitions apply:

- ~~A. Division means the Division of Wildlife Resources.~~
- ~~B. Person means an individual, association, partnership, government agency, or corporation, or any agent of the foregoing.~~
- ~~C. Possession means actual and constructive possession.~~
- ~~D. Raccoon means a depredating animal.~~
- ~~E. Coyote means a predatory animal.~~
- ~~F. Animal means raccoon or coyote.~~
- ~~G. Captivity means possession.~~
- ~~H. Unpermitted animal means a raccoon or coyote possessed by a person without a valid permit issued by the Department of Agriculture and Food for each individual animal.]~~

"Possession" means actual and constructive possession or captivity.

R58-14-3. General.

(1) The Division of Wildlife Resources[;] with the cooperation of the Department of Agriculture and Food and the Department of Health and Human Services, shall enforce this rule.

[A-](2) The Agricultural and Wildlife Damage Prevention Board, by authority granted under Title 4, Chapter 23, the Agricultural and Wildlife Damage Prevention Act, declares it unlawful to import, distribute, relocate, or possess a live raccoon[s] (Procyon lotor) or coyote[s] (Canis latrans)[except as provided by this rule].

[B. Upon filing an application for registration with the Department of Agriculture and Food, upon forms provided by the department, a permit may be issued by the department authorizing the applicant to hold in live captivity](3) An organization or corporation wishing to possess raccoons or coyotes for research, [educational, zoos, circuses, or other purposes authorized by the Department of Agriculture and Food]or exhibition purposes may request a variance from the Department.

[C.](a) A separate ~~[permit must]~~ variance shall be obtained from the ~~[d.]~~ Department for each ~~[individual]~~ raccoon and coyote possessed ~~[, and the permit is valid only for the individual raccoon or coyote for which the permit was originally issued].~~

~~[D. A person issued a permit to possess a live raccoon or coyote may not lend, sell, lease, assign, give, or otherwise transfer the permit, or any rights granted by the permit, to another person.~~

~~E. A person may not use or attempt to use the permit of another person.]~~

~~(b) A variance for a raccoon or coyote may not be transferred without the express permission of the Department.~~

[F.](4) Nuisance raccoons and coyotes may not be relocated following capture, but may be captured and euthanized or otherwise destroyed ~~[on]at the~~ location where capture is unfeasible.

~~[G. Unpermitted animals may be seized immediately by the Division of Wildlife Resources, the Department of Health, the Department of Agriculture and Food, animal control officers, or peace officers where the person possessing the animal cannot produce, for each raccoon or coyote a valid permit issued for that particular animal.~~

~~(1) At the time the citation is issued, the aggrieved party may sign and indicate on the citation intent to seek administrative review. Within fourteen days aggrieved party must make a written request to the Department of Agriculture and Food, pursuant to Section 4-1-104, to schedule an informal adjudicative proceeding to review the seizure of any unpermitted animal.~~

~~(2) Unpermitted animals seized by the Division of Wildlife Resources, the Department of Health, the Department of Agriculture and Food, an animal control officer, or a peace officer may be held and boarded by the state where the possessor verifies in writing at the time of seizure his or her intention to seek administrative review of the seizure under Rule R58-14-3 G(1), and further agrees to compensate the state for all reasonable costs associated with boarding the subject animal during the pendency of the review process. In instances where the final adjudicative order finds possession of the subject animal lawful under these rules, all boarding expenses paid to the state under this section will be refunded.~~

~~(3) Unpermitted animals seized by the Division of Wildlife Resources, the Department of Health, or the Department of Agriculture and Food may be euthanized if the possessor does not verify at the time of seizure his or her intention to seek administrative reviews of the seizure under Rule R58-14-3(1), or refuses to reimburse the state for the costs associated with boarding the animal.~~

~~(4) Unpermitted animals held or boarded by the state pursuant to Rule R58-14-3 G(2) may be euthanized where the party fails to timely file a request provided under Section 4-1-104, or where remedies have been exhausted and the final order finds possession of the animal in violation of statute or this rule.]~~

[H.](5) Any raccoon or coyote that bites or scratches a person or domestic animal shall be handled in accordance with ~~[Rule]~~ Section R386-702-[5]12.

R58-14-4. Penalty.

~~(1) Any violation of this rule is an [Class-B Misdemeanor]infraction.~~

~~(2) Any person who violates this rule shall be subject to citation and fines as prescribed by the Department or may be called to appear before an administrative proceeding by the Department.~~

KEY: administrative procedure, enforcement

Date of Last Change: ~~[July 18, 2000]~~2023

Notice of Continuation: April 1, 2021

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(j); 4-23-111

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R432-105	Filing ID: 55270
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Agency Information

1. Department:	Health and Human Services	
Agency:	Family Health and Preparedness, Licensing	
Room number:	1st Floor	
Building:	Multi-Agency State Office Bldg	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
Name:	Phone:	Email:
Erica Pryor	801-273-2994	ericapryor@utah.gov
Kristi Grimes	385-214-9187	kristigrimes@utah.gov

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

General Information

2. Rule or section catchline:

R432-105. Specialty Hospital - Orthopedics

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

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

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 revisions include more specific language consistent with the Utah Rulewriting Manual.

Fiscal Information

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

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected because this amendment modifies and replaces outdated language with current state rulewriting manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. The Orthopedic Specialty Hospital Standards are regulated by the Department of Health and Human Services and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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**):

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

G) 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	FY2023	FY2024	FY2025
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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Title 26,
Chapter 21

Public Notice Information

8. 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: 05/01/2023

9. This rule change MAY become effective on: 05/08/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	Date:	03/01/2023
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R432. Health, Family Health and Preparedness, Licensing.**R432-105. Specialty Hospital - Orthopedic.****R432-105-1. ~~Legal~~ Authority.**

This rule is adopted pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

R432-105-2. Purpose.

The purpose of this rule is to promote ~~the~~ public health and welfare through the establishment and enforcement of licensure standards. This rule sets standards for the operation and maintenance of an orthopedic specialty hospital.

R432-105-3. Time for Compliance.

~~Each~~ Orthopedic Specialty hospital[s] shall be licensed and in full compliance with Rule R432-105.

R432-105-4. Definitions.

(1) ~~Refer to Common Definitions in~~ The definitions in Section R432-1-3 apply to this rule.

(2) ~~Special definitions.~~ The following definitions also apply:

(a) "Ancillary Services" are services that support clinical services and are usually diagnostic in nature. They do not require direct care or oversight by a nurse or physician including labs, radiology, cardiac testing, outpatient services, and diabetic teaching.

(b) "Blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.

(c) "Clinical Services" are provided by licensed physicians or nurses or under their direct care and supervision.

(d) "Donor center" means a facility that procures, prepares, processes, stores, and transports blood and blood components.

(c) "ICD-10-CM" means International Classification of Diseases, 10th revision, Clinical Modification.

(e) "Orthopedic Specialty Hospital" means a specialty hospital that provides evaluation, diagnosis, and treatment of individuals with primary diagnoses of musculoskeletal disorders and injuries as defined in the Orthopedic ICD-10-CM.

(f) "Specialty hospital" means the same as in Subsection R432-101-4(2)(a).

(g) "Transfusion service" means a facility that may prepare blood components, but also stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any adverse effects.

~~(a) "Orthopedic Specialty Hospital" means a specialty hospital that provides evaluation, diagnosis, and treatment of individuals with a primary diagnosis of musculoskeletal disorders and injuries as defined in the Orthopaedic ICD-9 CM.~~

~~(b) "Donor center" means a facility that procures, prepares, processes, stores and transports blood and blood components.~~

~~(c) "Transfusion service" means a facility that may prepare blood components, but also stores, determines compatibility, transfuses blood and blood components and monitors transfused patients for any ill effect.~~

~~(d) "Blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility.~~

~~(3) See definition of "specialty hospital", R432-101-4(2).]~~

R432-105-5. Licensure.

In accordance with Rule R432-2 a [L]icense is required to operate an orthopedic specialty hospital. ~~Refer to R432-2.~~

R432-105-6. General Construction Rules.

~~Refer to~~ Rule R432-11. ~~Orthopedic Specialty Hospital Construction Rule additionally applies for licensure of an orthopedic specialty hospital.~~

R432-105-7. Organization and Staff.

The following services and policies shall comply with Rule R432-100:

- (1) Administrator, Section R432-100-6.
- (2) Medical and Professional Staff, Section R432-100-7.
- (3) Nursing Care Services, Section R432-100-~~42~~13.
- (4) Personnel Management Service, Section R432-100-8.
- (5) Infection Control, Section R432-100-10.
- (6) Quality Improvement Plan, Section R432-100-9.
- (7) Patient Rights, Section R432-100-11.
- (8) Governing Body, Section R432-100-5.

R432-105-8. Admission Policy.

(1) An orthopedic specialty hospital is limited to serving patients that meet the following criteria:

~~(1)a~~ Each patient shall have a primary admitting diagnosis that requires evaluation, diagnosis, and treatment of a musculoskeletal disorder or injury; ~~as defined in the Orthopaedic ICD-9 CM, the International Classification of Diseases, 9th Edition, Clinical Modification, Expanded, published by the American Academy of Orthopaedic Surgeons which is adopted and incorporated by reference]~~ and~~;~~

~~(2)b~~ ~~[T]~~ there is a reasonable expectation that the patient's needs can be met by the services provided by the orthopedic specialty hospital.

R432-105-9. Clinical Services.

~~[The following]~~ Clinical services shall comply with the following sections of Rule R432-100:

- (1) Surgical Services~~[-R432-100-14.];~~
- (2) Critical Care Unit~~[-R432-100-13.];~~
- (3) Outpatient Services~~[-R432-100-28.]; and~~
- (4) Pediatric Services~~[-R432-100-18].~~

R432-105-10. Emergency Services.

(1) Each specialty hospital shall have the ability to provide emergency first aid treatment to patients, staff, visitors, and to ~~[persons]~~ those who may be unaware of or unable to immediately reach services in other facilities.

(2) Provisions shall include the following: ~~[-a treatment room, storage for supplies and equipment, provisions for reception and control of patients, convenient patient toilet room, and communication access to a poison control center.]~~

- (a) a treatment room;
- (b) storage for supplies and equipment;
- (c) provisions for reception and control of patients;
- (d) convenient patient toilet room; and
- (e) communication access to a poison control center.

~~[(3) Additional Emergency Services.]~~ Any additional or expanded emergency services offered shall comply with ~~[the]~~ each provision~~[s]~~ listed under ~~[of the appropriate sections of]~~ Section R432-100-~~[16]~~ 17.

~~[R432-105-11. Complementary Services.~~

~~The following services shall comply with R432-100:~~

- ~~(1) Anesthesia Services, R432-100-15.~~
- ~~(2) Blood Services, R432-100-23.~~
- ~~(3) Laboratory and Pathology, R432-100-22.~~
- ~~(4) Pharmacy, R432-100-24.~~
- ~~(5) Radiology, R432-100-21.~~
- ~~(6) Respiratory Care, R432-100-19.~~
- ~~(7) Social Services, R432-100-25.]~~

R432-105-~~[12]~~ 11. Complementary and Ancillary Services.

If offered, the licensee shall comply with the applicable sections of Rule R432-100 for ~~t[he]~~ the following services: ~~[-shall comply with R432-100:]~~

- (1) Anesthesia Services;
- (2) Blood Services;
- ~~[(1)]~~ (3) Central Supply~~[-R432-100-34.];~~
- ~~[(2)]~~ (4) Dietary~~[-R432-100-31.];~~
- (5) Emergency and Disaster Plans;
- (6) Housekeeping Services;
- (7) Laboratory and Pathology;
- ~~[(3)]~~ (8) Laundry~~[-R432-100-35.];~~
- (9) Maintenance Services;
- ~~[(4)]~~ (10) Medical Records~~[-R432-100-33.];~~
- ~~[(5)]~~ Emergency and Disaster Plans, R432-100-38.
- ~~[(6)]~~ Maintenance Services, R432-100-37.
- ~~[(7)]~~ Housekeeping Services, R432-100-36.]
- (11) Pharmacy;
- (12) Radiology;
- (13) Respiratory Care; and
- (14) Social Services.

R432-105-~~[13]~~ 12. Penalties.

Any person who violates any provision of this rule may be subject to the penalties enumerated in Sections 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

KEY: health care facilities

Date of Last Change: 2023~~[March 3, 1995]~~

Notice of Continuation: September 2, 2020

Authorizing, and Implemented or Interpreted Law: 26-21-2.1; 26-21-5; 26-21-6; 26-21-20

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R432-300	Filing ID: 55271
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Agency Information

1. Department:	Health and Human Services	
Agency:	Family Health and Preparedness, Licensing	
Room number:	1st Floor	
Building:	Multi-Agency State Office Bldg	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144103	
City, state and zip:	Salt Lake City, UT 84114-4103	
Contact persons:		
Name:	Phone:	Email:
Erica Pryor	801-273-2994	ericapryor@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R432-300. Small Health Care Facility - Type N

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

The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.

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 revisions include more specific language consistent with the Utah Rulewriting Manual.

Fiscal Information

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

A) State budget:

State government process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

B) Local governments:

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. The Small Health Care Facility Standards are regulated by the Department of Health and Human Services and not local governments. There will be no change in local business licensing or any other items with which local government is involved. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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**):

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

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

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards. There are no substantive changes being made regarding the fiscal impacts of this rule.

G) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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 26B-1-202

Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	NFPA 99 Health Care Facilities Code as currently adopted by Centers for Medicare and Medicaid Services
Publisher	National Fire Protection Association
Issue Date	2021

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	ADA Standards for Accessible Design (ADASAD) of 2010 (new incorporation)
Publisher	U.S. Department of Justice Civil Rights Division
Issue Date	September 15, 2010

Public Notice Information

8. 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: 05/01/2023

9. This rule change MAY become effective on: 05/08/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	Date:	03/02/2023
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R432. Health, Family Health and Preparedness, Licensing.

R432-300. Small Health Care Facility - Type N.

R432-300-1. Legal Authority.

~~[This rule is adopted pursuant to Title 26, Chapter 21, Section 26B-1-202 authorizes this rule.]~~

R432-300-2. Purpose.

The purpose of this rule is to establish standards for protection of the health, safety, and welfare of individuals who receive nursing care in privately owned homes.

