

UTAH STATE BULLETIN

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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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EDITOR'S NOTES

Publication Error for Filings on Rules R35-1 and R35-2

It has come to the Office of Administrative Rules' (OAR) attention that there was a publication error on the filings for Rules R35-1 and R35-2 that were printed in the December 15, 2023, Bulletin.

There was some confusion in the process for correcting these filings and they both were printed with ID 56201 as their identifiers. ID 56201 refers to a different filing.

Rule R35-1's ID number is 55850 and Rule R35-2's ID number is 55851. These are their assigned numbers in OAR's filing system. These numbers also appear on the Notice of Effective Dates for these rules that appear at the end of this issue, February 15, 2024, of the Bulletin. They were both made effective on 01/29/2024.

Any questions on this issue should be directed to rulesonline@utah.gov.

End of the Editor's Notes 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 January 17, 2024, 12:00 a.m., and February 01, 2024, 11:59 p.m. are included in this, the February 15, 2024, 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 March 18, 2024. 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 June 14, 2024, 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 FILING: New		
Rule or Section Number:	R317-16	Filing ID: 56312

Agency Information

1. Department:	Environmental Quality	
Agency:	Water Quality	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W, DEQ 3rd Floor	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, UT 84114-4870	
Contact persons:		
Name:	Phone:	Email:
Jim Harris	801-541-3069	jamesharris@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval
3. Purpose of the new rule or reason for the change:
Subsection 65A-6-4(6)(b) requires certain entities seeking a royalty agreement permitting the extraction of Great Salt Lake (GSL) elements or minerals to certify before operation begins that the operator is not negatively impacting the biota or chemistry of GSL, and obtain the approval of the Department of Environmental Quality that the certification supports the operator's finding.
Existing state rules do not establish a process to meet this requirement; therefore, this new rule is being proposed to address an application procedure for a distinctly new mineral extraction sector on GSL.
4. Summary of the new rule or change:
This new rule establishes the process of operator certification application and approval by the Utah Division of Water Quality (DWQ) as required by Subsection 65A-6-4(6)(b) for certain entities obtaining a royalty agreement permitting the extraction of GSL elements or minerals.

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

As Rule R317-16 is a new rule and requires novel water quality certification review and approval, it is difficult to estimate the staff hours required to perform this work.

However, based on similar water quality certifications from other programs and the expanded elements proposed for this certification review, it is expected that a certification review will require billable hours for multiple expert staff (scientists, biologist, geologist, program manager and director).

Since this review may occur twice in one fiscal year (provisions require review during a "Feasibility Assessment" and "Operator Certification" phases separated by up to 9 months), DWQ estimates approximately 300 hours of staff time per fiscal year. This will be billed to the operator at a rate of \$125/hr, for an estimated total of \$37,500 per certification, and will not have a fiscal impact on DWQ's budget.

While the number and timing of potential certifications is currently unknown, given this is a new sector of extraction mining, our involvement with existing facilities that are capable and interested in new operations, DWQ estimates receiving approximately three applications and have distributed those over the three years in the table below.

B) Local governments:

No local governments are constrained parties or will incur direct or indirect costs or benefits from this rule change.

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

Costs or savings for small business are inestimable because the number of small businesses that will apply for certification approval is unknown and DWQ estimates that most operations will fall within the non-small business category. In the event that a small business applies for a certification, estimates below will apply.

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

Based on experience within the sector of mineral extraction on GSL, nearly all of the potential operators who will be impacted by this new rule will fall under this category.

As noted in the estimations provided under the State Budget section, the actual cost of staff review and approval of certifications will be billed directly to the operator for reimbursement and are reflected in the table below.

There is likely a significant cost to businesses in developing the supporting information, monitoring, and research and development of technologies to ensure compliance which is inestimable and not included in this analysis. The reason these elements are inestimable is due primarily to the fact that entities likely affected by this rule belong to a new sector of business that rely on technologies whose scope of operations and water quality treatment process are not yet fully known to DWQ.

As each operation is likely to vary considerably (and the nature of those operations is currently unknown at this time) any estimation of the impact in compliance would not be meaningful nor defensible.

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**):

Costs or savings for other persons are inestimable because the number of other persons that will apply for certification approval is unknown (see above for cost estimates).

However, persons other than small businesses, non-small businesses, state, or local government entities are unlikely to be constrained parties under this rule.

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

Compliance costs for affected persons are inestimable because approaches to meeting this rule will be applicant specific and determined by the applicant.

However, it is unlikely that other persons other than non-small businesses are likely to be affected by 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$37,500	\$37,500	\$37,500
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$37,500	\$37,500	\$37,500
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$37,500	\$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	\$37,500	\$37,500	\$37,500
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 Environmental Quality, Kim Shelley, 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		
65A-6-4(6)(b)		

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: 03/18/2024

9. This rule change MAY become effective on: 03/25/2024

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:	John K. Mackey, Director DWQ	Date:	01/31/2024
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R317. Environmental Quality, Water Quality.

R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval.

R317-16-1. Purpose and Authority.

(1) Authority. This rule is promulgated pursuant to Section 65A-6-4.

(2) Purpose. To implement administrative rules for approval of operator certification according to Section 65A-6-4 and to protect the biota and chemistry of Great Salt Lake from possible negative impacts in connection with brine processing and mineral extraction activities.

R317-16-2. Definitions.

