

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-160-8

Filing ID: Office Use Only

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:
R590-160-8. Agency Review
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being amended to remove a reference to Section 63G-4-302, which allows an agency to reconsider an agency review. The availability of agency review reconsideration is at the agency's discretion, and the Department has decided to no longer provide reconsideration.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The rule removes a reference to Section 63G-4-302, and corrects a misspelling.

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. Reconsideration of an agency review is requested infrequently, so this rule change will not have any effect on the budget.
B) Local governments:
There is no anticipated cost or savings to local governments. The amendment applies to the relationship between the Department and its licensees, and does not involve local governments in any way.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. A small business will no longer have the option to request reconsideration of an agency review. This will have no impact on the business' budget.
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. A non-small business will no longer have the option to request reconsideration of an agency review. This will have no impact on the business' budget.

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 person. A person will no longer have the option to request reconsideration of an agency review. This will have no impact on the person's budget.

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. This rule amendment merely removes the option to pursue action beyond an agency review.

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 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 63G-4-102	Section 63G-4-203

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
---	--

Publisher	
Issue Date	
Issue or 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: **10/03/2022**

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

9. This rule change MAY become effective on: **10/10/2022**

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

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	08/05/2022
---	---	--------------	-------------------

R590. Insurance, Administration.

R590-160. Adjudicative Proceedings.

R590-160-8. Agency Review.

(1)(a) Agency review of an adjudicative proceeding, except an informal adjudicative proceeding that becomes final without a request for a hearing under Subsection R590-160-7(1), is available to a party to a proceeding by filing a request for agency review with the commissioner within 30 days of the date of the order.

(b) Failure to seek agency review is a failure to exhaust administrative remedies.

(2) Agency review shall comply with Section[s] 63G-4-301[~~and 63G-4-302~~].

(3)(a) The commissioner or the commissioner's designee shall conduct the review.

(b) A designee may not be the presiding officer who issued the decision under review.

(c) If a designee conducts a review, the designee shall recommend a disposition to the commissioner.

(d) The commissioner will make the final decision and sign the order.

(4) Content of a request for agency review.

(a) A request for agency review shall comply with Subsection 63G-4-301(1)(b), and shall include the following:

(i) a copy of the order that is the subject of the request;

(ii) the factual basis for the request, including:

(A) citation to the record of the formal adjudicative proceeding; and

(B) clear reference to evidence or a proffer of evidence in an informal adjudicative proceeding;

(iii) the legal basis for the request, including citation to supporting authority;

(iv) for a challenge to a finding of fact in a formal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the entire record; and

(v) for a challenge to a finding of fact in an informal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the evidence received or proffered.

(b) A party challenging a finding of fact in a formal adjudicative proceeding shall:

(i) order a transcript of the recording relevant to the finding;

(ii) certify that a transcript is ordered;

(iii) file the transcript with the commissioner or the commissioner's designee;

(iv) serve a copy of the transcript on each party; and

(v) pay the cost of preparing the transcript.

(c) The commissioner or commissioner's designee may waive the transcript requirement on motion for good cause shown.

(5) Memoranda.

(a)(i) A party requesting agency review shall submit a supporting memorandum with the request.

(ii) If a transcript is necessary to conduct agency review, a supporting memorandum shall be filed no later than 15 days after the service of the transcript on the opposing party.

(b) An opposing memorandum shall be filed no later than 15 days after the supporting memorandum is filed.

- (c) A reply memorandum shall be filed no later than five days after [†]the opposing memorandum is filed.
- (d) The commissioner or the commissioner's designee may order a party to submit additional memoranda to assist in conducting agency review.
- (6) Request for a stay.
 - (a) On motion by a party and for good cause, the commissioner or commissioner's designee may stay the presiding officer's order during the pendency of agency review.
 - (b) A motion for a stay shall be made in writing and may be made at any time during the pendency of agency review.
 - (c) An opposition to a motion for a stay shall be made in writing within ten days from the date the motion is filed.
- (7)(a) A party may request oral argument in the party's initial pleading.
 - (b) The commissioner or the commissioner's designee may grant oral argument if requested in a party's initial pleading.
- (8) Failure to comply with Section R590-160-8 may result in the commissioner or the commissioner's designee dismissing the request for agency review.

KEY: insurance

Date of Last Change: March 25, 2022

Notice of Continuation: September 21, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 63G-4-102; 63G-4-203