R432-300-3. Time for Compliance and Responsibility.

~~[All]~~Any facilities governed by th[ese]is rule[s] shall be in full compliance ~~[at the time of]~~when licensed~~[ing]~~. Additionally, the licensee has overarching responsibility to ensure the Type N facility complies with Rule R432-300.

R432-300-4. Definitions.

(1) ~~[Refer to common definitions.]~~Section R432-1-3~~[, in addition;]~~ and the following additionally apply.

(2) Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of ~~[a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR]~~an in-person course to include skills testing and with a licensed instructor.

(3) "Dependent" means a person who meets one ~~[or all]~~of the following criteria:

(a) requires inpatient hospital or 24-hour continual nursing care that will last longer than 15 calend~~[e]~~ar days after the day ~~[on which]~~that the nursing care ~~[begins]~~is ordered; or

(b) ~~[is unable to]~~cannot evacuate from the facility without the physical assistance of two persons.

(4) "Health care setting" means a health care facility or agency, either public or private, that is involved in the provision or delivery of nursing care.

(5) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of a resident.

(6) "Owner or licensee" means a licensed nurse who resides in the facility and provides daily direct care during daytime hours to residents in the facility~~[as opposed to simply working a duty shift in the facility.]~~A licensee is not a sporadic shift worker in the facility.

(7) "Semi-independent" means a person who is:

(a) physically disabled, but able to direct ~~[his]~~their own care; or

(b) cognitively impaired or physically disabled, but able to evacuate from the facility with the physical assistance of one person.

(8) "Significant change" means a major change in a resident's status that is not self-limiting, impacts~~[on]~~ more than one area of the resident's health status, and requires interdisciplinary review or revision of the service plan.

(9) "Small Health Care Facility - Type N" is also referred to as a Type N facility and means a home or a residence occupied by the licensee~~[, who is a licensed nurse,]~~ that provides protected living arrangements plus nursing care and services on a daily basis for two to three individuals unrelated to the licensee.

R432-300-5. License Required.

A license ~~[is]~~shall be required to operate a Small Health Care Facility - Type N, ~~[see]~~Rule R432-2 additionally applies.

R432-300-6. Criteria for Type N Facility.

The licensee ~~[must]~~shall ensure ~~[meet]~~the following criteria are met to obtain a license for a Small Health Care Facility - Type N:

- (1) provide care in a residence where the licensee lives full time;
- (2) meet local zoning requirements to allow the facility to be operated at the given address;
- (3) obtain a certificate of fire clearance annually from the local fire marshal having jurisdiction;
- (4) have a physician assessment and approval for each resident's admission;
- (5) provide daily, licensed nursing care; and
- (6) provide 24-hour direct care staff available on the premises.

R432-300-7. Physical Environment.

(1) The licensee ~~[must]~~shall ensure ~~[provide]~~comfortable living accommodations and privacy are provided for residents who live in the facility.

(2) Bedrooms may be private or semi-private. The licensee shall ensure the following:

- (a) ~~[S]~~single~~[-]~~ occupant bed~~[-]~~rooms ~~[must]~~have a minimum of 100 square feet of floor space~~[-]~~;
- (b) ~~[M]~~multiple~~[-]~~ occupant bed~~[-]~~rooms ~~[must]~~have a minimum of 80 square feet of floor space per bed and are limited to two beds~~[-]~~;
- (c) ~~[B]~~beds ~~[shall be placed at least three feet away from each other]~~are separated by three feet~~[-]~~;
- (d) ~~[F]~~the licensee's family members or staff ~~[shall]~~may not share sleeping quarters with residents~~[-]~~;
- (e) ~~[E]~~each resident ~~[shall have]~~has a separate twin size or larger sized bed~~[-]~~;
- (f) ~~[No]~~a room ordinarily used for other purposes ~~[(such as a)]~~including a hall, corridor, unfinished attic, garage, storage area, shed or similar detached building~~[-]~~ may not be used as a sleeping room for a resident~~[-]~~;
- (g) each bedroom and toilet room has a trash container;
- (h) reading lamps in each resident room according to the individual needs of each resident are made available;
- ([g]i) [Each bedroom must have light and ventilation.]each bedroom has;
- ([h]j) [Each bedroom must have a window to the outside which opens easily. Windows must have insect screens.]a window with an insect screen that opens easily to the outside; and
- ([i]k) [Each bedroom must have.]a closet or space suitable for hanging clothing and personal belongings.
- ~~[(j) Each bedroom and toilet room must have a trash container.~~
- ~~[(k) The licensee must make available reading lamps in each resident room according to the individual needs of each resident.]~~

(3) The licensee shall ensure that [F]toilets and bathrooms [must]provide privacy, be well-ventilated, and be accessible to and usable by ~~[all]~~any persons accepted for care.

(a) Toilets, tubs, and showers ~~[must]~~shall have ~~[ADAAG approved]~~grab bars.

(b) If the licensee admits a resident with disabilities, the bath, shower, sink, and toilet ~~[must]~~shall be equipped for use by persons with disabilities.~~[-in accordance with ADAAG.]~~

(4) The licensee shall ensure:~~[Heating, air conditioning, and ventilating systems must provide comfortable temperatures for the resident.]~~

(a) heating, air conditioning, and ventilating systems provide comfortable temperatures for the resident;

~~[(a)b] [H]heating systems [must be]~~are capable of maintaining temperatures of 80 degrees ~~Fahrenheit (F).~~ in areas occupied by residents~~[-]~~;

~~[(b)c] [C]cooling systems [must be]~~are capable of maintaining temperatures of 72 degrees F. in areas occupied by residents~~[-]~~; and

~~[(e)d] [F]facilities [licensed after July 1, 1998, must]~~comply with ventilation and minimum total air change requirements as outlined in Section R432-6-22 Table 2.~~[-which is adopted and incorporated by reference.]~~

(5) The licensee shall ensure [R]residents [may be]are housed on the main floor only, unless an outside exit leading to the ground grade level is provided from any upper or lower levels.

(6) The licensee shall ensure [A]at least one building entrance [shall be]is accessible to persons with physical disabilities.

R432-300-8. Administration and Organization.

(1) The licensee is responsible for compliance with Utah law and licensing requirements, management, operation, and control of the facility.

(2) The licensee is responsible to establish and implement facility policies and procedures. ~~[Policies and procedures]~~The licensee shall ensure facility policy and procedures~~[must]~~ reflect current facility practice~~[-]~~ and protect the health and safety of personnel and clients.

(3) The licensee ~~[must]~~shall be a licensed nurse with at least two years of experience working in a health care setting, and ~~[must]~~shall provide nursing coverage on a daily basis during daytime hours of operation.

(4) The licensee ~~[must]~~shall employ ~~[sufficient]~~enough staff to meet the needs of the residents.

~~(5) [All employees must be 18 years of age, and successfully complete an orientation program in order to provide personal care and demonstrate competency.]The licensee shall ensure:~~

(a) each employee is 18 year of age and successfully complete an orientation program to provide personal care and demonstrate competency;

~~[(a)b] [The licensee must orient.]employees are oriented and trained to assist with the residents' daily routine [and train employees to assist the residents in]and with activities of daily living[-];~~

~~[(b)c] [E]employees [must be]~~are registered, certified, or licensed as required by the Utah Department of Commerce~~[-]~~; and

~~[(e)d] [R]registration, licenses, and certificates [must be]~~are current, filed in the personnel files, and presented to the licensee within 45-days of employment.

~~[(6) The licensee is responsible to establish and implement written policies and procedures for a personnel health program to protect the health and safety of personnel and clients.]~~

~~[(a)g] Each employee [must]~~shall, upon hire, complete a health evaluation that includes a health ~~[inventory]~~history.

~~(b)7) [The health inventory must document the employee's health history of the following.]The licensee shall ensure the employee's health history includes:~~

~~(i)a) conditions that predispose the employee to acquiring or transmitting infectious diseases; and~~

~~(ii)b) conditions [which]that may prevent the employee from performing certain assigned duties satisfactorily.~~

~~(e)8) Employee skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis.~~

~~(i)a) The licensee shall ensure that [all]any employees are skin-tested for tuberculosis within two weeks of:~~

~~(A)i) initial hiring;~~

~~(B)ii) suspected exposure to a person with active tuberculosis; and~~

~~(C)iii) development of symptoms of tuberculosis.~~

~~(ii)b) [Skin testing shall be exempted for all employees with known positive reaction to skin tests.]Any employees with known positive reactions to skin tests are exempted from skin testing.~~

~~(d)c) The licensee [must]shall report [all]any infections and communicable diseases reportable by law to the local health department in accordance with Section R386-702-2.~~

R432-300-9. Facility Records.

~~(1) The licensee [must]shall:[maintain accurate and complete records that are filed, stored safely, and are easily accessible to staff and the Department.]~~

~~(a) maintain accurate and complete records that are filed, stored safely, and are easily accessible to staff and the department;~~

~~(2)b) ensure [R]records [must be]are protected against access by unauthorized individuals[-];~~

~~(3)c) [The licensee must]maintain personnel records for each employee that are kept for at least three years after employment termination and include the following content:[and retain such records for at least three years following termination of employment. Personnel records must include the following:]~~

~~(a)i) an employee application;~~

~~(b)ii) the date of employment and initial policies and procedures orientation;~~

~~(e)iii) the termination date;~~

~~(d)iv) the reason for leaving;~~

~~(e)v) documentation of [cardio-pulmonary resuscitation]CPR, first aid, and emergency procedures training;~~

~~(f)vi) a health inventory;~~

~~(g)vii) a food handlers permit;~~

~~(h)viii) [TB]tuberculosis skin test documentation;~~

~~(i)ix) documentation of criminal background check; and~~

~~(j)x) certifications, registration, and licenses as required.~~

~~(4)2) The licensee [must]shall maintain in the facility a separate record for each resident that includes the following:~~

~~(a) the resident's name, date of birth, and last address;~~

~~(b) the name, address, and telephone number for:[of the person who administers and obtains medications, if this is not facility staff;]~~

~~(e)i) [the name, address, and telephone number of the individual to be notified in case of accident or death;]the person who administers and obtains medications, if this is not facility staff;~~

~~(d)ii) [the name, address, and telephone number of a physician and dentist to be called in an emergency;]the individual to be notified in case of accident or death; and~~

~~(e)iii) [an admission diagnoses and reason for admission;]a physician and dentist to be called in an emergency;~~

~~(f)c) any known allergies;~~

~~(g)d) the admission agreement;~~

~~(h)e) a copy of an advanced directive or living will initiated by the resident;~~

~~(i)f) a physician's assessment;~~

~~(j)g) a resident assessment;~~

~~(k)h) a written plan of care;~~

~~(l)i) physician orders;~~

~~(m)j) daily nursing notes [including]that include:[temperature, pulse, respirations, blood pressure, height, and weight notations when indicated or as needed due to a change in the resident's condition;]~~

~~(i) temperature;~~

~~(ii) pulse;~~

~~(iii) respirations;~~

~~(iv) blood pressure;~~

~~(v) height; and~~

~~(vi) weight notations when indicated or as needed due to a change in the resident's condition;~~

~~(n)k) [if entrusted to the facility, a record of the resident's cash resources and valuables;]a record of any resident cash, resources, or valuables entrusted to the facility; and~~

~~(o)l) incident and accident reports.~~

~~(5)3) [Resident records must be retained.]The licensee shall retain resident records for at least seven years following discharge.~~

R432-300-10. Acceptance and Retention of Residents.

~~(1) A Type N Small Health Care [f]Facility may accept semi-dependent residents.~~

~~(a) The licensee may accept one dependent resident only if the licensee has equipment and additional staff available to assist the dependent resident in the event of a facility emergency evacuation.~~

~~(b) The licensee [must]shall establish acceptance criteria [which]that includes:~~

~~(i) the resident's health needs;~~

~~(ii) the resident's[']s ability to perform activities of daily living; and~~

~~(iii) the ability of the facility to address the resident's needs.~~

~~(2) [A resident shall not be accepted.]The licensee may not accept or retain a resident [not retained by]for a Type ["]N["] Small Health Care Facility when the resident:~~

~~(a) [The resident]has active tuberculosis or serious communicable diseases;~~

~~(b) [The resident]requires inpatient hospital care; or~~

~~(c) [The resident]has a mental [illness]disorder that manifests behavior [which]that is suicidal, assaultive, or harmful to self or others.~~

~~(3) The licensee [must]shall request that the family or responsible person relocate the resident within seven days if the resident requires care [which]that cannot be provided in the Type N facility.~~

R432-300-11. Transfer or Discharge Requirements.

~~(1) The licensee may discharge, transfer, or evict a resident [for one or more of the following reasons]if the:~~

~~(a) [The]facility is no longer able to meet the resident's needs[-];~~

(b) ~~[The]~~resident fails to pay for services as required by the admission agreement~~[-]~~;

(c) ~~[The]~~resident fails to comply with written policies or rules of the facility~~[-]~~;

(d) ~~[The]~~resident wishes to transfer~~[-]~~; or

(e) ~~[The]~~facility ceases operation.

(2) ~~[Prior to]~~Before transferring or discharging a resident, the licensee ~~[must]shall ensure: [- serve a transfer or discharge notice to the resident and the resident's responsible person.]~~

(a) a transfer or discharge notice is served to the resident and the resident's responsible person;

~~[(a)]b~~ [F]the notice ~~[must be]~~is either hand-delivered or sent by certified mail~~[-]~~;

~~[(b)]c~~ [F]the notice ~~[must be]~~is made at least 30 days before the day ~~[on which]~~that the licensee plans to transfer or discharge the resident, except that the notice may be made as soon as practicable before transfer or discharge if:

(i) the safety or health of persons in the facility is endangered; or

(ii) an immediate transfer or discharge is required by the resident's urgent medical needs.

(3) The licensee shall ensure [F]the notice of transfer or discharge ~~[must]~~is:

(a) ~~[be]~~in writing with a copy placed in the resident's file;

(b) ~~[be]~~phrased in a manner and in a language the resident or the resident's responsible person can understand;

(c) details the reasons for transfer or discharge;

(d) states the effective date of transfer or discharge;

(e) states the location ~~[to which]~~that the resident will be transferred or discharged;

(f) states that the resident or responsible party may request a conference to discuss the transfer or discharge; and

(g) additionally contains the following information, if applicable:

(i) for facility residents who are 60 years of age or older, the name, mailing address, and telephone number of the State Long Term Care Ombudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

(iii) for facility residents ~~[who are mentally ill]~~with mental disorders, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The licensee ~~[must]~~shall provide ~~[sufficient]~~enough preparation and orientation to a resident to ensure a safe and orderly transfer or discharge from the facility.