The following definitions apply for purposes of this rule only:

(1) "Application for Operator Certification Approval" or "Application" means a request for approval of an operator's certification that its operations will not negatively impact biota or chemistry of Great Salt Lake, and includes the specific information detailed in Sections R317-16-3 and R317-16-5.

(2) "Biota" means all plants, fungi, animals, protists, bacteria, and archaea in Great Salt Lake.

(3) "Brine Depletion" means the volume of brine water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of brine water.

(4) "Brine Water" means water diverted from Great Salt Lake.

(5) "Certification Decision" includes the following:

(a) "Operator Certification Approval" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's approval of an operator's certification.

(b) "Operator Certification Denial" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's denial of an operator's certification.

(6) "Chemistry" means the properties, composition, and structure of the elements and compounds, and interactions thereof, making up the waters, brines, and substrate of Great Salt Lake.

(7) "Director" means the director of the Utah Division of Water Quality.

(8) "Discharge" means any water, substance, or pollution placed into a receiving water; which may include any combination of treated, processed, mitigation, or returned waters.

(9) "Division" means the Utah Division of Water Quality.

(10) "Draft Certification Decision" means a document indicating the director's preliminary decision to approve or deny an operator's certification. A draft certification decision is not a permit order.

(11) "Externally Sourced Water" means water diverted from sources other than Great Salt Lake and used for processing and operations.

(12) "Feasibility Assessment" means the same as that term defined in Section R652-21-200.

(13) "FFSL" means the Utah Department of Natural Resources, Division of Forestry, Fire, and State Lands.

(14) "Foreign materials" means materials added to a discharge or a commercial process.

(15) "GSL" means Great Salt Lake.

(16) "Mitigation Water" means the water diverted from sources other than Great Salt Lake and delivered to Great Salt Lake to compensate for brine depletion, pursuant to Section 65A-6-4. Mitigation water may not include wastewater reuse.

(17) "Negative Impact" includes any activity or action that:

(a) causes pollution, or negatively alters the salinity or other aspects of water chemistry in Great Salt Lake;

(b) negatively alters the volume or timing of water flows to Great Salt Lake, or water levels in Great Salt Lake or Great Salt Lake wetlands;

(c) reduces, degrades, or otherwise negatively alters habitat in and around Great Salt Lake; or

(d) results in harmful physiological impacts to Great Salt Lake biota, including disruptions to survival, reproduction, or growth.

(18) "Operator" means a person submitting an application for operator certification approval to pursue extraction of Great Salt Lake elements or minerals to the Division of Water Quality.

(19) "Operator Certification" means a statement by an operator that its operation will not negatively impact the biota or chemistry of Great Salt Lake.

(20) "Pollution" means the same as that term is used in Section 19-5-102.

(21) "Returned Water" means any water discharged into Great Salt Lake from commercial operations.

(22) "Total Water" means the sum of externally sourced water and brine water.

(23) "UPDES" means Utah Pollutant Discharge Elimination System.

(24) "Water Depletion" means the volume of total water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of brine water.

R317-16-3. Feasibility Assessment -- Certification Approval by Rule.

(1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days before submitting a feasibility application with FFSL. The division and FFSL may jointly waive or shorten the requirement for a pre-filing meeting request.

(2) For the feasibility assessment only, a UPDES permit is considered a feasibility assessment certification approval by rule.

(a) The term of a UPDES permit issued for the feasibility assessment shall be the duration of the feasibility assessment.

(b) If the operation is non-discharging during the feasibility assessment and does not require a UPDES permit, the operator shall nonetheless comply with Subsection R317-16-3(3).

(i) The director will issue a certification decision using the procedures listed in Sections R317-16-6 and R317-16-7.

(ii) The term of a feasibility assessment certification approval shall be the duration of the feasibility assessment.

(3) To obtain feasibility assessment certification approval by rule, the operator shall submit, on a form provided by the division:

(a) information listed in this section pertaining to the feasibility assessment; and

(b) an application for a UPDES permit.

(4) Feasibility assessment information required:

(a) project information:

(i) mass balance of principal GSL salinity constituents, including all target and non-target minerals across the principal mineral processing steps;

(ii) a water balance at design flow, low flow conditions, and across a range of lake levels;

(iii) generated waste containment and disposal infrastructure descriptions, including residuals and disposal methods;

(iv) location and acreage of lakebed used for project facilities during the feasibility assessment and operations phases, if different;

(v) supporting documentation submitted to federal agencies, including maps, plans, specifications, project dimensions, copies of associated federal applications, biological and engineering studies, environmental assessment or environmental impact statements, or alternative analyses, as applicable;

(vi) estimated water depletion; and

(vii) plan to determine rate of extraction for the targeted and non-targeted minerals or elements and estimated rate of depletion of the targeted and non-targeted minerals or elements in GSL;

(b) withdrawal information:

(i) names and locations of the brine water and externally sourced water where withdrawals will occur, including the precise latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;

(ii) detailed information on the quantity of brine water and externally sourced water withdrawn; and

(iii) detailed information on the timing of the withdrawals.

(c) discharge information:

(i) characterization of the physical, chemical, biological, thermal, and other pertinent properties of the discharge; at a minimum: pH, total alkalinity, total dissolved solids, total suspended solids, sulfate, nitrate, nitrite, carbonate, bicarbonate, chloride, hydroxide, chemical oxygen demand, biological oxygen demand, silica, zinc, magnesium, sodium, calcium, potassium, boron, bromine, aluminum, iron, and silicon; range of temperatures expected in effluent; density range of effluent to be discharged; and quantity of foreign materials that would be discharged to the GSL on an annual basis;

(ii) for operations that are non-discharging during the feasibility assessment, a determination of whether discharge will occur during the operations phase and an evaluation of how the operator will obtain information to characterize its operations discharge during the feasibility assessment.

