

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency _____

Department _____

Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204) Legal Notice Published _____

☐ 10 Days After Filing (ACA 25-15-204) Final Date for Public Comment _____

☐ Other _____ Reviewed by Legislative Council _____
(Must be more than 10 days after filing date.)

Adopted by State Agency _____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

Phone Number

E-mail Address

Title

Date

ARKANSAS INSURANCE DEPARTMENT

RULE 112

TRAVEL INSURANCE

Table of Contents

Section 1.	Authority
Section 2.	Scope and Purposes
Section 3.	Definitions
Section 4.	Licensing and Registration
Section 5.	Premium Tax
Section 6.	Travel Protection Plans
Section 7.	Sales Practices
Section 8.	Travel Administrators
Section 9.	Policy
Section 10.	Effective Date

Section 1. Authority

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner ("Commissioner") under Ark. Code Ann. §§ 23-61-108 and 23-64-234.

Section 2. Scope and Purposes

- A. The purpose of this Rule is to implement Act 698 of 2019 and to promote the public welfare by creating a comprehensive legal framework within which Travel Insurance may be sold in this state.
- B. The requirements of this Rule shall apply to Travel Insurance that covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates that are delivered or issued for delivery in this state. It shall not apply to Cancellation Fee Waivers or Travel Assistance Services, except as expressly provided herein.
- C. All other applicable provisions of this state's insurance laws shall continue to apply to Travel Insurance except that the specific provisions of Act 698 of 2019 shall supersede any general provisions of law that would otherwise be applicable to Travel Insurance.

Section 3. Definitions

As used in this Rule

- A. "Aggregator Site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.
- B. "Blanket Travel Insurance" means a policy of Travel Insurance issued to any Eligible Group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the Eligible Group without a separate charge to individual members of the Eligible Group.
- C. "Cancellation Fee Waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A Cancellation Fee Waiver is not insurance.

- D. "Commissioner" means the commissioner of insurance of this state.
- E. Solely for the purposes of Travel Insurance, "Eligible Group" means two (2) or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including but not limited to any of the following:
- (1) Any entity engaged in the business of providing travel or travel services, including but not limited to: tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel;
 - (2) Any college, school, or other institution of learning, covering students, teachers, employees, or volunteers;
 - (3) Any employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests;
 - (4) Any sports team, camp, or sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers;
 - (5) Any religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers;
 - (6) Any financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;
 - (7) Any incorporated or unincorporated association, including labor unions, having a common interest, constitution and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;
 - (8) Any trust or the trustees of a fund established, created or maintained for the benefit of and covering members, employees or customers, subject to the Commissioner's permitting the use of a trust and the state's premium tax provisions in Section 5 herein or, of one or more associations meeting the above requirements of Paragraph (7) above;
 - (9) Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;
 - (10) Any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group;
 - (11) Preschools, daycare institutions for children or adults, and senior citizen clubs;
 - (12) Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies; or
 - (13) Any other group where the Commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.
- F. "Fulfillment Materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.
- G. "Group Travel Insurance" means Travel Insurance issued to any Eligible Group.

- H. "Limited Lines Travel Insurance Producer" means a
- (1) Licensed managing general agent,
 - (2) Licensed insurance producer, including a limited lines producer, or
 - (3) Travel Administrator.
- I. "Offer and Disseminate" means providing general information, including a description of the coverage and price, as well as processing the application and collecting premiums.
- J. "Primary Certificate Holder" means an individual person who elects and purchases Travel Insurance under a Group Policy.
- K. "Primary Policyholder" means an individual person who elects and purchases individual Travel Insurance.
- L. "Travel Administrator" means a person who directly or indirectly underwrites, collects or charges collateral or premiums from, or adjusts or settles claims on residents of this state, in connection with Travel Insurance, except that a person shall not be considered a Travel Administrator if that person's only actions that would otherwise cause it to be considered a Travel Administrator are among the following:
- (1) A person working for a Travel Administrator to the extent that the person's activities are subject to the supervision and control of the Travel Administrator;
 - (2) An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;
 - (3) A Travel Retailer offering and disseminating Travel Insurance and registered under the license of a Limited Lines Travel Insurance Producer in accordance with this Rule;
 - (4) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or
 - (5) A business entity that is affiliated with a licensed insurer while acting as a Travel Administrator for the direct and assumed insurance business of an affiliated insurer.
- M. "Travel Assistance Services" means non-insurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel Assistance Services include, but are not limited to: security advisories; destination information; vaccination and immunization information services; travel reservation services; entertainment; activity and event planning; translation assistance; emergency messaging; international legal and medical referrals; medical case monitoring; coordination of transportation arrangements; emergency cash transfer assistance; medical prescription replacement assistance; passport and travel document replacement assistance; lost luggage assistance; concierge services; and any other service that is furnished in connection with planned travel. Travel Assistance Services are not insurance and not related to insurance.
- N. "Travel Insurance" means insurance coverage for personal risks incident to planned travel, including:
- (1) Interruption or cancellation of trip or event;
 - (2) Loss of baggage or personal effects;
 - (3) Damages to accommodations or rental vehicles;
 - (4) Sickness, accident, disability, or death occurring during travel;
 - (5) Emergency evacuation;
 - (6) Repatriation of remains; or
 - (7) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.