(5) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the licensee shall provide an informal conference, except where ~~[undue]~~delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person ~~[must]~~shall request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the licensee, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

R432-300-12. Personal Physician.

(1) The licensee shall ensure [F]each resident ~~[must have]~~has a personal physician. The physician's assessment ~~[must]~~shall be completed ~~[prior to]~~before admission.

(2) The licensee shall ensure [F]the physician's signed assessment ~~[shall]~~documents:

(a) that the resident is capable of functioning in a Type N ~~[Small Health Care F]~~facility;

(b) that the resident is free of communicable diseases or any condition ~~[which]~~that would prevent admission to the facility;

(c) ~~[a]~~the resident's list of current medications including dosage, time of administration, route, and assistance required;

(d) the resident's type of diet and restrictions or special instructions;

(e) any known allergies that the resident has; and

(f) any physical or mental limitations, or restrictions on the resident's activity.

R432-300-13. Nursing Care.

(1) Each Type N facility licensee ~~[must]~~shall provide nursing care services to meet the needs of ~~[the]~~residents.

~~[(2)]~~ A licensed nurse must be on site working directly with residents on a daily basis in accordance with each resident's care plan and individual needs.

~~[(3)]~~ 2 The licensee shall ensure [N]nursing practice ~~[must be]~~is in accordance with the Utah Nurse Practice Act 58-31b.

~~[(4)]~~ 3 [Licensed nurses have the following responsibilities] Licensees are responsible to:

(a) direct the implementation of physician's orders;

(b) develop and implement an individualized care plan for each resident within seven ~~[calendar]~~calendar days of admission, and direct the delivery of nursing care, treatments, procedures, and other services to meet the needs of the residents;

(c) review and update ~~[at least every six months]~~the health care needs of each resident in the facility at least every 6 months; [admitted to the facility and develop resident care plans according to the resident's needs and the physician's orders;]

(d) develop resident care plans according to the resident's needs and the physician's orders;

~~[(d)]~~ e review each resident's medication regimen as needed and immediately after medication changes to ensure accuracy;

~~[(e)]~~ f ensure that nursing notes describe the care ~~[rendered]~~provided including the resident's response;

~~[(f)]~~ g supervise staff to ~~[assure]~~ensure they perform restorative measures in their daily care of residents;

~~[(g)]~~ h teach and coordinate resident care and rehabilitative care to promote and maintain optimal physical and mental functioning of the resident; and

~~[(h)]~~ i plan and conduct documented orientation and in-service programs for staff.

~~[(5)]~~ 4 The licensee [licensed nurse must]shall: [-develop and maintain a current health services policy and procedure manual that is to be reviewed and updated by the licensed nurse at least annually.]

(a) develop and maintain a current health services policy and procedure manual that is to be reviewed and updated at least annually;

~~[(a)]~~ b ensure [F]the manual ~~[must be]~~is accessible to ~~[all]~~any staff and ~~[be]~~is available for review by the ~~[D]~~department~~[-]~~; and

~~[(b)]~~ c ensure [F]the health services polic[y]~~ies~~ and procedures ~~[manual must]~~address the following:

- (i) bathing;
- (ii) positioning;
- (iii) enema administration;
- (iv) decubitus prevention and care;
- (v) bed making;
- (vi) isolation procedures;
- (vii) blood sugar monitoring procedures;
- (viii) telephone orders;
- (ix) charting;
- (x) rehabilitative nursing;
- (xi) diets and feeding residents;
- (xii) oral hygiene and denture care;
- (xiii) medication administration;
- (xiv) Alzheimer's[~~/~~] or dementia care;
- (xv) universal precautions and blood-borne pathogens; and
- (xvi) housekeeping and cleaning procedures.

([6]5) The licensee shall ensure compliance with each of the following regarding bowel and bladder care: [Each resident's care plan must include measures to prevent and reduce incontinence.]

(a) each resident's care plan includes measures to prevent and reduce incontinence;

([a]b) [The licensed nurse must assess-]each resident is assessed to determine the resident's ability to participate in a bowel and bladder management program[-];

([b]c) [A]n individualized plan for each incontinent resident [shall]begin within two weeks of the initial assessment[-];

([e]d) [T]he licensed nurse [must-]documents a weekly evaluation of the resident's performance in the bowel[~~/~~] and bladder management program[-]; and

([d]e) [F]luid intake and output [must be]is recorded for each resident and evaluated at least weekly when ordered by a physician or nurse.

([7]6) The licensee [must]shall ensure;[-that staff are trained in rehabilitative nursing-]

(a) staff are trained in rehabilitative nursing;

([a]b) [The licensee must provide daily and document]rehabilitative nursing services for residents who require such services are provided and documented daily[-];

([b]c) [R]ehabilitative nursing services [shall-]include the following:

- (i) turning and positioning of residents as per physician's or nurse's orders;
- (ii) assisting residents to ambulate;
- (iii) improving resident's range of motion;
- (iv) restorative feeding;
- (v) bowel and bladder retraining;
- (vi) teaching residents self-care skills;
- (vii) teaching residents transferring skills; and
- (viii) taking measures to prevent secondary disabilities such as contractures and decubitus ulcers, which are stiffening joints and skin ulcers.

R432-300-14. General Resident Care Policies.

(1) [Each resident must be treated-]The licensee shall treat each resident as an individual with dignity and respect in accordance with Residents' Rights Section R432-270-9.

(2) The licensee [is responsible to]shall ensure;[-develop and implement resident care policies. These policies must address the following:]

(a) resident care policies are developed and implemented;

([a]b) [The licensee must orient each resident-]upon admission each resident is oriented to the facility, services, and staff[-];

([b]c) [Each resident must receive-]care is provided to ensure good personal hygiene, including bathing, oral hygiene, shampoo and hair care, shaving or beard trimming, fingernail, and toenail care[-];

([e]d) [L]inens and other items in contact with the resident [must be changed]are changed weekly or as the item is soiled[-]; and

([d]e) [The licensee is responsible to encourage and assist]each resident is encouraged and assisted to achieve and maintain the highest level of functioning and independence including:

(i) teaching the resident self-care[-];

(ii) assisting residents to adjust to their disabilities and prosthetic devices[-];

(iii) directing residents in prescribed therapy exercises; and

(iv) redirecting resident's interests as necessary[-];

([e]f) [Each resident must receive-]care and treatment is provided to ensure the prevention of decubitus ulcers, contractures, and deformities[-];

([f]g) [Each resident must receive good nutrition]nutritious and adequate fluids for hydration are provided[-];

([i]h) [All residents must have ready-]immediate access to water and drinking glasses is provided[-];

([i]i) [Residents]residents who are unable to feed themselves are assisted;[-shall be assisted to eat in a prompt, orderly manner-]

([i]i) [Residents who]adaptive equipment for residents who require assistance with eating or drinking is provided;[-must be provided with adaptive equipment-]

([g]k) [Each resident has the-]the resident's right to visual privacy during treatments and personal care is upheld[-]. [W]visual privacy may be provided by privacy curtains or portable screens[-];

([h]l) [Facility staff must answer-]call lights or monitoring devices are answered promptly[-];

([3]m) [The licensee must notify-]the resident's responsible person and physician are notified of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the Type N facility license,[-] [T]his notification [must be]is documented in the resident's record[-]; and

([4]n) [The licensee is responsible to assist-]residents are assisted in making arrangements for medical and dental care including transportation to and from the medical or dental facility.

([5]3) [The licensee must document and make available for Department review every accident or incident causing injury to a resident or employee. The documentation must include appropriate corrective action-]The licensee shall ensure that every accident or incident causing injury to a resident or employee is documented with appropriate corrective action and made available for department review.

([6]4) [The licensee is responsible to document and implement a quality improvement process that at least quarterly identifies problems, implements corrective actions, and evaluates the effectiveness of the corrective actions-]The licensee shall ensure a quality improvement process is documented and implemented on a quarterly basis that identifies problems, implements corrective actions, and evaluates the effectiveness of the corrective actions.

R432-300-15. Medications.

(1) A licensed health[-]care professional ~~[must]~~shall assess each resident upon admission and at least every six months thereafter ~~[assess each resident]~~ to determine what level and type of assistance is required for medication administration. The licensee shall ensure level and type of assistance provided ~~[must be]~~is documented on a ~~[D]~~department approved form in each resident's service plan.

(2) The licensee shall ensure ~~[E]~~each resident's medication program ~~[must be]~~is administered ~~[by means of]~~in one of the following methods~~[-as described in (a) through (e) in this section]:~~

(a) ~~[The resident is able to self-administer medications:]~~if the resident is assessed to be able to self-administer medications:

(i) ~~[Residents who have been assessed to be able to self-administer medications—]~~the resident may keep prescription medications in their rooms[-]; and

(ii) ~~[I]~~if more than one resident resides in a unit, the licensee ~~[must]~~shall ensure ~~[assess-]~~each resident[-s] is assessed for the ability to safely have medications in the unit[-], ~~[I]~~if safety is a factor, [the resident must keep-] the licensee shall ensure medications are kept in a locked container in the unit[-];

(b) ~~[The resident requires assistance from facility staff to administer medications. Facility staff may assist residents who self-medicate by:]~~if the resident is assessed to require assistance in medication self-administration, facility staff shall assist residents by:

- (i) reminding the resident to take the medication;
- (ii) opening medication containers;
- (iii) reading the instructions on container labels;
- (iv) checking the dosage against the label of the container;
- (v) reassuring the resident that the dosage is correct;
- (vi) observing that the resident takes the medication;~~[-and]~~
- (vii) reminding the resident or the resident's responsible person when the prescription needs to be refilled[-]; and

(viii) ~~[Facility staff must-]~~documenting any staff assistance with medication administration including the type of medication and when it was taken by the resident[-];

~~[-(c) The resident's family or designated responsible person assists the resident with medication administration. Family members or a designated responsible person may set up medications in a package which identifies the medication and time to administer. If family members or a designated responsible person assists with medication administration, they must sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document the type of medication, the time administered, and the amount taken by the resident-]~~

(c) if the resident's family or designated person is responsible for resident self-medication, they may set up medications in a package that identifies the medication and time to administer;

(d) the licensee shall ensure the family or designated person assisting with a resident's medication signs a waiver indicating that they agree to assume the following responsibilities:

- (i) filling prescriptions;
- (ii) administering medications; and
- (iii) documenting the following:

- (A) type of medication;
- (B) the time administered; and
- (C) the amount taken by the resident.

(3) The licensee shall ensure that [M]medication records [must-]include the following information:

- (a) the resident's name;
- (b) the name of the prescribing practitioner;
- (c) the name of the medication, including prescribed dosage;

(d) the times and dates administered;

(e) the method of administration;

(f) signatures of staff or responsible persons administering the medication; and

(g) the review date.

(4) ~~[Any change in the dosage or schedule of medication administration must be ordered by the resident's licensed practitioner and be documented in the medication record-]~~A resident's licensed practitioner shall order any change in the dosage or schedule of medication administration and document it in the medication record. The licensee shall ensure that [A][any] facility staff or persons assisting with medication administration [must be]are notified of the medication change.

(5) The licensee ~~[must]~~shall ensure ~~[have available in the facility-]~~a current pharmacological reference book is available in the facility [with]that contains information on possible reactions and precautions to any medications taken by a resident.

(6) ~~[The resident's family and licensed practitioner must be notified if medications errors occur-]~~The licensee shall ensure the following:

(a) the resident's family and licensed practitioner are notified if medication errors occur; and

(7)~~[b]~~ ~~[M]~~medications [must be]are stored in a locked central storage area to prevent unauthorized access, this includes;

(a)~~[i]~~ If medication is stored in a central location, residents [shall-]have timely access to the medication[-], and medications are administered according to the prescribed order;

(b)~~[ii]~~ Medications that require refrigeration [must be]are stored separately from food items and at temperatures between 36 - 46 degrees F[-];

(8)~~[c]~~ ~~[F]~~the administration, storage, and handling of oxygen [must-]comply with the requirements of the plans review as outlined in Section R432-4-12;[1996 edition of NFPA 99, which is adopted and incorporated by reference.]

(9)~~[d]~~ ~~[F]~~facility policies [must-]address the disposal of unused, outdated, or recalled medications[-];

(a)~~[e]~~ ~~[The licensee must return a-]~~the resident's medication is returned to the resident or to the resident's responsible person upon discharge[-];

(b)~~[f]~~ [A licensed health care professional must document the return of medication to the resident or the resident's responsible person is documented by a healthcare professional; and[-of medication stored in a central storage-]

(e)~~[g]~~ ~~[D]~~disposal of controlled substances [must]compl[y]ies with Section 26B-2-229.[the Pharmacy Practice Act, which is adopted and incorporated by reference-]

R432-300-16. First Aid.

(1) The licensee ~~[must]~~shall ensure that at least one on-duty staff person has;~~[is on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation, and emergency procedures to ensure that each resident receives prompt first aid as needed-]~~

(2)~~[a]~~ [The licensee must ensure that a first aid kit is available at a specified location in the facility.]basic first training;

(3)~~[b]~~ [The licensee must ensure that a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency is available at a specified location in the facility.]Heimlich maneuver training;

(4)~~[c]~~ [Each facility must have an OSHA approved clean-up kit for blood borne pathogens-]CPR training; and

(d) is trained in emergency procedures to ensure that each resident receives prompt first aid as needed.

(2) The licensee shall ensure:

(a) a first aid kit is available at a specified location in the facility; and

(b) a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency is available at a specified location in the facility.

(3) The licensee shall ensure each facility has an OSHA Administration approved clean-up kit for blood-borne pathogens.

R432-300-17. Activity Program.

(1) The licensee ~~[must]~~shall ensure ~~[provide]~~activities for the residents are provided to encourage independent functioning.

(2) The licensee ~~[must]~~shall ensure ~~[complete]~~a resident interest survey is completed and, with the resident's involvement, develop a monthly activity calendar.