(d) impacted habitat:

(i) description of existing GSL habitat and biota in and around the area of operation;

(ii) description of the potential physical impact to habitat and biota in and around the withdrawal and discharge locations;

(iii) evaluation of the least degrading reasonable alternatives;

(iv) plan to mitigate any negative impacts of the proposed operation; and

(v) plan to ensure existing beneficial uses will be maintained and protected.

(e) monitoring and inspection plan:

(i) a description of the methods and means to monitor the quality and characteristics of the discharge and the operation of the equipment or facilities employed in control of any proposed discharge;

(ii) plan to monitor and address long-term cumulative effects of withdrawals and discharges on the biota and chemistry of the GSL including available baseline data; and

(iii) a map showing the locations of proposed monitoring points.

(f) evidence supporting the operator certification:

(i) consideration of both short-term effects and long-term impacts of the project;

(ii) examples of evidence supporting a certification may include:

(A) a quantitative comparison of influent and effluent volume and chemical composition;

(B) modeled annual impacts to salinity or concentrations of other important chemical parameters in GSL;

(C) evaluation of impacts to GSL biota including:

(I) a quantitative comparison of effluent chemical concentrations to applicable water quality standards; or

(II) other scientifically defensible biological response thresholds;

(D) other scientifically defensible means for evaluating project impacts on GSL chemistry and biota.

R317-16-4. Operations Application Procedures.

(1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days before submitting an application for operator certification approval. The division and FFSL may jointly waive or shorten the requirement for a pre-filing meeting request.

(2) The operator shall submit an application for operator certification approval simultaneously with the application to FFSL pursuant to Subsection 65A-6-4(6)(b)(iii).

(3) Applications for operator certification approval shall be submitted on the form provided by the division. Unless extended in writing by the division, the operator must obtain all information submitted with the application within one year of filing the application.

(4) The operator shall submit a UPDES application simultaneously with the application for operator certification approval. UPDES permit approval is not a certification decision. The director shall issue a certification decision separate from a UPDES permit.

(5) Within 45 days of receiving the application for operator certification approval, the division will notify the operator whether the application is complete. If an application is incomplete, the division shall notify the operator of the missing information.

(a) An operator may submit the missing information within 45 days after the division's notice of incompleteness.

(b) The division may administratively deny an incomplete application not remedied within 45 days, and the operator must resubmit a new application for operator certification approval.

(6) The operator shall notify the director in writing of changes that may affect the application for operator certification.

(7) If an operator who is required to obtain an operator certification approval fails to do so, the director may process an application for operator certification approval after-the-fact. An application after-the-fact shall be reviewed under the same standards as a timely application for operator certification approval. The director may require full restoration or other actions as a pre-condition of processing the application. An operator submitting an after-the-fact application shall have the burden of proving what the original baseline conditions were, and an application may be denied in the absence of such proof.

(8) The operator is responsible for payment of hourly fees, established pursuant to Subsection 19-1-201(6)(i). The operator shall submit a fee retainer, specified in the application form, together with its application for certification approval. The division will not begin review of the application for certification approval until it has received the fee retainer. The division will invoice the operator on a routine basis, and may stop review of the application for nonpayment.

R317-16-5. Operations Application Content.

Unless otherwise determined in writing by the director, the application for operator certification approval shall include the following:

- (1) all information required under Subsection R317-16-3(4), revised and updated to reflect the scale of the operations design;
- (2) a summary of any changes made as a result of the feasibility assessment;
- (3) a summary of findings establishing the operator's feasibility assessment had no negative impact on the biota or chemistry of GSL;
- (4) all data and data analysis related to GSL biota and chemistry derived from the feasibility assessment;
- (5) a UPDES permit application;
- (6) any other information related to the operation's impact to the biota or chemistry of GSL, as requested by the director; and
- (7) a statement that the proposed project will not negatively impact the biota or chemistry of GSL.

R317-16-6. Draft Certification Decision.

- (1) Within 60 days of receiving a complete application for operator certification approval, the director shall issue a draft certification decision.
- (2) The draft certification decision shall be subject to a public notice and comment period of at least 30 days.
- (3) The division will publish the public notice using the following methods:
 - (a) Utah Department of Environmental Quality website; and
 - (b) the Utah Public Notices website.
- (4) The director may, at the director's discretion, hold a public hearing to take oral comments if:
 - (a) the director receives a request in writing not more than 15 days after the publication date of the draft certification decision; and
 - (b) the request is from:
 - (i) another state agency;
 - (ii) ten interested persons; or
 - (iii) an interested association having not fewer than ten members.
- (5) Public notice of a public hearing shall be given at least seven days in advance of the hearing. Public notice of a hearing may be combined and provided at the same time as public notice of any of the following:
 - (a) a draft certification decision issued under this rule;
 - (b) a draft UPDES permit issued under Rule R317-8; or
 - (c) a draft water quality certification issued under Rule R317-15.
- (6) The director shall consider the comments received during the public notice and comment period in finalizing the certification decision.

R317-16-7. Certification Decision.

