

ADMINISTRATIVE RULEMAKING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Utah Administrative Rulemaking Act.

Highlighted Provisions:

This bill:

- ▶ clarifies the penalty for an agency's failure to timely comply with the five-year review requirements;
- ▶ modifies the five-year review filing requirements;
- ▶ provides that the division's failure to give an agency notice of a five-year review deadline does not exempt the agency's compliance with the provisions in this bill; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-3-305, as last amended by Laws of Utah 2012, Chapter 384

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-3-305** is amended to read:

63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

(1) Each agency shall review each of its rules within five years ~~[of]~~ after the rule's original effective date or within five years ~~[of]~~ after the filing of the last five-year review, whichever is later. ~~[Rules effective prior to 1992 need not be reviewed until 1997.]~~

(2) An agency may consider any substantial review of a rule to be a five-year review[=

33 ~~If the agency chooses to consider a review a five-year review, it shall follow the procedures~~
34 ~~outlined in Subsection (3)]~~ if the agency also meets the requirements described in Subsection
35 (3).

36 (3) At the conclusion of its review, and no later than the deadline described in
37 Subsection (1), the agency shall file a notice of review [on or before the anniversary date
38 indicating its] with the division. The notice of review shall state the agency's intent to
39 continue, amend, or repeal the rule.

40 (a) If the agency continues the rule, ~~[it shall file a statement which includes]~~ the agency
41 shall file with the division a five-year notice of review and statement of continuation that
42 includes:

43 (i) a concise explanation of the particular statutory provisions under which the rule is
44 enacted and how these provisions authorize or require the rule;

45 (ii) a summary of written comments received during and since the last five-year review
46 of the rule from interested persons supporting or opposing the rule; and

47 (iii) a reasoned justification for continuation of the rule, including reasons why the
48 agency disagrees with comments in opposition to the rule, if any.

49 (b) If the agency repeals the rule, ~~[it]~~ the agency shall:

50 (i) comply with Section 63G-3-301[-]; and

51 (ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the
52 result of the agency's five-year review under this section.

53 (c) If the agency amends and continues the rule, ~~[it]~~ the agency shall comply with the
54 requirements [of] described in Section 63G-3-301 and file [the statement] with the division the
55 five-year notice of review and statement of continuation required in Subsection (3)(a).

56 (4) ~~[(a)]~~ The division shall publish ~~[the]~~ a five-year notice of review and statement of
57 continuation in the bulletin no later than one year after the deadline described in Subsection
58 (1).

59 ~~[(b) The division may schedule the publication of agency notices and statements,~~
60 ~~provided that no notice and statement shall be published more than one year after the review~~
61 ~~deadline established under Subsection (1).]~~

62 (5) (a) The division shall notify an agency ~~[of rules]~~ that a rule is due for review at
63 least 180 days [prior to the anniversary date] before the deadline described in Subsection (1).

64 (b) The division's failure to comply with the requirement described in Subsection (5)(a)
65 does not exempt an agency from complying with any provision of this section.

66 (6) If an agency finds that it will not meet the deadline established in Subsection (1):

67 (a) before the deadline described in Subsection (1), the agency may file [an] one
68 extension [prior to the anniversary date] with the division indicating the reason for the
69 extension; and

70 (b) the division shall publish notice of the extension in [~~the next issue of~~] the bulletin
71 in accordance with the division's publication schedule established by division rule under
72 Section 63G-3-402.

73 (7) An extension permits the agency to [~~file a notice no more than~~] comply with the
74 requirements described in Subsections (1) and (3) up to 120 days after the [anniversary date]
75 deadline described in Subsection (1).

76 (8) (a) If an agency [~~fails to file a notice of review or~~] does not comply with the
77 requirements described in Subsection (3), and does not file an extension [on or before the date
78 specified in the notice mandated in Subsection (5), the division shall:] under Subsection (6),
79 the rule expires automatically on the day immediately after the date of the missed deadline.

80 (b) If an agency files an extension under Subsection (6) and does not comply with the
81 requirements described in Subsection (3) within 120 days after the day on which the deadline
82 described in Subsection (1) expires, the rule expires automatically on the day immediately after
83 the date of the missed deadline.

84 (9) After a rule expires under Subsection (8), the division shall:

85 (a) publish a notice in the next issue of the bulletin that the rule has expired and is no
86 longer enforceable;

87 (b) remove the rule from the code; and

88 (c) notify the agency that the rule has expired.

89 [~~(9)~~] (10) After a rule expires, an agency must comply with the requirements of Section
90 63G-3-301 to reenact the rule.

Legislative Review Note
as of 8-1-13 8:11 AM

Office of Legislative Research and General Counsel