(3) The licensee shall ensure ~~[F]~~the activity program ~~[must]~~includes the residents' needs and interests to include:

- (a) socialization activities;
- (b) independent activities of daily living; and
- (c) physical activities~~[F]~~.

(4) A resident may participate in community activities away from the facility.

R432-300-18. Food Service.

(1) The licensee ~~[must]~~shall ensure: ~~[provide three meals a day plus snacks, seven days a week, to all residents.]~~

(a) three meals a day plus snacks are provided, seven days a week, to each resident;

~~[(a)]b~~ ~~[The licensee must]~~there is a ~~[maintain on-site]~~a one-week supply of nonperishable food and a three-~~[day]~~day supply of perishable food on-site as required to prepare the planned menus~~[F]~~;

~~[(b)]c~~ ~~[M]meals [must be]~~are served with no more than a 14-~~[hour]~~hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening~~[F]~~; and

~~[(e)]d~~ ~~[F]~~the facility food service ~~[must]~~comply~~[F]~~ies with the following:

(i) ~~[All]~~any food ~~[must be]~~is of good quality and be prepared by methods that conserve nutritive value, flavor, and appearance~~[F]~~;

(ii) ~~[All]~~any food served to residents ~~[must be]~~is palatable, attractively served, and delivered to the resident at the appropriate temperature~~[F]~~; and

(iii) ~~[P]~~powdered milk may be used as a beverage only upon the resident's request, ~~[—It]~~but may be used in cooking and baking at any time.

(2) The licensee shall ensure: ~~[A different menu must be planned and followed for each day of the week.]~~

(a) a different menu is planned and followed for each day of the week;

~~[(a)]b~~ ~~[All]~~each menu~~[s]~~ ~~[must be]~~is approved and signed by a certified dietitian~~[F]~~;

~~[(b)]c~~ ~~[C]~~ycle menus ~~[shall]~~cover a minimum of three weeks~~[F]~~;

~~[(e)]d~~ ~~[F]~~the current week's menu ~~[shall be]~~is posted for residents' viewing~~[F]~~; and

~~[(d)]e~~ ~~[S]~~ubstitutions to the menu that are actually served to the residents ~~[must be]~~are recorded and retained for three months for review by the ~~[D]~~department.

(3) The licensee shall ensure ~~[M]~~meals ~~[must be]~~are served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(4) The licensee shall ensure ~~[R]~~residents ~~[shall be]~~are encouraged to eat their meals in the dining room with other residents.

(5) The licensee ~~[must]~~shall make available for review inspection reports by the local health department.

(6) If ~~[the licensee admits]~~residents requiring therapeutic or special diets are admitted, the licensee shall ensure an approved dietary manual ~~[must be]~~is available for reference when preparing meals. The licensee shall ensure ~~[D]~~dietitian consultation ~~[must be]~~is provided at least quarterly and documented for residents requiring therapeutic diets.

(7) The licensee shall ensure the cook and other kitchen staff are not assigned concurrent duties outside the food service area ~~y[W]hile on duty in food service[F].~~~~[the cook and other kitchen staff shall not be assigned concurrent duties outside the food service area.]~~

(8) The licensee shall ensure ~~[All]~~any personnel who prepare or serve food ~~[must]~~have a current Food Handler's Permit.

(9) The licensee shall ensure ~~[F]~~food service ~~[must]~~comply~~[F]~~ies with the Utah Department of Health and Human Services Food Service Sanitation Regulations, Rule R392-100,~~[which is adopted and incorporated by reference.]~~

R432-300-19. Housekeeping and Maintenance Services.

(1) The licensee ~~[must]~~shall: ~~[provide housekeeping and maintenance services to maintain a safe, clean, sanitary, and healthful environment.]~~

(a) provide housekeeping and maintenance services to maintain a safe, clean, sanitary, and healthful environment;

~~[(2)]~~ Entrances, exits, steps, and outside walkways must be maintained and kept free of ice, snow, and other hazards.]

~~[(3)]b~~ ~~[The licensee must]~~implement a cleaning schedule to ensure that furniture, bedding, linens, and equipment are cleaned periodically and before use by another resident~~[F]~~;

~~[(4)]c~~ ~~[The licensee must]~~control odors by maintaining cleanliness and proper ventilation~~[F]~~, but ~~[D]~~deodorizers may not be used to cover odors caused by poor housekeeping or unsanitary conditions~~[F]~~;

~~[(5)]d~~ ~~[The licensee must]~~provide laundry services to meet the needs of the residents~~[F]~~; and

~~[(6)]e~~ ~~[The licensee must]~~ensure that ~~[all]~~any cleaning agents, bleaches, pesticides, or other poisonous, dangerous, or flammable materials are stored in a locked area to prevent unauthorized access.

(2) The licensee shall ensure entrances, exits, steps, and outside walkways are maintained and kept free of ice, snow, and other hazards.

R432-300-20. Pets.

(1) The licensee may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) The licensee shall ensure: ~~[Pets must be kept clean and disease free.]~~

(a) pets are kept clean and disease-free;

~~[(3)]b~~ ~~[F]~~the pets' environment ~~[must be]~~is kept clean~~[F]~~; and

~~[(4)]c~~ ~~[S]~~small pets such as birds and hamsters ~~[must be]~~are kept in appropriate enclosures~~[F]~~;

([5]3) Pets that display aggressive behavior are not permitted in the facility.

([6]4) ~~The licensee shall ensure: [Pets that are kept at the facility or are frequent visitors must have current vaccinations.]~~

(a) ~~pets that are kept at the facility or are frequent visitors have current vaccinations; and~~

(b) ~~facilities with birds have procedures that prevent the transmission of psittacosis.~~

([7]5) Upon approval of the administrator, family members may bring residents' pets to visit.

~~[(8) Each facility with birds must have procedures which prevent the transmission of psittacosis.]~~

([9]6) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

R432-300-21. Disaster and Emergency Preparedness.

(1) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

([1]2) ~~The licensee is responsible: [for the safety and well-being of residents in the event of an emergency or disaster.]~~

(a) ~~for the safety and well-being of residents in the event of an emergency or disaster; and~~

([2]b) ~~[The licensee is responsible] to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. [The plan shall outline the protection or evacuation of all residents, and include arrangements for staff response or provisions of additional staff to ensure the safety of any resident with physical or mental limitations.]~~

(3) The licensee shall ensure the emergency and disaster plan:

(a) outlines the protection or evacuation of each resident, and includes arrangement for staff response or additional staff to ensure the safety of any resident with physical or mental limitations;

~~[(a) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.]~~

(b) ~~[The emergency and disaster response plan must be] is in writing and distributed or made available to [all] any facility staff and residents to [assure] ensure prompt and efficient implementation[-];~~

(c) ~~[The licensee must] is reviewed and updated [the plan] as necessary to conform with local emergency plans [-The plan shall be] and is made available for department review [by the Department].~~

([3]4) The licensee shall ensure [T] the emergency and disaster response plan [must] addresses the following:

(a) the name[s] of the person in charge and persons with decision-making authority;

(b) the names of persons [who shall] to be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility fire extinguishing equipment;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations including specialized training to assist a dependent resident;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

(h) delivery of essential care and services to facility occupants by alternate means;

(i) delivery of essential care and services when additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants when personnel are reduced by an emergency.

([4]5) ~~The [facility must] licensee shall: [-maintain safe ambient air temperatures within the facility.]~~

(a) ensure safe ambient temperatures are maintained within the facility;

([a]b) ~~ensure [E] emergency heating [must have] has the approval of the local fire department[-];~~

([b]c) ~~[Ambient air temperatures of 58 degrees F. or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.] ensure the person in charge takes immediate action in the best interests of the residents should the ambient air temperature fall below 58 degrees F. as this may constitute an imminent danger to the health and safety of the residents in the facility; and~~

([e]d) ~~[The licensee must] develop, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.~~

([5]6) ~~The licensee [must] shall: [-ensure that staff and residents receive instruction and training in accordance with the plans to respond appropriately in an emergency. The licensee must:]~~

(a) ensure that staff and residents receive instruction and training in accordance with the plans to respond appropriately in an emergency;

([a]b) annually review the procedures with existing staff and residents and conduct unannounced drills using those procedures;

([b]c) hold simulated disaster drills semi-annually;

([e]d) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

([d]e) document [all] any drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

([6]7) ~~The licensee [must] shall be in charge during an emergency. If not on the premises, the licensee [must] shall make every effort to report to the facility, relieve subordinates, and take charge.~~

([7]8) ~~The licensee [must] shall provide in-house equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.~~

([8]9) ~~The licensee [must] shall post the following information in prominent locations throughout the facility:~~

(a) ~~[T] the name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and~~

(b) ~~evacuation routes including the location of exits and fire extinguishers.~~

R432-300-22. Penalties.

Any person who violates ~~[any provision of]~~ this rule may be subject to the penalties enumerated in ~~Sections 26B-2-208[26-21-44]~~ and R432-3-7 and be ~~[punished for violation of]~~ charged with a class A misdemeanor as provided in Section ~~26B-2-216[26-21-16]~~.

KEY: health care facilities

Date of Last Change: 2023~~[October 17, 2017]~~

Notice of Continuation: August 13, 2021

Authorizing, and Implemented or Interpreted Law: ~~[26-21-5; 26-21-16]~~26B-1-202; 26B-2-216

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R590-261	Filing ID: 55275
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	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 persons:		
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:
R590-261. Health Benefit Plan Adverse Benefit Determinations
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order 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 the Utah Rulewriting Manual standards. Other changes make the language of this rule more clear, remove the Penalties (old R590-261-15) and Enforcement Date (old R590-261-16) sections, and update the Severability (new R590-261-14) section 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) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. 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-2-212	Section 31A-22-629

Public Notice Information

8. 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:	05/01/2023

9. This rule change MAY become effective on:	05/08/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/06/2023
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R590. Insurance, Administration.**R590-261. Health Benefit Plan Adverse Benefit Determinations.****R590-261-1. Authority.**

This rule is promulgated by the commissioner pursuant to [Subsection 31A-22-629(4) which requires the commissioner to adopt rules that establish standards for independent reviews, Subsection 31A-2-201(3)(a) wherein the commissioner may make rules to implement the provisions of Title 31A and 31A-2-212(5)(b) wherein the commissioner requires compliance with the Patient Protection and Affordable Care Act] Sections 31A-2-201, 31A-2-212, and 31A-22-629.

[R590-261-2. Purpose.

The purpose of this rule is to provide a uniform standard for the establishment and maintenance of an independent review procedure to assure that a claimant has the opportunity for an independent review of a final adverse benefit determination.

R590-261-3. Scope.

(1) Except as provided in Subsection (2), this rule applies to all health benefit plans as defined in 31A-1-301 except for a grandfathered health plan as defined in 45 CFR 147.140.

(2) If all grandfathered health benefit plans are administered consistently, a carrier may, for the grandfathered health benefit plans, voluntarily comply with the independent review process set forth in this rule, otherwise a grandfathered health benefit plan is subject to R590-203.

(3) A self-funded health plan may voluntarily comply with the independent review process set forth in this rule.]

R590-261-2. Purpose and Scope.

(1) The purpose of this rule is to provide a uniform standard for the establishment and maintenance of an independent review procedure to assure that a claimant has the opportunity for an independent review of a final adverse benefit determination.

(2)(a) This rule applies to a carrier offering a health benefit plan.

(b) This rule does not apply to a grandfathered health plan.

(c) If all grandfathered health benefit plans are administered consistently, a carrier may voluntarily comply with the independent review process outlined in this rule.

(d) A self-funded health plan may voluntarily comply with the independent review process outlined in this rule.

R590-261-[4]3. Definitions.

[In addition to the definitions in Section 31A-1-301, the following definitions apply for purposes of this rule] Terms used in this rule are defined in Section 31A-1-301 and 45 CFR 147.140. Additional terms are defined as follows:

(1)(a) "Adverse benefit determination" means:
(i) based on the carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit, the:

- (A) denial of a benefit;
- (B) reduction of a benefit;
- (C) termination of a benefit; or
- (D) failure to provide or make payment, in whole or part,

for a benefit; or

- (ii) rescission of coverage.

(b) "Adverse benefit determination" includes:

(i) denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's eligibility to participate in a health benefit plan;

(ii) failure to provide or make payment, in whole or part, for a benefit resulting from the application of a utilization review; and

(iii) failure to cover an item or service for which benefits are otherwise provided because it is determined to be:

- (A) experimental;
- (B) investigational; or
- (C) not medically necessary or appropriate.

(2) "Authorized representative" means:

(a) a person to whom an insured has given express written consent for representation in an external review;

(b) a person authorized by law to provide substituted consent for an insured; or

(c) when the insured is unable to provide consent:

- (i) a family member of the insured; or
- (ii) the insured's treating health care provider.

~~[(2)](3)~~ "Carrier" means ~~[any]~~ a person ~~[or entity]~~ that provides health insurance in this state including:

- (a) an insurance company;
- (b) a prepaid hospital or medical care plan;
- (c) a health maintenance organization;
- (d) a multiple employer welfare arrangement; and
- (e) any other person ~~[or entity]~~ providing a health insurance plan under Title 31A, Insurance Code.

~~[(3)](4)~~ "Claimant" means ~~[an insured or legal representative of the insured, including a member of the insured's immediate family designated by the insured, making a claim under a policy]~~ the insured or the insured's authorized representative.

~~[(4)](5)~~ "Clinical reviewer" means a physician or other appropriate health care provider who:

(a) is an expert in the treatment of the ~~[insured's]~~ medical condition that is the subject of the review;

(b) is knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition;

- (c) holds an appropriate license or certification; and
- (d) has no history of disciplinary actions or sanctions.

~~[(5)](6)~~ "Final adverse benefit determination" means an adverse benefit determination that has been upheld by a carrier at the completion of the carrier's internal review process.

~~[(6)](7)~~ "Independent review" means a process that:

(a) is a voluntary option for the resolution of a final adverse benefit determination;

(b) is conducted at the discretion of the claimant;

(c) is conducted by an independent review organization designated by the commissioner;

(d) renders an independent and impartial decision on a final adverse benefit determination; and

(e) may not require the claimant to pay a fee for requesting the independent review.

~~[(7)](8)~~(a) "Rescission" means a cancellation or discontinuance of coverage under a health benefit plan that has a retroactive effect.