- (1) After review of the application for operator certification approval and consideration of comments received during the public notice period, the director shall issue one of the following certification decisions:
 - (a) operator certification approval; or
 - (b) operator certification denial.
- (i) If the director issues an operator certification denial, the denial shall include reasons for denial.

(ii) If the director issues an operator certification denial, the director will notify FFSL of the denial.

(2) The certification decision shall include a summary of the comments received during the public notice and comment period and state whether any changes were made to the certification decision as a result of the comments.

R317-16-8. Term of Operator Certification Approval.

- (1) An operator certification approval shall be effective for a term of ten years.
- (2) An operator shall submit an application for operator certification approval to renew its operator certification approval no later than 180 days before the expiration of the certification approval.
 - (a) If an operator certification approval lapses before the director issues a certification decision on a timely renewal application, the operator certification approval will continue until the director issues a certification decision on the renewal application.
 - (b) Review of the operator's application to renew its operator certification approval will follow all procedures specified in this rule.
 - (c) Failure to submit an application for operator certification approval to renew shall, on the certification approval's expiration date, result in a lapse of the operator certification approval.
 - (d) The director will notify the operator and FFSL of the lapse. The director's notification is not a permit order.

R317-16-9. Reevaluation of Operator Certification Approval.

- (1) If any of the following occur, the director may notify the operator that it must resubmit, within 60 days, an application for operator certification approval for reevaluation:
 - (a) the operator's failure to fully disclose all relevant facts in the application;
 - (b) the operator's misrepresentation of any relevant fact at any time;
 - (c) existence of evidence that the operation is negatively impacting the biota or chemistry of GSL;
 - (d) request for a major modification in the operator's UPDES permit as defined by Subsection R317-8-5.6;
 - (e) lapse of the operator's certification approval; or
 - (f) the emergency trigger as defined in Section R652-21-1403.
- (2) The reevaluation will follow all procedures specified in this rule.

R317-16-10. Transfer of Operator Certification Approval For Non-Discharging Operations.

- (1) For non-discharging operations, the operator shall give written notice to the director of any transfer of the operator certification approval at least 30 days in advance of the effective date of the transfer.
- (2) The notice shall include a written agreement between the existing and new operator establishing a specific date for transfer of certification responsibility.
- (3) The notice shall contain the following contact information:
 - (a) legal name, permanent address and telephone number;
 - (b) name and permanent address of the operator's registered agent in Utah;
 - (c) name, address, email address and telephone number of the primary contact for the application, including the person to whom requests for additional information should be addressed; and

(d) signature of the operator; a corporate application must be signed by an officer of the corporation.

R317-16-11. Effect of Operator Certification Approval on Other Required Permits.

(1) Operator certification approval does not exempt the operator from complying with or obtaining any other permits required by federal, state, or local law.

(2) An operator certification approval is required in addition to a UPDES permit for facilities subject to this rule; however, reporting required by the operator certification approval may also be required through the UPDES permit, at the director's discretion.

KEY: Water Quality

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 65A-6-4

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R671-201	Filing ID: 56298
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Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-201. Original Hearing Schedule and Notice
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.

4. Summary of the new rule or change:

This rule amendment requires the Board to conduct an administrative review within six months of commitment to prison in order to set an original hearing. It replaces a schedule of original hearings based on offense type.

It also set standards for handling the original hearings for those who are under 18 at the time of the commitment offense.

Fiscal Information

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

A) State budget:

There is no anticipated impact on state budgets, as this rule only affects the timing of hearings.

The changes will result in no different expenses.

B) Local governments:

This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.

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

This rule change is not anticipated to have a fiscal impact on small business because it does not affect small business.

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

The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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

NOTICES OF PROPOSED RULES

this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VIII, Section 12	Section 77-27-5	Section 77-27-7
Section 77-27-9		

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: 03/18/2024

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

Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on: 03/25/2024

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:	Date:
J. Scott Stephenson, Chair	01/26/2024

R671. Pardons (Board of), Administration.

R671-201. Original Hearing Schedule and Notice.

R671-201-1. Schedule and Notice.

(1)(a) The Board shall conduct a scheduling review to determine[~~schedule~~] the month and year of an offender's original hearing, and provide notice to the offender, within [6]six months of the offender's commitment to prison.

(b)(i) No original hearing may be scheduled for any offender whose prison commitment includes a sentence of death.

(ii) No original hearing will be scheduled for any offender whose sentence includes a commitment of life without the possibility of parole. The Board will not consider parole for any offender whose prison commitment includes a sentence of life without parole, unless the requirements of Subsection 77-27-9(7) are met.~~The Board may only consider parole for an offender whose prison commitment includes a sentence of Life Without Parole, pursuant to UCA Subsection 77-27-9(6).]~~

(iii) Every other offender will be scheduled for an original hearing as described in this rule.

(2) For purposes of this rule, "scheduling review" means the process by which the Board schedules the month and year for an offender's original hearing.

~~For purposes of this Rule, the following terms are defined:~~

~~(a) "Administrative Review" means the process by which the Board, by majority vote, reviews, deliberates, and schedules the month and year for an offender's original hearing.~~

~~(b) "Homicide Offense Commitment" means a prison commitment to serve a sentence for a conviction of aggravated murder (if the sentence includes the possibility of parole), murder, felony murder, manslaughter, child abuse homicide, negligent homicide, automobile homicide, homicide by assault, any attempt, conspiracy or solicitation to commit any of these offenses, or any other offense, regardless of title, description or severity, when it is known at the time of sentencing that the offense conduct resulted in the death of any person.~~

~~(c) "Sexual Offense Commitment" means a prison commitment to serve a sentence for a conviction of any crime for which an offender is defined as a kidnap offender pursuant to Utah Code Ann. Subsection 77-41-102(9); or for which an offender is~~

defined as a sex offender pursuant to Utah Code Ann. Subsection 77-41-102(16); or any attempt, conspiracy or solicitation to commit any of the offenses listed in those sections.