Travel Insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six (6) months, including for example, those working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license.

- O. “Travel Protection Plans” means plans that provide one or more of the following: Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers.
- P. “Travel Retailer” means a business entity that makes, arranges or offers planned travel and may offer and disseminate Travel Insurance as a service to its customers on behalf of and under the direction of a Limited Lines Travel Insurance Producer.

Section 4. Licensing and Registration

- A. The Commissioner may issue a Limited Lines Travel Insurance Producer License to an individual or business entity that has filed with the Commissioner an application for a Limited Lines Travel Insurance Producer License in a form and manner prescribed by the Commissioner. Such Limited Lines Travel Insurance Producer shall be licensed to sell, solicit, or negotiate Travel Insurance through a licensed insurer. No person may act as a Limited Lines Travel Insurance Producer or Travel Insurance Retailer unless properly licensed or registered, respectively.
- B. A Travel Retailer may offer and disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity license only if the following conditions are met:
 - (1) The Limited Lines Travel Insurance Producer or Travel Retailer provides to purchasers of Travel Insurance:
 - (a) A description of the material terms or the actual material terms of the insurance coverage;
 - (b) A description of the process for filing a claim;
 - (c) A description of the review or cancellation process for the Travel Insurance policy; and
 - (d) The identity and contact information of the insurer and Limited Lines Travel Insurance Producer.
 - (2) At the time of licensure, the Limited Lines Travel Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer’s behalf. The register shall be maintained and updated by the Limited Lines Travel Insurance Producer and shall include the name, address, and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC § 1033 & 1034 as they existed January 1, 2019. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers under Ark. Code Ann. § 23-64-512, shall be applicable to Limited Lines Travel Insurance Producers and Travel Retailers.
 - (3) The Limited Lines Travel Insurance Producer has designated one of its employees who is a licensed individual producer as the person (a “Designated Responsible Producer” or “DRP”) responsible for the compliance with the Travel Insurance laws and regulations applicable to the Limited Lines Travel Insurance Producer and its registrants.
 - (4) The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the Limited Lines Travel Insurance Producer’s insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the Limited Lines Travel Insurance Producer.
 - (5) The Limited Lines Travel Insurance Producer has paid all applicable licensing fees as set forth in applicable state law.
 - (6) The Limited Lines Travel Insurance Producer requires each employee and authorized representative of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review

and approval. The training material shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

- C. Any Travel Retailer offering or disseminating Travel Insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials shall include information which, at a minimum:
- (1) Provides the identity and contact information of the insurer and the Limited Lines Travel Insurance Producer;
 - (2) Explains that the purchase of Travel Insurance is not required in order to purchase any other product or service from the Travel Retailer; and
 - (3) Explains that an unlicensed Travel Retailer is permitted to provide only general information about the insurance offered by the Travel Retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the Travel Retailer or to evaluate the adequacy of the customer's existing insurance coverage.
- D. A Travel Retailer employee or authorized representative, who is not licensed as an insurance producer may not:
- (1) Evaluate or interpret the technical terms, benefits, and conditions of the offered Travel Insurance coverage;
 - (2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or
 - (3) Hold himself or itself out as a licensed insurer, licensed producer, or insurance expert.
- E. Notwithstanding any other provision in law, a Travel Retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating Travel Insurance on behalf of and under the direction of a Limited Lines Travel Insurance Producer meeting the conditions stated in this Act, is authorized to receive related compensation, upon registration by the Limited Lines Travel Insurance Producer as described in Subsection B(2) above.
- F. Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this Rule.
- G. Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit and negotiate travel insurance. A property and casualty insurance producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

Section 5. Premium Tax

- A. A travel insurer shall pay premium tax, as provided in § 26-57-603 on Travel Insurance premiums paid by any of the following:
- (1) An individual primary policyholder who is a resident of this state;
 - (2) A primary certificate-holder who is a resident of this state who elects coverage under a Group Travel Insurance policy; or
 - (3) A Blanket Travel Insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased Blanket Travel Insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.
- B. A travel insurer shall:
- (1) Document the state of residence or principal place of business of the policyholder or certificate-holder, as required in Section 5A; and,

- (2) Report as premium only the amount allocable to Travel Insurance and not any amounts received for Travel Assistance Services or Cancellation Fee Waivers.

Section 6. Travel Protection Plans

- A. Travel Protection Plans may be offered for one price for the combined features that the Travel Protection Plan offers in this state if:
- B. The Travel Protection Plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and
- C. The Fulfillment Materials:
 - (1) Describe and delineate the Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers in the Travel Protection Plan, and
 - (2) Include the Travel Insurance disclosures and the contact information for persons providing Travel Assistance Services, and Cancellation Fee Waivers, as applicable.