(b) "Rescission" does not include a cancellation or discontinuance of coverage under a health benefit plan if the cancellation or discontinuance of coverage:

(i) has only a prospective effect; or

(ii) is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions toward[s] the cost of coverage.

R590-261-[5]4. Adverse Benefit Determination Procedure Compliance.

An adverse benefit determination procedure shall ~~[be compliant]~~ comply with this rule ~~[and the requirements for adverse benefit determinations set forth in]~~ 29 CFR 2560.503-1₂ and 45 CFR 147.136.

R590-261-[6]5. Notice of Right to Independent Review.

(1) ~~[With each]~~ A carrier shall provide written notice of a claimant's right to an independent review with each notice of [a] ~~[rescission of coverage or final adverse benefit determination]~~ the carrier shall provide written notice of the claimant's right for an independent review of the determination].

(2) The notice in Subsection (1) shall include the following, or substantially equivalent, statement:

"We have rescinded your coverage or denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by a health care professional who has no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service or treatment you requested. To receive additional information about an independent review, visit <https://insurance.utah.gov/consumer/health/independent-review> or contact the Utah Insurance [Commissioner] Department by mail at 4315 S. 2700 W., Suite 2300, Taylorsville, UT 84129; by phone at 801-957-9280; or [electronically] by email at [healthappeals@uid@utah.gov](mailto:healthappeals@uid.utah.gov)."

R590-261-[7]6. Exhaustion of Internal Review Process.

~~[The]~~ A carrier's internal review process shall be exhausted [prior to] before an independent review unless:

(1) the carrier agrees to waive the internal review process;

(2) the carrier ~~[has not complied]~~ did not comply with [the requirements for the carrier's] its internal review process, except for [those failures to comply that are based on de minimis violations that do] a minor violation that:

(a) does not cause[, and are not likely to cause,] prejudice or harm to the claimant; and [are]

(b) is not part of a pattern or practice of violations; or

(3) the claimant ~~[has requested]~~ requests an expedited independent review pursuant to Section [44] R590-261-10 at the same time [as requesting] the claimant requests an expedited internal review.

R590-261-[8]7. Independent Review Organizations.

(1) The commissioner shall compile and maintain a list of approved independent review organizations.

(2) To be considered for placement on the list ~~[of approved independent review organizations]~~ in Subsection (1), an independent review organization shall:

(a) be accredited by a nationally recognized private accrediting entity;

(b) ~~[meet]~~ comply with the requirements of this rule; and

(c) ~~[have]~~ establish and maintain written policies and procedures that ensure:

(i) ~~[that]~~ all reviews are conducted within ~~[the]~~ a specified time frame[s];

(ii) ~~[the selection of]~~ a clinical reviewer is qualified and impartial ~~[clinical reviewers]~~;

(iii) ~~[the]~~ confidentiality of medical and treatment records and clinical review criteria; and

(iv) ~~[that]~~ any person employed by or under contract with the independent review organization adheres to the requirements of this rule.

(3) An applicant requesting placement on the list ~~[of approved independent review organizations]~~ in Subsection (1) shall submit ~~[for the commissioner's review]~~ to the commissioner:

(a) ~~[the]~~ a completed Independent Review Organization Application form, available on ~~[our website at www.]~~ the department's website, <https://insurance.utah.gov>;

(b) all documentation and information requested on the application, including proof of ~~[being accredited]~~ accreditation by a nationally recognized private accrediting entity; and

(c) ~~[the]~~ an application fee.

(4) ~~[The commissioner shall terminate the approval of an]~~ An independent review organization shall be removed from the list in Subsection (1) if the commissioner ~~[determines]~~ finds that the independent review organization ~~[has]~~ lost its accreditation or no longer satisfies the minimum requirements for approval.

(5)(a) An independent review organization may not ~~[own or control, or be owned or controlled by]~~ be owned or controlled by, or exercise control over:

(i) a carrier;

(ii) a health benefit plan;

(iii) a health benefit plan's fiduciary;

~~[_____]~~ (iv) ~~[an employer or sponsor of a health benefit plan;]~~

~~[_____]~~ (iv) a national, state, or local trade association of:

(A) health benefit plans;

(B) carriers; or

(C) health care providers; ~~[or]~~

~~[_____]~~ (v) an employer; or

(vi) an employee or agent of ~~[any one]~~ a person listed in Subsections (5)(a)(i) through (5)(a)(v).

(b) An independent review organization and ~~[the]~~ a clinical reviewer assigned to conduct an independent review may not have a ~~[material]~~ professional, familial, or financial conflict of interest with:

(i) the carrier;

(ii) an officer, director, or management employee of the ~~[carrier]~~ health plan;

(iii) the health benefit plan;

(iv) the plan administrator, plan ~~[fiduciaries]~~ fiduciary, or a plan employee[s];

(v) the ~~[insured or]~~ claimant;

(vi) the insured's health care provider;

(vii) the health care provider's medical group or independent practice association;

(viii) ~~[a]~~ the health care facility where the service ~~[would be]~~ is provided; or

(ix) the developer or manufacturer of the service that ~~[would be]~~ is provided.

R590-261-[9]8. General Independent Review Requirements.

~~[_____]~~ The requirements of this section shall apply in addition to the requirements for a standard independent review, an expedited independent review and an independent review of experimental or investigational service or treatment.

~~[_____]~~ (1) The carrier shall pay the cost of the independent review organization for conducting the independent review.

~~[(2)]~~ (1) An independent review is available to ~~[the]~~ a claimant regardless of the dollar amount of the claim involved.

~~[(3)]~~ (a) The claimant shall have ~~[(2)]~~ (a) A claimant has 180 calendar days after ~~[the receipt of]~~ receiving a notice of a final adverse benefit determination to file a request with the commissioner for an independent review.

(b) ~~[The]~~ A claimant shall use the Independent Review Request Form available on ~~[our website at www.]~~ the department's website, <https://insurance.utah.gov>, or a substantially similar form, to file ~~[the]~~ a request.

(c) A request for an independent review sent to ~~[the]~~ a carrier instead of to the commissioner shall be forwarded to the commissioner by the carrier within one business day of receipt.

~~[(3)]~~ A carrier shall pay to the independent review organization the cost of conducting the independent review.

(4) The independent review decision is binding on the carrier and the claimant except to the extent that other remedies are available under federal or state law.

~~[(5)]~~ (a) If a carrier fails to provide the requested information to an independent review organization, as outlined in Subsections R590-261-9(2)(b), R590-261-10(3)(b), and R590-261-11(3)(b), the independent review organization may terminate the independent review and make a decision to reverse the adverse benefit determination.

~~[(b)]~~ Within one business day after making a decision under Subsection (5)(a), the independent review organization shall notify:

~~[(i)]~~ the claimant;

~~[(ii)]~~ the carrier; and

~~[(iii)]~~ the commissioner.

R590-261-[10]9. Standard Independent Review.

(1)(a) Upon ~~[receipt of]~~ receiving a request for an independent review, the commissioner shall send a copy of the request to the carrier for an eligibility review.

(b) Within five business days ~~[following receipt of the copy of]~~ after receiving the request, the carrier shall determine ~~[whether]~~ if:

(i) the individual ~~[is or]~~ was an insured in the health benefit plan at the time;

~~[(A)]~~ of rescission; or

~~[(B)]~~ the health care service was requested or provided;

(ii) ~~[if a]~~ the health care service is ~~[the subject of the adverse benefit determination, the health care service is]~~ a covered ~~[expense]~~ benefit;

(iii) the claimant ~~[has]~~ exhausted the carrier's internal review process; and

(iv) the claimant ~~[has]~~ provided ~~[all]~~ the information and forms required to process an independent review.

(c)(i) Within one business day after ~~[completion of]~~[completing] the eligibility review, the carrier shall notify the commissioner and claimant in writing ~~[whether]~~if:

(A) the request is complete; and

(B) the request is eligible for independent review.

~~[(A)](ii) If the request:~~

~~[(A)](ii) If the request is not complete, the carrier shall inform the claimant and the commissioner, in writing, [what] of the information or materials [are] needed to make the request complete[; or].~~

~~[(B) is not eligible for independent review, the carrier shall:~~

~~(I) inform the claimant and commissioner in writing the reasons for ineligibility; and~~

~~(II) inform the claimant that the determination may be appealed to the commissioner.]~~

~~(iii) If the request is not eligible for independent review, the carrier shall:~~

~~(A) inform the claimant and the commissioner, in writing, of the reasons for ineligibility; and~~

~~(B) inform the claimant that the determination may be appealed to the commissioner.~~

(d)(i) The commissioner may determine that a request is eligible for independent review, notwithstanding the carrier's initial determination that the request is ineligible, and may require that the request be referred for independent review.

(ii) In making the determination in Subsection (1)(d)(i), the commissioner's decision shall be made in accordance with the terms of the insured's health benefit plan and shall be subject to all applicable provisions of this rule.

(2) Upon ~~[receipt of the]~~[receiving] a carrier's determination that ~~[the]~~a request is eligible for an independent review, the commissioner shall:

(a) assign, on a random basis, an independent review organization from the list of approved independent review organizations based on the nature of the health care service that is the subject of the review;

(b) notify the carrier of the assignment and that the carrier shall, within five business days, provide to the assigned independent review organization the documents and any information considered in making the adverse benefit determination; and

(c) notify the claimant that:

(i) the request ~~[has been]~~is for independent review is accepted; and ~~[that]~~

(ii) the claimant may submit additional information to the independent review organization within five business days of ~~[receipt of]~~[receiving] the commissioner's notification.

(3) The independent review organization shall forward any additional information submitted by a claimant under Subsection (2)(c) to the carrier within one business day of receipt ~~[any information submitted by the claimant]~~.

~~[(3)](4)~~ Within 45 calendar days after ~~[receipt of the]~~[receiving] a request for an independent review, the independent review organization shall provide written notice of its decision ~~[to uphold or reverse the adverse benefit determination]~~ to:

(a) the claimant;

(b) the carrier; and

(c) the commissioner.

~~[(4)](5)~~ Within one business day of ~~[receipt of]~~[receiving] notice that an adverse benefit determination ~~[has been]~~is overturned, the carrier shall:

(a) approve the coverage that ~~[was]~~is the subject of the adverse benefit determination; and

(b) process any benefit that is due.

R590-261-[44]10. Expedited Independent Review.

(1) An expedited independent review process shall be available if the adverse benefit determination:

(a) involves ~~[a]~~an insured's medical condition ~~[of the insured which would]~~that may seriously jeopardize the life or health of the insured or ~~[would jeopardize]~~the insured's ability to regain maximum function;

(b) may, in the opinion of the insured's attending provider, ~~[would]~~subject the insured to severe pain that cannot be adequately managed without the care or treatment that is the subject of the adverse benefit determination; or

(c) ~~[concerns]~~involves an admission, availability of care, continued stay, or health care service for which the insured received emergency medical services, but has not been discharged from a facility.

(2)(a) Upon ~~[receipt of]~~[receiving] a request for an expedited independent review, the commissioner shall immediately send a copy of the request to the carrier for an eligibility review.

(b) Immediately upon ~~[receipt of]~~[receiving] the request, the carrier shall determine ~~[whether]~~if:

(i) the individual ~~[is or]~~was an insured in the health benefit plan at the time the health care service was requested or provided;

(ii) the health care service ~~[that is the subject of the adverse benefit determination]~~is a covered [expense] benefit; and

(iii) the claimant ~~[has]~~provided ~~[all]~~the information and forms required to process an expedited independent review.

(c)(i) The carrier shall immediately notify the ~~[commissioner and claimant whether]~~claimant and the commissioner if:

(A) the request is complete; and

(B) the request is eligible for an expedited independent review.

~~[(A)](ii) If the request:~~

~~[(A)](ii) If the request is not complete, the carrier shall inform the claimant and the commissioner, in writing [what], of the information or materials [are] needed to make the request complete[; or].~~

~~[(B) is not eligible for independent review, the carrier shall:~~

~~(I) inform the claimant and commissioner in writing the reasons for ineligibility; and~~

~~(II) inform the claimant that the determination may be appealed to the commissioner.]~~

~~(iii) If the request is not eligible for an expedited independent review, the carrier shall:~~

~~(A) inform the claimant and the commissioner, in writing, of the reasons for ineligibility; and~~

~~(B) inform the claimant that the determination may be appealed to the commissioner.~~

(d)(i) The commissioner may determine that a request is eligible for an expedited independent review, notwithstanding the carrier's initial determination that the request is ineligible, and ~~[shall]~~may require that the request be referred for an expedited independent review.

(ii) In making the determination in Subsection (2)(d)(i), the commissioner's decision shall be made in accordance with the terms of the insured's health benefit plan and shall be subject to ~~[all applicable provisions of]~~this rule.

(3) Upon ~~[receipt of]~~[receiving] the carrier's determination that ~~[the]~~a request is eligible for an expedited independent review, the commissioner shall immediately:

(a) assign an independent review organization from the list of approved independent review organizations;

(b) notify the carrier of the assignment and that the carrier shall ~~within one business day~~, upon receipt, provide to the assigned independent review organization ~~all~~ the documents and any information considered in making the adverse benefit determination; and

(c) notify the claimant that:

(i) the request ~~has been~~ is accepted; and ~~that~~

(ii) the claimant may ~~within one business day~~ immediately submit additional information to the independent review organization.

(4) The independent review organization shall forward any additional information submitted by a claimant under Subsection (3)(c)(ii) to the carrier within one business day of receipt ~~any information submitted by the claimant~~.

~~(4)(a) The independent review organization shall as soon as possible, but no later than 72 hours after receipt of~~ (5)(a) As expeditiously as the insured's medical condition or circumstance requires, but no later than 72 hours after receiving the request for an expedited independent review, ~~make a decision to uphold or reverse the adverse benefit determination and shall notify~~ the independent review organization shall provide notice of its decision to:

(i) the carrier;

(ii) the claimant; and

(iii) the commissioner.

(b) If notice of the independent review organization's decision is not in writing, the independent review organization shall provide written confirmation of its decision within 48 hours after the date of ~~the~~ notification ~~of the decision~~.

~~(5) Within one business day of receipt of~~ (6) Upon receiving notice that an adverse benefit determination ~~has been~~ is overturned, the carrier shall:

(a) approve the coverage that ~~was~~ is the subject of the adverse benefit determination; and

(b) process any benefit that is due.