(3) Within 6 months of an offender's commitment to prison, the Board shall conduct an administrative review and schedule a future date for an offender's original hearing, if the offender is committed to prison to serve a sentence for any:

- (a) homicide offense commitment eligible for parole;
- (b) commitment which includes a sentence of 25 years to life;
- (c) commitment imposed if the offender is younger than 18 years of age at the time of prison commitment; or
- (d) commitment imposed if the offender was younger than 18 years of age at the time the offense was committed.]

(3) [(8)] The date of the original hearing may be adjusted if: [The Board may depart from the schedule as provided by this rule if:]

- (a) an offender requests a delay or continuance;
- (b) an offender has unadjudicated criminal charges pending at the time a hearing would normally be held;
- (c) a Class A misdemeanor commitment has expired [prior to] before an original hearing; or
- (d) the Board determines that other unusual or extraordinary circumstances impact the scheduling of an original hearing[-]; or
- (e) calendar constraints exist.

(4)(a) When scheduling an original hearing by scheduling[administrative] review, the Board may consider the following, guideline date, pre-sentence report, nature of the offense, rehabilitative needs, and any relevant documentation provided.

(b) If[if] the Board obtains and considers additional information which was not available to the[~~court or~~] offender [prior to] before or at the time of sentencing, the additional information shall be provided to the offender[-], who shall be afforded a minimum of 21 days to consider and respond to the additional information prior to the Board making a decision that schedules an original hearing]. The offender may provide a response to any of the disclosed materials before or at the original hearing.

(5) When scheduling an original hearing by scheduling[administrative] review, if the offender was less than 18 years of age at the time of the commitment offense[~~and the offense is eligible for parole~~], the original hearing shall be scheduled:

(a) no later than 6 months before the individual's 25th birthday, so long as the individual is in secure care, in the provisional custody of the Division of Juvenile Justice and Youth Services, at the time of the hearing.

(b) no later than 10 years after the individual's transfer to the custody of the Utah Department of Corrections if the individual is transferred to the custody of the department before their 25th birthday, so long as the total amount of time after the date of sentencing does not exceed 15 years. [~~no later than 15 years after the date of sentencing.~~]

(6) When the Board sets an original hearing in Subsection (5), the Board shall make a referral to the victim advocate at the Department of Health and Human Services to provide support and assistance should the victims of record choose to participate in any Board hearings to which they are entitled to participate.

[(6) If an administrative review is not used to schedule an offender's original hearing pursuant to this rule, the original hearing shall be scheduled as follows:

(a) after the service of 12 years if the most severe sentence imposed is for a first degree felony with a minimum sentence of 15 years to life;

(b) after the service of 7 years if the most severe sentence imposed is for a first degree felony with a minimum sentence of 10 years to life;

(c) after the service of 3 years for any first degree felony if the most severe sentence imposed is greater than 3 years to life but less than 10 years to life;

(d) after the service of 1 year if the most severe sentence imposed is for:

(i) a first degree felony and the sentence is for 3 years to life; or

(ii) a second degree felony sexual offense commitment;

(e) after the service of 6 months if the most severe sentence imposed is for:

(i) all other second degree felony commitments; or

(ii) a third degree felony sexual offense commitment;

(f) after the service of 3 months if the most severe sentence imposed is for any other third degree felony or class A misdemeanor commitments.]

(7) An offender may request in writing that their original appearance and hearing before the Board be continued. The request shall specify the reasons supporting the request. The Board may grant or deny the offender's request in its sole discretion.

KEY: parole, inmates, hearings

Date of Last Change: [January 8, 2018]2024

Notice of Continuation: September 23, 2019

Authorizing, and Implemented or Interpreted Law: Art. VII Sec. 12; 77-27-5; 77-27-7; 77-27-9

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R671-312A

Filing ID:
56299

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov

Please address questions regarding information on this notice to the persons listed above.

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

R671-312A. Commutation Procedures Applicable to Persons Sentence to Death Before April 26, 1992

3. Purpose of the new rule or reason for the change:

This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.

4. Summary of the new rule or change:

Minor updates and clarifications, including rule citation and clerical corrections.

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

There is no anticipated impact on state budgets, as this rule is clerical in nature.

The changes will result in no budgetary impact.

B) Local governments:

This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.

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

This rule change is not anticipated to have a fiscal impact on small business because it does not affect small business.

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

The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Section 77-19-8	Section 77-27-2
Section 77-27-4	Section 77-27-5	Section 77-27-5.5
Section 77-27-8	Section 77-27-9	Section 77-27-9.5

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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:	03/25/2024
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:	J. Scott Stephenson, Chair	Date:	01/26/2024
---	-------------------------------	--------------	------------

R671. Pardons (Board of), Administration.**R671-312A. Commutation Procedures Applicable to Persons Sentenced to Death On or Before April 26, 1992.****R671-312A-1. Scope of Rule.**

~~[Board of Pardons and Parole Administrative Rule]~~ Rule R671-312 governs ~~[all]~~ petitions and proceedings when a petition for commutation of a death sentence is filed by or on behalf of a person sentenced to death for a capital felony in this state. In addition to the rules of general applicability set forth in Rule R671-312, this ~~[#]~~ Rule R671-312A governs commutation petitions and proceedings when a death sentence commutation petition concerns a person who was sentenced to death on or before April 26, 1992.