Section 7. Sales Practices

- A. All persons offering Travel Insurance to residents of this state are subject to the Trade Practices Act, Ark. Code Ann. § 23-66-201, *et seq.* except as otherwise provided in this Section. In the event of a conflict between this Rule and other rules regarding the sale and marketing of Travel Insurance and Travel Protection Plans, the provisions of this Rule shall control.
- B. Illusory Travel Insurance. Offering or selling a Travel Insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under the Trade Practices Act, Ark. Code Ann. § 23-66-201, *et seq.*
- C. Marketing
 - (1) All documents provided to consumers prior to the purchase of Travel Insurance, including but not limited to sales materials, advertising materials, and marketing materials, shall be consistent with the Travel Insurance policy itself, including but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.
 - (3) For Travel Insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase, and in the coverage's Fulfillment Materials.
 - (3) The Fulfillment Materials and the information described in Section 4(B)(1)(a)-(d) shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a Travel Protection Plan. Unless the insured has either started a covered trip or filed a claim under the Travel Insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the Travel Protection Plan price from the date of purchase of a Travel Protection Plan until at least:
 - (a) Fifteen (15) days after the date of delivery of the Travel Protection Plan's Fulfillment Materials by postal mail; or
 - (b) Ten (10) days after the date of delivery of the Travel Protection Plan's Fulfillment Materials by means other than postal mail.

For the purposes of this section, "delivery" means handing Fulfillment Materials to the primary policyholder or primary certificate holder or sending Fulfillment Materials by postal mail or electronic means to the primary policyholder or primary certificate holder.

- (4) The company shall disclose in the policy documentation and Fulfillment Materials whether the Travel Insurance is primary or secondary to other applicable coverage.
- (5) Where Travel Insurance is marketed directly to a consumer through an insurer's website or by others

through an Aggregator Site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

- D. Opt out. No person offering, soliciting, or negotiating Travel Insurance or Travel Protection Plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.
- E. It shall be an unfair trade practice to market Blanket Travel Insurance coverage as free.
- F. Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:
 - (1) Purchasing the coverage required by the destination jurisdiction through the Travel Retailer or Limited Lines Travel Insurance Producer supplying the trip or travel package; or
 - (2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

Section 8. Travel Administrators


- A. Notwithstanding any other provisions of the insurance laws of this state, no person shall act or represent itself as Travel Administrator for Travel Insurance in this state unless that person:
 - (1) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license; or
 - (2) Holds a valid managing general agent (MGA) license in this state.
- B. A Travel Administrator and its employees are exempt from the licensing requirements for adjusters under Ark. Code Ann. § 23-64-201 for Travel Insurance it administers.
- C. An insurer is responsible for the acts of a Travel Administrator administering Travel Insurance underwritten by the insurer and is responsible for ensuring that the Travel Administrator maintains all books and records relevant to the insurer to be made available by the Travel Administrator to the Commissioner upon request.

Section 9. Policy

- A. Notwithstanding any other provision of the insurance laws of this state, Travel Insurance shall be classified and filed for purposes of rates and forms under a marine line of insurance, provided, however, that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively, or in conjunction with related coverages of emergency evacuation or repatriation of remains, or in conjunction with incidental limited property and casualty benefits such as baggage or trip cancellation, may be filed by an authorized insurer under either an accident and health line of insurance or a marine line of insurance.
- B. Travel Insurance may be in the form of an individual, group, or blanket policy.
- C. Eligibility and underwriting standards for Travel Insurance may be developed and provided based on Travel Protection Plans designed for individual or identified marketing or distribution channels, provided those standards also meet the state's underwriting standards for marine insurance.

Section 10. Effective Date

- A. This rule is effective Nov 20, 2020, or ten days after is signed by the Commissioner, whichever is later.


ALAN MCCLAIN
INSURANCE COMMISSIONER
STATE OF ARKANSAS

11-20-2020
DATE

SUMMARY

AID PROPOSED RULE 112

TRAVEL INSURANCE

- The Arkansas Insurance Department is responsible for regulating the sale of travel insurance.
- Act 698 of 2019 and Ark. Code Ann. § 23-64-234 create a new legal framework for the marketing and sale of travel insurance in Arkansas.
- The rule promulgates Act 698 of 2019, which gives clear definitions as to who is considered a travel insurance provider. It also prevents travel insurance providers from using an “Opt out” requirement when bundling travel insurance with, for example, plane tickets or a rental car.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Insurance
DIVISION Legal
PERSON COMPLETING THIS STATEMENT Gray Turner
TELEPHONE NO. 5013712829 **FAX NO.** _____ **EMAIL:** gray.turner@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Travel Insurance

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Next Fiscal Year

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Total 0

Total 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	0
Federal Funds	0
Cash Funds	0
Special Revenue	0
Other (Identify)	0
Total	0

Next Fiscal Year

General Revenue	0
Federal Funds	0
Cash Funds	0
Special Revenue	0
Other (Identify)	0
Total	0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.