R590-261-~~42~~11. Independent Review of Experimental or Investigational Service or Treatment ~~Adverse Benefit Determinations~~.

(1)(a) A request for an independent review, based on an experimental or investigational service or treatment, shall be submitted with certification from the insured's ~~physician~~ health care provider that:

~~(a)~~ (i) the standard health care service or treatment ~~has not been~~ is not effective in improving the insured's condition;

~~(b)~~ (ii) the standard health care service or treatment is not medically appropriate for the insured; or

~~(c)~~ (iii) there is no available standard health care service or treatment covered by the carrier that is more beneficial than the recommended or requested health care service or treatment.

(b) A claimant may make an oral or written request for an expedited independent review if the insured's health care professional certifies, in writing, that the recommended or requested health care service or treatment would be significantly less effective if not initiated promptly.

(2)(a) ~~Upon receipt of~~ Within one business day after receiving a request for an independent review involving an experimental or investigational service or treatment, or immediately for an expedited review, the commissioner shall send a copy of the request to the carrier for an eligibility review.

(b) Within five business days ~~following receipt of the copy of~~ after receiving the request, ~~one business day~~ or immediately for an expedited review, the carrier shall determine ~~whether~~ if:

(i) the individual ~~is or~~ was an insured in the health benefit plan at the time the health care service was requested or provided;

(ii) the health care service or treatment ~~that is the subject of the adverse benefit determination~~ is a covered ~~expense~~ benefit, except for the carrier's determination that the service or treatment:

(A) is experimental or investigational for a particular medical condition; and

(B) is not explicitly listed as an excluded benefit under the insured's health benefit plan;

(iii) the insured's health care provider:

(A) has certified one of the following situations applies:

(I) the standard health care services have not been effective in improving the condition of the insured;

(II) the standard health care services or treatments are not medically appropriate for the covered person; or

(III) there is no available standard health care service or treatment covered by the carrier that is more beneficial than the recommended or requested health care service or treatment;

(B) has certified in writing:

(I) in their opinion, the health care service or treatment is likely to be more beneficial to the insured than any available standard health care service or treatment; and

(II) scientifically valid studies using accepted protocols demonstrate that the health care service or treatment is likely to be more beneficial to the insured than any available standard health care service or treatment; and

(C) is licensed, board certified, or board eligible to practice in the area of medicine appropriate to treat the insured's condition;

(iv) the claimant ~~has~~ exhausted the carrier's internal review process, unless the request is for an expedited review; and

~~(iv)~~ (v) the claimant ~~has~~ provided ~~all~~ the information and forms required to process ~~the~~ an independent review.

(c)(i) Within one business day after ~~completion of~~ completing the eligibility review, or immediately for an expedited review, the carrier shall notify the commissioner and the claimant, in writing ~~whether~~, if:

(A) the request is complete; and

(B) the request is eligible for independent review.

~~(ii) If the request:~~

~~(A)~~ (ii) If the request is not complete, the carrier shall inform the claimant and commissioner, in writing ~~what~~, of the information or materials ~~are~~ needed to make the request complete ~~or~~.

~~(B) is not eligible for independent review, the carrier shall:~~

(I) inform the claimant and commissioner in writing the reasons for ineligibility; and

(II) shall inform the claimant that the determination may be appealed to the commissioner;

(iii) If the request is not eligible for independent review, the carrier shall:

(A) inform the claimant and the commissioner, in writing, of the reasons for ineligibility; and

(B) inform the claimant that the determination may be appealed to the commissioner.

(d)(i) The commissioner may determine that a request is eligible for independent review, notwithstanding the carrier's initial determination that the request is ineligible, and require that the request be referred for independent review.

(ii) In making the determination in Subsection (2)(d)(i), the commissioner's decision shall be made in accordance with the terms of the health benefit plan and shall be subject to all applicable provisions of this rule.

(3) Upon ~~[receipt of]~~receiving the carrier's determination that the request is eligible for an independent review, the commissioner shall:

(a) assign an independent review organization from the list of approved independent review organizations;

(b) notify the carrier of the assignment and that the carrier shall, within five business days, ~~[one business day]~~or immediately for an expedited review, provide to the assigned independent review organization the documents and any information considered in making the adverse benefit determination; and

(c) notify the claimant that the request has been accepted and that the claimant may, within five business days, ~~[one business day]~~or immediately for an expedited review, submit additional information to the independent review organization.

(4) The independent review organization shall forward any additional information submitted by a claimant under Subsection (3)(c) to the carrier within one business day of receipt~~[any information submitted by the claimant]~~, or immediately for an expedited review.

~~[(4)](5)~~ Within one business day after ~~[receipt of]~~receiving the request, or immediately for an expedited review, the independent review organization shall select one or more clinical reviewers to conduct the review.

~~[(5)](6)~~ The clinical reviewer shall provide to the independent review organization a written opinion within 20 calendar days, or five calendar days for an expedited review, after being selected.

~~[(6)](7)~~ The independent review organization~~[shall make a decision based on the clinical reviewer's opinion]~~, within 20 calendar days~~[of receiving the clinical reviewer's opinion, or no later than 72]~~[48] hours for an expedited review, ~~[of receiving the opinion and shall notify]~~shall provide notice of its decision to:

- (a) the claimant;
- (b) the carrier; and
- (c) the commissioner.

~~[(7)](8)~~ Within one business day of ~~[receipt of]~~receiving notice that an adverse benefit determination ~~[has been]~~is overturned, the carrier shall:

- (a) approve the coverage that ~~[was]~~is the subject of the adverse benefit determination; and
- (b) process any benefit that is due.

R590-261-[13]12. Disclosure Requirements.

(1) ~~[Each]~~A carrier shall include a description of the independent review procedure in or attached to the policy and certificate, and may include a description with other evidence of coverage provided to the insured.

(2) The description required in Subsection (1) shall include a statement that informs the insured:

(a) of the right to file a request for an independent review of a final adverse benefit determination~~[and include]~~, including the [contact information for the commissioner]website, phone number, and address of the Utah Insurance Department; and

(b) that an authorization to obtain medical records ~~[shall be]~~is required for ~~[the purpose of]~~reaching a decision.

R590-261-[14]13. Records.

(1) An independent review organization shall maintain a written record of each independent review for the current year plus ~~[\$]~~five years.

(2) The records of an independent review organization shall be available for review by the commissioner upon request.

~~[R590-261-15. Penalties.~~

~~A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R590-261-16. Enforcement Date.

~~The commissioner shall begin enforcing the revised provisions of this rule on the effective date.~~

R590-261-[17]14. 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 R590-261, 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: health benefit plan insurance

Date of Last Change: 2023[December 8, 2014]

Notice of Continuation: June 23, 2016

Authorizing, and Implemented or Interpreted Law: 31A-22-629; 31A-2-201; 31A-2-212

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:

R590-268

Filing ID:
55276

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	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 persons:		
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:

R590-268. Small Employer Stop-Loss Insurance

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

This rule is being changed in compliance with Executive Order 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 the Utah Rulewriting Manual standards. Other changes make the language of this rule more clear, remove the Penalties (old R590-268-9) section, and update the Severability (new R590-268-8) section 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) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

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

Citation Information

6. 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-43-304	
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Public Notice Information

8. 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:	05/01/2023
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9. This rule change MAY become effective on:	05/08/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/06/2023
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R590. Insurance, Administration.

R590-268. Small Employer Stop-Loss Insurance.

R590-268-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-43-304[~~wherein the commissioner may make rules to implement Title 31A, Chapter 43.~~].

[R590-268-2. Scope.

~~This rule applies to all small employer stop-loss contracts issued or renewed on or after July 1, 2013.~~

R590-268-3. Purpose.

~~The purpose of this rule is to provide the content of the stop-loss insurance disclosure, prohibit lasering, and establish the form and manner of form and rate filings and of the annual actuarial certification and report on stop-loss experience.~~

R590-268-2. Purpose and Scope.

- (1) The purpose of this rule is to:
- (a) provide the content of a stop-loss insurance policy disclosure;
- (b) define prohibited lasering practices; and
- (c) establish the procedure for filing;

(i) a rate and form filing and;

(ii) a report filing, including:

(A) the insurer's stop-loss experience;

(B) an actuarial certification of compliance; and

(C) an actuarial memorandum regarding the actuarial certification of compliance.

(2) This rule applies to an insurer marketing or offering a small employer stop-loss contract.

R590-268-[4]3. Definitions.

~~[For the purposes of this rule, the commissioner adopts the definitions of Sections 31A-1-301 and 31A-43-102.]~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-43-102. Additional terms are defined as follows:

(1) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards.

(2) "SERFF" means the System for Electronic Rate and Form Filing.

R590-268-[5]4. Stop-Loss Insurance Disclosure.

~~(1) [Stop-loss insurers marketing]~~An insurer offering stop-loss insurance to a small employer[s] shall use the Utah Stop-Loss Disclosure dated July 1, 2019, available on the department's website, <https://insurance.utah.gov/>;

~~(a) the Utah Stop-Loss Disclosure dated January 15, 2014, prior to the effective date of this rule; and~~

~~(b) the Utah Stop-Loss Disclosure dated July 1, 2019, after the effective date of this rule].~~

~~(2) [The stop-loss]~~An insurer may display the insurer's name, identifying logo, and address on the disclosure.

~~(3) The disclosures are available on the Department's website at <https://insurance.utah.gov/>]~~

~~[(4)](3)~~The disclosure may be altered [for reasons specifically approved by] upon approval of the commissioner.

R590-268-[6]5. Lasering.

~~[(1) Subsection 31A-43-301(2)(a) prohibits lasering. For the purpose of this rule lasering includes]~~The following lasering practices are prohibited under Section 31A-43-301:

~~[(a)](1)~~assigning a different attachment point for an individual based on the individual's expected claims or a given diagnosis;

~~[(b)](2)~~assigning a deductible to an individual that must be met before stop-loss coverage applies;

~~[(c)](3)~~denying stop-loss coverage to an individual who is otherwise covered by the small employer's [medical] health plan; and

~~[(d)](4)~~applying an actively at work exclusion to stop-loss coverage.

R590-268-[7]6. Form and Rate Filings.

~~[(1) A contract filing consists of one contract form, any related documents, disclosure, rate manual, and actuarial memorandum.]~~

(1) An insurer shall file a stop-loss insurance contract and application with:

(a) any related documents;

(b) if altered, a disclosure as outlined in Section R590-268-4; and

(c) a rate manual with an actuarial memorandum as outlined in Section R590-268-7.

(2) A new or a revised rate ~~[manual]~~ filing shall:

(a) include;

~~(i) a summary of [how] the rate [is calculated] calculation;~~

~~[(b) contain specific]~~ (ii) geographic rating area factors applicable in Utah;

~~[(c) be filed 30 days prior to use;~~

~~[(d) be applied in the same manner for all small employer stop-loss contracts;]~~

~~[(e) describe]~~ (iii) a description of how the overall rate is ~~[reviewed for compliance]~~ compliant; and

~~[(f) include]~~ (iv) an actuarial certification signed by a qualified actuary; and

(b) be filed no later than 30 days before use.

(3) A stop-loss contract shall be consistently applied to each small employer.

(4) ~~[All filings]~~ A filing shall be submitted using SERFF.

R590-268-[8]7. Annual ~~[Actuarial Memorandum and]~~ Certification.

(1) ~~[The]~~ An insurer shall, on or before April 1, submit ~~[annually on or before April 1]~~ the following using SERFF:

(a) stop-loss experience as described in Subsections (2) and (3) for the previous two years ~~[for Utah];~~

(b) an actuarial certification of compliance [with requirements of section] with Title 31A, Chapter [-]43[-304], Small Employer Stop-Loss Insurance Act; and

(c) an actuarial memorandum, describing the review done ~~[in preparation of]~~ to prepare the actuarial certification.

~~[(2) The]~~ (2)(a) An insurer's stop-loss experience shall be presented by:

(i) small employer; and

(ii) experience year ~~[and shall include];~~

(b) An insurer's stop-loss experience shall include:

~~[(a)]~~ (i) a group identifier that uniquely identifies the employer group and is consistent from year to year for the same employer group;

~~[(b)]~~ (ii) the effective date of coverage for ~~[the]~~ each policy year ~~[for the employer group];~~

~~[(c) contract type (e.g. 12/24)]~~ (iii) the contract term;

~~[(d)]~~ (iv) the employer size, including ~~[both covered lives count and employee count as of]~~ number of covered lives and employees, at the beginning of the contract;

~~[(e)]~~ (v) the number of covered lives ~~[exposure years]~~ and employee exposure years for the period of the experience ~~[time period];~~

~~[(f)]~~ (vi) the specific attachment point;

~~[(g)]~~ (vii) expected claims ~~[in the absence of]~~ absent stop-loss insurance;

~~[(h)]~~ (viii) expected claims under the specific attachment point;

~~[(i)]~~ (ix) the aggregate attachment point;

~~[(j)]~~ (x) earned premium; and

~~[(k)]~~ (xi) claims paid by the stop-loss insurance ~~[broken out]~~ separated by specific losses and aggregate losses.

(c) An insurer's stop-loss experience shall:

(i) be aggregated over the entire contract period, rather than aggregated by month; and

(ii) only include stop-loss contracts where the final claim date is contained within the two calendar years before the submission date.

(d) Runout claims that are paid after the submission date shall be updated in the following years' experience submission.

~~[(3)(a)(i) The]~~ (3) An insurer's stop-loss experience shall be submitted ~~[in Excel format]~~ using the Utah Stop-Loss Experience Report dated July 1, 2019, available on the department's website, <https://insurance.utah.gov>.

~~[(ii) The Utah Stop-Loss Experience Report dated July 1, 2019, is available on the Department's website at https://insurance.utah.gov.~~

(b) Experience shall be aggregated over the entire contract incurral period, rather than aggregated by incurral month.

(c) The experience report shall only include those stop-loss contracts where the final claim incurral date is contained within the two calendar years previous to the submission date.

(d) Runout claims that are paid after the submission date shall be updated in the following year's experience submission.

R590-268-9. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.]