R671-312A-2. Eligibility.

(1) A person sentenced to death, or that person's counsel, may file a petition for commutation of a death sentence no later than seven days after the sentencing court has issued a judgment of death and ~~[or]~~ a warrant of execution.

(2) If any appeal of the petitioner's conviction or sentence is filed or litigated on behalf of the petitioner, including any collateral challenges or lawsuits, the commutation petition shall be filed within seven days after completion of ~~[all]~~ any such appeals of the conviction or sentence and collateral challenges or lawsuits, including ~~[, but not~~

~~limited to all]~~ any proceedings seeking post-conviction relief, ~~[habeas]~~ habeas corpus relief, or other proceedings for extraordinary relief.

(3) Failure of any petitioner or counsel to comply with this rule, ~~[all]~~ other Board rules, or any Board directive or order may result in the summary denial of the petition and cancellation of any scheduled hearing.

(4) Any act, omission, pleading, or other filing by a petitioner or counsel that the Board determines is meant to delay, hinder, or disrupt the Board's commutation process or proceedings may result in the summary denial of the petition and cancellation of any scheduled hearing.

R671-312A-3. Petition Requirements.

(1)(a) The commutation petition shall be signed by the petitioner, under oath, and filed with the Board ~~[s Administrative Coordinator]~~ at the Board's office ~~[s of the Board]~~ no later than seven days after the sentencing court signs a warrant setting an execution date.

(b) If the petitioner is represented by counsel, the petitioner's counsel shall also sign the petition.

(c) If the petitioner is represented by counsel, counsel shall comply ~~[in all respects]~~ with Rule R671-103, Attorneys.

(d) The petitioner or counsel shall hand-deliver a copy of the petition to the Utah Attorney General or designee. ~~[Additional copies of the petition may be served in any manner calculated to accomplish actual notice to the state, and may include facsimile transmission, electronic mail, or other electronic transmission.]~~

(2) The commutation petition shall include:

(a) the petitioner's name, date of birth, and Department of Corrections' offender number;

(b) the name, address, telephone number, and ~~c[-]~~ mail address of any counsel representing the petitioner in the commutation proceeding;

(c) a certified copy of the Judgment, ~~[Conviction]~~ Commitment, and Sentence for which commutation is petitioned;

(d) a certified copy of the ~~[W]~~ warrant setting the execution date applicable to the petitioner and for which commutation is petitioned;

(e) a statement specifying whether or not the conviction ~~[and]~~ or sentence for which commutation is petitioned was appealed; and if so, a copy of any applicable appellate decision;

(f) a statement specifying whether or not the conviction ~~[and]~~ or sentence for which commutation is petitioned was the subject of any complaint, petition, or other court filing or litigation seeking collateral remedies, post-conviction relief, a writ of ~~[habeas]~~ habeas corpus, or any other extraordinary relief; and if so, a copy of ~~[all]~~ any applicable final orders, rulings, determinations, and appellate decisions regarding such litigation;

(g) a statement of the reasons or grounds which the petitioner believes support the commutation of the death sentence; ~~[and]~~

(h) copies of ~~[all]~~ any written evidence upon which the petitioner intends to rely at the hearing; and

~~(i) [along with]~~ the names of ~~[all]~~ any witnesses the petitioner intends to call and a summary of their anticipated testimony.

(3) If the petitioner previously ~~[received a commutation hearing]~~ requested commutation, the petition shall include a statement reciting what, if any, new, significant, and previously unavailable information exists which supports commutation and the reasons the

NOTICES OF PROPOSED RULES

petitioner believes this information supports reconsideration~~[a second, subsequent, or new hearing]~~.

(4) Within seven days of receiving the petition, the ~~[State of Utah]~~state, by and through the Attorney General or designee, shall file a response to the petition. The ~~[S]~~state shall file it~~['s]~~ response to the commutation petition with the Board and hand~~-~~deliver a copy of the response to the petitioner ~~[and]~~or counsel, if represented.

(a) The ~~[s]~~State's response shall include copies of ~~[all]~~any written evidence, the names of any witnesses, and a summary of the anticipated testimony upon which the ~~[S]~~state intends to rely to rebut the petitioner's claim that the sentence of death should be commuted.

(b) The Board may request either the petitioner or the ~~[s]~~State to provide additional information.

R671-312A-4. Preliminary Determinations and Procedures.

(1) The Board, after considering the ~~[original]~~commutation petition and the ~~[s]~~State's response, may grant a commutation hearing or may deny the petition without further pleadings, response, hearing, or submissions.

(2) The Board shall issue an order either granting or denying a commutation hearing. The Board's order shall be delivered to the petitioner, counsel, and the ~~[s]~~State's counsel, either by mail or electronic mail.

(3) If the Board grants a commutation hearing, the Board Chair or ~~another~~ Board Member designated by the Chair, will:

(a) schedule and hold a pre-hearing conference with the petitioner's counsel and the ~~[s]~~State's counsel ~~[in order]~~to schedule the commutation hearing;

(b) identify the witnesses to be called;

(c) clarify the issues to be addressed; and

(d) take any other action deemed necessary and appropriate to conduct the commutation hearing and proceedings.

R671-312A-5. Commutation Hearing Procedures.

(1) Pursuant to Utah Constitution~~[,]~~ Article~~[,]~~ VII, Section 12, and ~~[Utah Code Ann.,]~~Section 77-27-5 (1992), a commutation hearing must be held before the full Board.

(2) Notice of the commutation hearing shall be sent to:

(a) the victim's representatives;

(b) the police agency which investigated the offenses for which commutation has been petitioned;

(c) the office or agency responsible for the prosecution of the offenses for which commutation has been petitioned; and

(d) the court which originally imposed the sentence for the offenses for which commutation has been petitioned.

(3) Public notice of the commutation hearing will also be made via the Board's~~[internet]~~ website, and the State of Utah Public Meeting and Notice website.

(4) If not otherwise called as a witness, a victim representative, as defined by Section R671-203-1, shall be ~~[afforded]~~given the opportunity to attend the commutation hearing and to present testimony regarding the commutation petition, in accordance with, and subject to ~~[the provisions of]~~Subsections R671-203-4(1)~~[,]~~~~[A]~~ through R671-203-4(3)~~[C]~~, and Subsection R671-203-4(5)~~[F]~~.

(5) A commutation hearing is not adversarial and neither party is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the petitioner, the petitioner's counsel, or the ~~[s]~~State's counsel.

(6) The Utah Rules of Evidence do not apply to a commutation hearing. However, ~~[all]~~any evidence and testimony sought to be introduced by the parties must be relevant to the issues

to be decided by the Board. The Board, through the Board Chair, will make~~[all]~~ final determinations regarding evidence or testimony admissibility, relevance, or exclusion.

(7) In conducting the commutation hearing:

(a) The Board Chair or designee will place ~~[all]~~any witnesses under oath and may impose a time limit on each party for presenting its case.

(b) The Board will record the commutation hearing in accordance with Subsection 77-27-8(2).

(c) Rule R671-302,~~[News Media and]~~ Public Access to Hearings, will govern media and public access to the hearing.

(d) The Board may take any action it considers necessary and appropriate to maintain the order, decorum, and dignity of the hearing.

(e) During the commutation hearing, no person, including either party, the petitioner, any witness, either party's counsel, or any other person associated with or employed by a party or counsel, may approach any member of the Board without leave from the Chair.

R671-312A-6. Commutation Decision.

(1) The Board shall determine by majority decision whether to grant or deny the commutation petition.

(2) The decision of the Board granting or denying commutation following a hearing shall be delivered by mail or electronic mail to the parties and ~~then~~published by the Board in the same manner as other Board decisions.

(3) The decision of the Board will also be provided to~~[filed with]~~ the court that entered the sentence or conviction that is the subject of the commutation petition.

KEY: capital punishment, death sentence, commutation

Date of Last Change: ~~[May 22, 2013]~~2024

Notice of Continuation: October 3, 2022

Authorizing, and Implemented or Interpreted Law: Art VII, Sec 12; 77-19-8; 77-27-2; 77-27-4; 77-27-5; 77-27-5.5; 77-27-8; 77-27-9; 77-27-9.5.

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R671-312B

Filing ID:
56300

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov

Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-312B. Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
Minor updates and clarifications, including rule citation and clerical corrections.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated impact on state budgets, as this rule is clerical in nature.
The changes will result in no budgetary impact.
B) Local governments:
This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Section 77-19-8	Section 77-27-2
Section 77-27-4	Section 77-27-5	Section 77-27-5.5
Section 77-27-8	Section 77-27-9	Section 77-27-9.5

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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:	03/25/2024
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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.**R671-312B. Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992.****R671-312B-1. Scope of Rule.**

~~[Board of Pardons and Parole Administrative Rule]~~ Rule R671-312 governs all petitions and proceedings when a petition for commutation of a death sentence is filed by or on behalf of a person sentenced to death for a capital felony in this state. In addition to the rules of general applicability set forth in Rule R671-312, this ~~[R]~~ Rule, R671-312B, governs commutation petitions and proceedings when a death sentence commutation petition concerns a person who was sentenced to death after April 26, 1992.

R671-312B-2. Eligibility.

(1) A person sentenced to death, or that person's counsel, may file a petition for commutation of a death sentence no later than seven days after the sentencing court has issued a judgment of death ~~[or]~~ and a warrant of execution.

(2) If any appeal of the petitioner's conviction or sentence is filed or litigated on behalf of the petitioner, including any collateral challenges or lawsuits, the commutation petition shall be filed within seven days after completion of all such appeals of the conviction or sentence and collateral challenges or lawsuits, including ~~[, but not~~

~~limited to]~~ all proceedings seeking post-conviction relief, ~~[habeas]~~ habeas corpus relief, or other proceedings for extraordinary relief.

(3) Failure of any petitioner or counsel to comply with this rule, all other Board rules, or any Board directive or order may result in the summary denial of the petition and cancellation of any scheduled hearing.

(4) Any act, omission, pleading, or other filing by a petitioner or counsel that the Board determines is meant to delay, hinder, or disrupt the Board's commutation process or proceedings may result in the summary denial of the petition and cancellation of any scheduled hearing.

R671-312B-3. Petition Requirements.