R590-268-[10]8. 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 R590-268, 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: small employer stop-loss

Date of Last Change: 2023[June 21, 2019]

Notice of Continuation: March 7, 2019

Authorizing, and Implemented or Interpreted Law: 31A-43-304; Title 31A, Chapter 43

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R590-275	Filing ID: 55277
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	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 persons:		
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:
R590-275. Qualified Health Plan Alternate Enrollment
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order 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 the Utah Rulewriting Manual standards. Other changes make the language of this rule more clear, remove the Penalties (old R590-275-5) and Enforcement Date (old R590-275-6) sections, and update the Severability (new R590-275-5) section 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) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

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

Citation Information**6. 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-2-212
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Public Notice Information

8. 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:	05/01/2023
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9. This rule change MAY become effective on:	05/08/2023
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/06/2023
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R590. Insurance, Administration.**R590-275. Qualified Health Plan Alternate Enrollment.****R590-275-1. Authority.**

This rule is promulgated by the commissioner pursuant to ~~[Section 31A-2-201 and Subsection 31A-2-212(5) wherein the commissioner may make rules to implement the provisions of Title 31A and preserve state control over the health insurance market]~~ Sections 31A-2-201 and 31A-2-212.

R590-275-2. Purpose and Scope.

(1) The purpose of this rule is to ~~[select]~~ identify an alternate enrollment system for a PPACA qualified health plan as provided in 45 CFR 155.335(j)(3).

(2) This rule applies:

(a) when ~~[a carrier]~~ an insurer will have no qualified health plan[s] available to an individual[s] on the ~~[Federal Exchange]~~ health insurance exchange for the upcoming plan year;

(b) to ~~[a carrier]~~ an insurer who offers a qualified health plan to an individual on the ~~[Federal Exchange]~~ health insurance exchange; and

(c) to the ~~[Federal Exchange]~~ health insurance exchange.

R590-275-3. Definitions.

~~[In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purpose of this rule.]~~

~~(1) "Federal Exchange" means the exchange established and operated by the United States Department of Health and Human Services that makes individual qualified health plans available to qualified enrollees.]~~

Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103. Additional terms are defined as follows:

(1)(a) "Metal level" means the health plan category based on how an insured individual and the plan split the cost of health care.

(b) A plan in the marketplace is presented in one of four health plan categories:

(i) bronze;

(ii) silver;

(iii) gold; or

(iv) platinum.

(2) "Qualified ~~[Health Plan]~~ health plan" or "QHP" means a health benefit plan that is certified to meet the standards recognized by the ~~[Federal Exchange]~~ health insurance exchange.

R590-275-4. Alternate ~~E~~enrollment ~~P~~rocess.

~~[(1) Pursuant to 45 CFR 155.335(j)(3), the Federal Exchange requires a defined alternate enrollment for an enrollee in an individual qualified health plan, QHP, where the carrier:]~~ (1) If an insurer will have no health insurance exchange option available for the upcoming plan year due to ~~[a carrier]~~ the insurer no longer offering an individual QHP in a particular service area in which it previously offered coverage on the ~~[Federal Exchange]~~ health insurance exchange, the health insurance exchange shall direct enrollment for an enrollee to a QHP issued by a different insurer subject to Subsection (3) and the insurer's ability to absorb new enrollment.

(2) At renewal, if an enrollee does not have an individual QHP available from the same ~~[carrier]~~ insurer through the ~~[Federal Exchange]~~ health insurance exchange in which to enroll, the ~~[Federal Exchange]~~ health insurance exchange shall direct enrollment for an enrollee to a QHP issued by a different ~~[carrier based on the hierarchy in]~~ insurer subject to Subsection (3) ~~[subject to a carrier's]~~ and the insurer's ability to absorb new enrollment.

(3)(a) The enrollee's coverage will be matched to a QHP in the same service area:

(i) at the same metal level; or

(ii) if more than one QHP is available, the coverage will be matched to a QHP at the same metal level with the lowest premium.

(b) If no QHP is available at the same metal level in the same service area, the enrollee will be matched to a QHP in the same service area:

(i) that is one metal level lower than the enrollee's current QHP; or

(ii) if more than one QHP is available, coverage will be matched to a QHP at one metal level lower with the lowest premium.

(c) If no QHP is available at the same metal level or one metal level lower and in the same service area, the enrollee will be matched to a QHP that is:

(i) one metal level higher than the enrollee's current QHP;

or

(ii) if more than one QHP is available at one metal level higher, coverage will be matched to a QHP at one metal level higher with the lowest premium.

(d) If no QHP is available at the same metal level, one metal level lower, or one metal level higher in the same service area, the enrollee will be matched to any QHP at any metal at the lowest premium in the same service area.

(4) The alternate enrollment [~~hierarchy~~]provisions in Subsection (3) [~~does~~]do not apply to an enrollee who terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP in accordance with 45 CFR 155.430.

~~R590-275-5. Penalties.~~

~~A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~R590-275-6. Enforcement Date.~~

~~The commissioner will begin enforcing this rule September 1, 2017.]~~

~~R590-275-[7]5. Severability.~~

~~[If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.]If any provision of this rule, Rule R590-275, 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, enrollment

Date of Last Change: ~~2023~~**[October 23, 2017]**

Notice of Continuation: October 14, 2022

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-212(5)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Rule or Section Number:	R590-284	Filing ID: 55278
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Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	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 persons:

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:

R590-284. Corporate Governance Annual Disclosure Rule

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

This rule is being changed in compliance with Executive Order 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 the Utah Rulewriting Manual standards and to make the language of this rule more clear. 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) 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	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

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

Citation Information

6. 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-16b-104	
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Public Notice Information

8. 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: 05/01/2023

9. This rule change MAY become effective on: 05/08/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/06/2023
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R590. Insurance, Administration.

R590-284. Corporate Governance Annual Disclosure Rule.

R590-284-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~[Subsection 31A-2-201(3)(a), which authorizes rules to implement Title 31A, Insurance Code, and Section 31A-16b-104, which authorizes rules to implement Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act]~~ Sections 31A-2-201 and 31A-16b-104.

R590-284-2. Purpose and Scope.

(1) ~~[This rule sets]~~ The purpose of this rule is to set forth the filing procedure[s] and the content requirements for the ~~[Corporate Governance Annual Disclosure (CGAD)]~~ CGAD required by Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act.

(2) This rule applies to an insurer or an insurance group domiciled in Utah.

R590-284-3. Definitions.

~~[(1) The definitions in Section 31A-1-301 apply to this rule.]~~

~~(2) "Senior Management" means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and includes the Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Procurement Officer, Chief Legal Officer, Chief Information Officer, Chief Technology Officer, Chief Revenue Officer, Chief Visionary Officer, or any other "C" level executive.]~~

~~Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~(1) "CGAD" means corporate governance annual disclosure.~~

~~(2) "Insurance group" means the insurers and affiliates included within an insurance holding company system.~~

~~(3)(a) "Senior management" means any corporate officer responsible for:~~

~~(i) reporting information to the board of directors at regular intervals; or~~

~~(ii) providing the information in Subsection (3)(a)(i) to shareholders or regulators.~~

~~(b) "Senior management" includes:~~

~~(i) the chief executive officer;~~

~~(ii) the chief financial officer;~~

~~(iii) the chief operations officer;~~

~~(iv) the chief procurement officer;~~

~~(v) the chief legal officer;~~

~~(vi) the chief information officer;~~

~~(vii) the chief technology officer;~~

~~(viii) the chief revenue officer;~~

~~(ix) the chief visionary officer; or~~

~~(x) any other "C" level executive.~~

R590-284-4. Filing Procedures.

(1) An insurer or insurance group has discretion regarding the appropriate format for providing the information required by ~~[these regulations]~~ this rule and may customize the CGAD to provide the most relevant information necessary to ~~[permit the commissioner to gain]~~ give the commissioner an understanding of the corporate governance structure, policies, and practices utilized by the insurer or insurance group.

(2)(a) An insurer or insurance group may comply with this rule by referencing any other existing document, for example, an ORSA Summary Report, a Holding Company Form B or F Filing, a Securities and Exchange Commission Proxy Statement, or foreign regulatory reporting requirements, if the document provides information that is comparable to the information described in Section R590-284-5.

(b) An insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the ~~[regulator]~~ commissioner.

(3)(a) Each year following the initial filing of the CGAD, an insurer or insurance group shall file an amended version of the previously filed CGAD indicating ~~[where any change has been made]~~ any changes.

(b) If no changes were made in the information or activities reported by the insurer or insurance group, the filing ~~[should so state]~~ shall state that there was no change.

R590-284-5. Contents of the CGAD.

(1) An insurer or insurance group shall ~~[be as descriptive as possible in completing]~~ provide thorough descriptions in the

CGAD and ~~[should]~~ shall include any ~~[attachment or example]~~ existing document ~~[that is]~~ used in the governance process ~~[because these may provide a means]~~ to demonstrate the strengths of the insurer's or insurance group's governance framework and practices.

(2) The CGAD shall describe an insurer's or insurance group's corporate governance framework and structure, including consideration of the following:

(a) the insurer's board of directors ~~[(Board)]~~ and its [various] committees that are [ultimately] responsible for overseeing the insurer or insurance group ~~[and];~~

~~(b) the level or levels at which [that] oversight occurs, [for example, including ultimate control level, intermediate holding company, or legal entity], and a description and discussion of;~~

~~(c) the rationale for the current [Board] size and structure of the board of directors, including the role of the chief executive officer and the chairman of the board;~~ ~~[and]~~

~~[(b)](d) the duties of the [Board] board of directors and each [of its significant committees] committee; and [how they are];~~

~~(e) how the board of directors and each committee is governed, for example through bylaws, [charters] a charter, or an informal mandate[s], as well as how the Board's leadership is structured, including a discussion of the roles of Chief Executive Officer (CEO) and Chairman of the Board within the organization].~~

(3) An insurer or insurance group shall describe the policies and practices of the most senior governing entity and ~~[significant committees thereof]~~ its committees, including ~~[a discussion of the following]:~~

(a) how the qualifications, expertise, and experience of each ~~[Board]~~ board member meet the needs of the insurer or insurance group;

(b) how an appropriate amount of independence is maintained on the ~~[Board and its significant]~~ board of directors and its committees;

~~(c) the number of meetings held by the [Board and its significant] board of directors and its committees over the past year, as well as information on director attendance;~~

~~(d) how the insurer or insurance group identifies, nominates, and elects members to the [Board] board of directors and its committees, including, for example:~~

~~(i) whether a nomination committee is in place to identify and select individuals for consideration;~~

~~(ii) whether term limits are placed on directors;~~

~~(iii) how the election and re-election processes function; and~~

~~(iv) whether a [Board] board of directors diversity policy is in place and, if so, how it functions; and~~

~~(e) the processes in place for the [Board] board of directors to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance, including [any Board] board of directors or committee training programs.~~

(4) An insurer or insurance group shall describe the policies and practices for directing ~~[Senior Management]~~ senior management, including ~~[a description of the following factors]:~~

~~(a) any process or [practice, for example, suitability standards] used to determine whether [officers and key persons in control functions have] an officer or key person in a control function has the appropriate background, experience, and integrity to fulfill their [prospective roles] role, including:~~

~~(i) identification of each specific position for which suitability standards have been developed and a description of the standards employed; and~~

(ii) any change in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes;

(b) the insurer's or insurance group's code of business conduct and ethics, ~~[the discussion of which considers, for example]~~including:

(i) compliance with laws, rules, and regulations; and

(ii) proactive reporting of any illegal or unethical behavior;

(c) the insurer's or insurance group's processes for performance evaluation, compensation, and corrective action to ensure effective senior management throughout the organization, including ~~[a discussion of]~~:

(i) the general objectives of any significant compensation program;

(ii) what each program is designed to reward; and

(iii) how the organization ensures that a compensation program does not encourage ~~[and]~~or reward excessive risk taking, including ~~[a discussion of]~~:

(A) the ~~[Board's]~~role of the board of directors in overseeing management compensation programs and practices;

(B) the ~~[various]~~elements of compensation awarded in each compensation program and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;

(C) how each compensation program is related to both company and individual performance over time;

(D) whether each compensation program includes risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;

(E) any clawback provision built into a compensation program to recover awards or payments if the performance measures ~~[upon which]~~they are based onare restated or ~~[otherwise]~~adjusted; and

(F) any other factor relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees; and

(d) the insurer's or insurance group's plans for ~~[CEO and Senior Management]~~chief executive officer and senior management succession.

(5)(a) An insurer or insurance group shall describe any process ~~[by which the Board]~~used by the board of directors, its committees, ~~[and Senior Management]~~or senior management to ensure ~~[an appropriate amount of]~~appropriate oversight ~~[to]~~of each

critical risk area impacting the insurer's or insurance group's business activities, including ~~[a discussion of]~~:

(i) how oversight and management responsibilities are delegated between the ~~[Board]~~board of directors, its committees, and ~~[Senior Management]~~senior management;

(ii) how the ~~[Board]~~board of directors is kept informed of the insurer's or insurance group's strategic plans, the associated risks, and steps that ~~[Senior Management may take]~~senior management takes to monitor and manage those risks; and

(iii) how reporting responsibilities are organized for each critical risk area.

(b) The description ~~[should allow the commissioner to understand]~~shall inform the commissioner of the frequency at which information on each critical risk area is reported to and reviewed by ~~[Senior Management and the Board]~~senior management and the board of directors.

(c) The description may include ~~[, for example,]~~ the following critical risk areas of the insurer:

(A) a risk management process~~[es]~~, such as an ORSA Summary Report pursuant to Title 31A, Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act;

(B) a actuarial function;

(C) a investment decision-making process~~[es]~~;

(D) a reinsurance decision-making process~~[es]~~;

(E) a business strategy~~[/]~~ or finance decision-making process~~[es]~~;

(F) a compliance function;

(G) a financial report~~[ing]~~ or internal audit~~[ing]~~; and

(H) a market conduct decision-making process~~[es]~~.

R590-284-6. Severability.

If any provision of this rule, R590-284, 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: corporate governance disclosure

Date of Last Change: 2023~~February 9, 2021~~

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-16b-104

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R51-5	Filing ID: 54137
Effective Date:	03/07/2023	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Administration	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state, and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state, and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Kelly Pehrson	801-982-2200	kwpehrson@Utah.gov
Amber Brown	385-245-5222	amberbrown@Utah.gov
Jim Bowcutt	435-232-4017	jdbowcutt@Utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R51-5. Rural Rehabilitation Loans

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Rule R51-5 establishes the general operating practices of Title 4, Chapter 19, Rural Rehabilitation, according to the Use Agreement established in January 1975 between the United States of America through the Farm Home Administration and the state through its commissioner. This rule serves as guidelines for how the Rural Rehabilitation Loan program shall operate. The program is regulated under Title 3, Uniform Agricultural Cooperative Association Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No record of comments received 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:

Currently, the Utah Department of Agriculture and Food (UDAF), through the Rural Rehabilitation Loan Program, services 81 loans with a principal asset value of \$14,923,889. UDAF currently has four in various stages of approval by the Loan Staff. There is continued interest in the Rural Rehabilitation Loan Program since this program's lending structure is to assist Utah's young farmers, others who want to purchase, distressed borrowers, and distressed agriculture industries. These funds are used to keep agriculture viable in Utah. This rule is needed to regulate the program for users who are unable to obtain necessary financing elsewhere. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig W. Butters, Commissioner	Date:	03/07/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R64-2	Filing ID: 54444
Effective Date:	03/10/2023	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Conservation Commission	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Kelly Pehrson	801-982-2200	kwpehrson@Utah.gov
Amber Brown	385-245-5222	amberbrown@Utah.gov
Jim Bowcutt	435-232-4017	jdbowcutt@Utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R64-2. Conservation Commission Electronic Meetings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Conservation Commissions are public bodies and are required by Section 52-4-207 to have a rule in place if electronic meetings are conducted. The Conservation Commission conducts most of its meetings electronically because members live in locations that are difficult to find an anchor location.
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 public comment has been received by the Director for this rule since its last 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:

The Conservation Commission continues to conduct electronic meetings because members live in various locations throughout the state and it is difficult to find an anchor location and time that will meet necessary travel restrictions. Since no negative comments have been received the Director feels it is important to continue to have these meetings electronically. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jim Bowcutt, Director	Date:	03/10/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R137-2	Filing ID: 50223
Effective Date:	03/14/2023	

Agency Information

1. Department:	Career Service Review Office	
Agency:	Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Akiko Kawamura	385-346-8552	akawamura@utah.gov
Annette Morgan	385-346-8551	amorgan@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R137-2. Government Records Access Management Act
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 67-19a-203 authorizes the Administrator to make rules governing the Career Service Review Office (CSRO) files and their availability to the public.

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 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:

No opposition has been received. This rule allows the public to make requests for documents under GRAMA. This allows for transparency and holds the CSRO accountable to public document requests. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Akiko Kawamura, Administrator	Date:	03/14/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-104	Filing ID:	50374
Effective Date:	03/14/2023		

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
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

2. Rule catchline:
R277-104. ADA Complaint Procedure

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 pursuant to 28 CFR 35.107 which adopts, defines, and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act (ADA), as amended.

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 public 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 is necessary because it establishes procedures for individuals to file complaints under the ADA and to provide appropriate classification of the records of complaints and appeals. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	03/14/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-107	Filing ID:	50380
Effective Date:	03/14/2023		

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
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

2. Rule catchline:
R277-107. Educational Services Outside of an Educator's Regular Employment
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; Subsection 53E-3-401(4), which permits the Board to adopt rules to carry out its duties and responsibilities under the Utah Constitution and state law; and Section 53E-3-512, which directs the Board to make rules that establish basic ethical conduct standards for employees who provide public education-related services or activities outside of their regular employment.
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 public 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 is necessary because it provides direction and parameters for employees who provide or participate in public education-related services or activities outside of their regular public education employment. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	03/14/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-532	Filing ID:	50484
Effective Date:	03/14/2023		

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:

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

2. Rule catchline:
R277-532. Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)
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; Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Section 53G-11-504, which directs the Board to develop rules requiring that school districts evaluate non-licensed public education employees.
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 public 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 is necessary because it directs public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	03/14/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R277-751	Filing ID:	50540
Effective Date:	03/14/2023		

Agency Information

1. Department:	Education
Agency:	Administration

Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
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

2. Rule catchline:
R277-751. Special Education Extended School Year (ESY)
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; Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services to students with disabilities.
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 public 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 is necessary because it specifies the standards for the special education ESY. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	03/14/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-94	Filing ID: 53752
Effective Date:	03/13/2023	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	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 persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-94. Smoker and Nonsmoker Mortality Tables for Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-22-408 authorizes the insurance commissioner to adopt rules that interpret, describe, and clarify the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is deemed necessary by the commissioner, including unusual and new forms of life insurance.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule permits the use of smoker and nonsmoker mortality tables as a reserve standard allowing for fairer pricing of life insurance products. This rule helps insurers offer lower rates to nonsmokers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/13/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-154	Filing ID:	54100
Effective Date:	03/13/2023		

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	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 persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-154. Unfair Marketing Practices Rule; Misleading Names
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule prohibits practices that are misleading, deceptive, or unfairly discriminatory, and that provide an unfair inducement or unreasonably restrain competition. This rule is necessary because it sets forth the guidelines for producers regarding what is considered to be unacceptable market conduct. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	03/13/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-34	Filing ID:	51752
Effective Date:	03/15/2023		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-34. Procedures for Confirmation of Ordinances on Hunting Closures

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 23-14-1(3)(b) states: "Communities may close areas to hunting for safety reasons after confirmation by the Wildlife Board." This rule provides the standards and procedures for a political subdivision within a community may obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety.

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 supporting or opposing Rule R657-34 were received since 05/06/2018, when this rule was last reviewed.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R657-34 is necessary to provide the procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety. The provisions adopted in this rule are effective. This rule is necessary to provide the standards and procedures for obtaining confirmation from the Wildlife Board. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	03/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-37	Filing ID:	52737
Effective Date:	03/15/2023		

Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room number:	Suite 2110
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

Contact persons:

Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov

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

General Information**2. Rule catchline:**

R657-37. Cooperative Wildlife Management Units for Big Game or Turkey

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Under Section 23-23-3, the Wildlife Board is authorized to provide the standards and procedures applicable to Cooperative Wildlife Management units organized for the hunting of big game or turkey.

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 supporting or opposing Rule R657-37 were received since 2018, when this rule was last reviewed.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R657-37 is established for setting the standards and procedures applicable to Cooperative Wildlife Management units for big game or turkey. The provisions adopted in this rule are effective in increasing wildlife resources, providing income to landowners, providing the general public access to private and public lands for hunting big game or turkey, creating satisfying hunting opportunities and providing adequate protection to landowners who open their lands for hunting. This rule is necessary for success with this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	03/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-42	Filing ID:	52442
Effective Date:	03/15/2023		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-19-1 and 23-19-38, the Division of Wildlife Resources under authorization from the Wildlife Board is required to issue wildlife documents along with providing the standards and procedures for the exchange permits, surrender of wildlife documents, refund of wildlife documents, reallocation of permits and assessment of late fees.
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 supporting or opposing Rule R657-42 were received since 2018, when this rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-42 is established for setting the standards and procedures for exchanges, surrenders, refunds and reallocations of wildlife permits. The provisions adopted in this rule are effective in maintaining a set practice of guidelines assuring continuity and consistency in handling circumstances pertaining to exchanges, surrenders, refunds, reallocations and late fees. This rule is necessary for success with this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	03/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-45	Filing ID:	51759
Effective Date:	03/15/2023		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-45. Wildlife License, Permit, and Certificate of Registration Forms
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-19 and 23-19-2, the Wildlife Board is authorized and required to prescribe the form of a wildlife license, permit, and certificate of registration.
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 supporting or opposing Rule R657-45 were received since 05/06/2018, when this rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R657-45 is established for prescribing the forms of a wildlife license, permit, and certificate of registration. The provisions adopted in this rule are effective in prescribing the form of a license, permit, and certificate of registration. This rule is necessary for prescribing the form of a license, permit, and certificate of registration. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	03/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-53	Filing ID:	53828
Effective Date:	03/15/2023		

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-53. Amphibian and Reptile Collection, Importation, Transportation, and Possession
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection, importation, exportation, transportation and possession of amphibians and reptiles and their parts.

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 supporting or opposing Rule R657-53 were received since May 2018, when this rule was last reviewed.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R657-53 governs the collection, importation, exportation, transportation, and possession of amphibians and reptiles and their parts. The procedures adopted in this rule have provided an effective and efficient process. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	03/15/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R698-7	Filing ID:	51852
Effective Date:	03/13/2023		

Agency Information

1. Department:	Public Safety	
Agency:	Administration	
Building:	Calvin Rampton Building	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84119	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-965-4018	kgibb@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R698-7. Emergency Vehicles

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by Section 41-6a-310, which states that the commissioner of the Department of Public Safety may make rules consistent with Title 41, Chapter 6a, governing the use, in emergencies, of signal lights on privately owned vehicles; and Subsection 53-1-108(1)(c), which states that the commissioner shall make rules governing emergency use of signal lights on private vehicles and allowing privately-owned vehicle to be designated for part-time emergency use as provided in Section 41-6a-310.

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 were received during and since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is authorized under Section 41-6a-310, and required under Subsection 53-1-108(1)(c), and is necessary to establish how vehicles can be designated as authorized emergency vehicles. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jess L. Anderson, Commissioner	Date:	03/13/2023
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-30	Filing ID:	51884
Effective Date:	03/14/2023		

Agency Information

1. Department:	Public Safety
Agency:	Driver License
Room number:	Suite 2600
Street address:	4315 S 2700 W, Floor 2
City, state and zip:	Taylorsville, UT 84129

Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R708-30. Motorcycle Rider Training Schools
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Subsection 53-3-903(1)(b), which requires the Driver License Division to make rules to develop standards for the administration of the Motorcycle Rider Education Program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have not been any written comments received since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required under Subsection 53-3-903(1)(b) and is necessary in order to implement the Motorcycle Rider Education Program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	03/14/2023
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Regulatory Services

No. 55127 (Amendment) R70-410: Grading and Inspection of Small Shell Egg Producers
Published: 01/01/2023
Effective: 02/27/2023

No. 55128 (Amendment) R70-530: Food Protection
Published: 01/01/2023
Effective: 02/27/2023

No. 55105 (Amendment) R70-580: Kratom Product Registration and Labeling
Published: 12/15/2022
Effective: 02/27/2023

No. 55106 (Amendment) R70-620: Enrichment of Flour and Cereal Products
Published: 12/15/2022
Effective: 02/27/2023

No. 55130 (New Rule) R70-640: Good Manufacturing Practices Certificate Program-Cosmetics
Published: 01/01/2023
Effective: 02/27/2023

No. 55053 (Amendment) R70-930: Method of Sale of Commodities
Published: 12/15/2022
Effective: 02/27/2023

Commerce

Professional Licensing

No. 55210 (Amendment) R156-24b: Physical Therapy Practice Act Rule
Published: 02/15/2023
Effective: 03/27/2023

No. 55213 (Amendment) R156-69: Dentist and Dental Hygienist Practice Act Rule
Published: 02/15/2023
Effective: 03/27/2023

Education

Administration

No. 55199 (Amendment) R277-100: Definitions for Utah State Board of Education (Board) Rules
Published: 02/01/2023
Effective: 03/10/2023

No. 55200 (Repeal) R277-518: Career and Technical Education Licenses
Published: 02/01/2023
Effective: 03/10/2023

Environmental Quality

Air Quality

No. 55040 (New Rule) R307-313: VOC and Blue Smoke Controls for Hot Mix Asphalt Plants
Published: 12/01/2022
Effective: 3/24/2023

No. 55040 (Change in Proposed Rule) R307-313: VOC and Blue Smoke Controls for Hot Mix Asphalt Plants
Published: 02/15/2023
Effective: 03/24/2023

Waste Management and Radiation Control, Waste Management

No. 54864 (Amendment) R315-101: Cleanup Action and Risk-Based Closure Standards
Published: 10/01/2022
Effective: 03/15/2023

NOTICES OF RULE EFFECTIVE DATES

No. 54864 (Change in Proposed Rule) R315-101: Cleanup Action and Risk-Based Closure Standards
Published: 02/01/2023
Effective: 03/15/2023

Government Operations

Human Resource Management
No. 55214 (Amendment) R477-10: Employee Development
Published: 02/15/2023
Effective: 03/27/2023

Governor

Criminal and Juvenile Justice (State Commission on)
No. 55209 (New Rule) R356-6: Electronic Meetings
Published: 02/15/2023
Effective: 03/24/2023

Health and Human Services

Administration (Health)
No. 55025 (New Rule) R380-350: Community Health Worker Certification
Published: 11/15/2022
Effective: 03/02/2023

Disease Control and Prevention, Epidemiology
No. 54983 (Amendment) R386-702: Communicable Disease Rule
Published: 11/15/2022
Effective: 03/14/2023

Family Health and Preparedness, Licensing
No. 55196 (Amendment) R432-103: Specialty Hospital – Rehabilitation
Published: 02/01/2023
Effective: 03/22/2023

No. 55194 (Amendment) R432-104: Specialty Hospital Long-Term Acute Care
Published: 02/01/2023
Effective: 03/22/2023

Administration, Administrative Services, Licensing
No. 55022 (Amendment) R501-1: General Provisions for Licensing
Published: 11/15/2022
Effective: 03/02/2023

Insurance

Administration
No. 55044 (Amendment) R590-225: Submission of Property and Casualty Rate and Form Filings
Published: 12/01/2022
Effective: 03/10/2023

No. 55044 (Change in Proposed Rule) R590-225: Submission of Property and Casualty Rate and Form Filings
Published: 02/01/2023
Effective: 03/10/2023

Natural Resources

Wildlife Resources
No. 55189 (Amendment) R657-19: Utah Prairie Dog
Published: 02/01/2023
Effective: 03/10/2023

No. 55203 (Amendment) R657-33: Bait Sites and Prohibited bait
Published: 02/15/2023
Effective: 03/24/2023

Transportation

Operations, Traffic and Safety
No. 55183 (Amendment) R920-60: Amusement Ride Safety
Published: 01/15/2023
Effective: 03/07/2023

Program Development
No. 55191 (Repeal and Reenact) R926-3: Class B or Class C Road Funds
Published: 02/01/2023
Effective: 03/10/2023

Transportation Commission

Administration
No. 55204 (Amendment) R940-5: Approval of Highway Facilities on Sovereign Lands
Published: 02/15/2023
Effective: 03/27/2023

End of the Notices of Rule Effective Dates Section