(1)(a) The commutation petition shall be signed by the petitioner, under oath, and filed with the Board's ~~Administrative Coordinator~~ at the ~~offices of the~~ Board's office no later than seven days after the sentencing court signs a warrant setting an execution date.

(b) If the petitioner is represented by counsel, the petitioner's counsel shall also sign the petition.

(c) If the petitioner is represented by counsel, counsel shall comply in all respects with Rule R671-103, Attorneys.

(d) The petitioner or counsel shall hand-deliver a copy of the petition to the Utah Attorney General or designee. ~~[Additional copies of the petition may be served in any manner calculated to accomplish actual notice to the state, and may include facsimile transmission, electronic mail, or other electronic transmission.]~~

(2) The commutation petition shall include:

(a) the petitioner's name, date of birth, and Department of Corrections offender number;

(b) the name, address, telephone number, and ~~c[-]~~mail address of any counsel representing the petitioner in the commutation proceeding;

(c) a certified copy of the Judgment, Commitment, ~~[Conviction]~~ and Sentence for which commutation is petitioned;

(d) a certified copy of the ~~[W]~~ warrant setting the execution date applicable to the petitioner and for which commutation is petitioned;

(e) a statement specifying whether or not the conviction ~~[and]~~ or sentence for which commutation is petitioned was appealed; and if so, a copy of any applicable appellate decision;

(f) a statement specifying whether or not the conviction ~~[and]~~ or sentence for which commutation is petitioned was the subject of any complaint, petition, or other court filing or litigation seeking collateral remedies, post-conviction relief, a writ of ~~[habeas]~~ habeas corpus, or any other extraordinary relief; and if so, a copy of all applicable final orders, rulings, determinations, and appellate decisions regarding such litigation;

(g) a statement of the reasons or grounds which the petitioner believes support the commutation of the death sentence;

(h) copies of all written evidence upon which the petitioner intends to rely at the hearing;

(i) the names of all witnesses the petitioner intends to call and a summary of their anticipated testimony; and

(j) a statement certifying whether the issue or issues:

(i) have been reviewed previously by the courts;

(ii) should have been raised during the judicial process; or

(iii) if based on new information, are still subject to judicial review. ~~[any of the reasons stated as reasons or grounds for commutation have been reviewed by a court or courts of competent~~

jurisdiction, and if reviewed by any court, a citation to the record indicating such review;

~~_____ (i) a statement, if new information is alleged, explaining why the information is considered new, why the information was not or could not have been reviewed during the judicial process, and why the information is not still subject to judicial review;~~

~~_____ (j) a statement, if legal or constitutional reasons for commutation are claimed, setting forth the reasons that the provisions of Utah Code Ann. Section 77-27-5.5(6) do not prohibit the Board from considering the purported legal or constitutional issues; and~~

~~_____ (k) copies of all written evidence upon which the petitioner intends to rely at the hearing along with the names of all witnesses the petitioner intends to call and a summary of their anticipated testimony.]~~

(3) If the petitioner previously ~~[received a]~~ requested commutation ~~[hearing]~~, the petition shall include a statement reciting what, if any, new, significant, and previously unavailable information exists which supports commutation and the reasons the petitioner believes this information supports ~~[a second, subsequent, or new hearing]~~ reconsideration.

(4) Within seven days of receiving the petition, the ~~state~~ ~~[State of Utah]~~, by and through the Attorney General or designee, shall file a response to the petition. The ~~[S]~~ ~~state~~ shall file ~~[it's]~~ ~~its~~ response to the commutation petition with the Board and hand ~~_~~ deliver a copy of the response to the petitioner ~~[and]~~ ~~or~~ counsel, if represented.

(a) The state's response shall include copies of all written evidence, the names of any witnesses, and a summary of the anticipated testimony upon which the ~~[S]~~ ~~state~~ intends to rely to rebut the petitioner's claim that the sentence of death should be commuted.

(b) The Board may request either the petitioner or the state to provide additional information.

R671-312B-4. Preliminary Determinations and Procedures.

(1) If the Board ~~[believes]~~ ~~determines~~ that it cannot consider the claims pursuant to ~~[Utah Code Ann.]~~ Section 77-27-5.5, it shall deny the petition.

(2) If the Board determines the petition does not present a substantial issue for commutation, it shall deny the petition.

(3) If the Board determines the petition presents a substantial issue for commutation, which has not, or could not have been reviewed by the judicial process, the Board may grant a commutation hearing or deny the petition without further pleadings, response, hearing, or submissions.

(4) The Board shall issue an order either granting or denying a commutation hearing. The Board's order shall be delivered to the petitioner, counsel, and the state's counsel, either by mail or electronic mail.

(5) If the Board grants a commutation hearing, the Board Chair or ~~another~~ Board Member designated by the Chair, ~~[will]~~ ~~shall~~:

(a) schedule and hold a pre-hearing conference with the petitioner's counsel and the state's counsel ~~[in order to]~~ schedule the commutation hearing;

(b) identify the witnesses to be called;

(c) clarify the issues to be addressed; and

(d) take any other action deemed necessary and appropriate to conduct the commutation hearing and proceedings.

R671-312B-5. Commutation Hearing Procedures.

(1) Pursuant to Utah Constitution ~~[,]~~ Article ~~[,]~~ VII, Section 12, and ~~[Utah Code Ann.,]~~ Section 77-27-5, a commutation hearing must be held before the full Board.

(2) Notice of the commutation hearing shall be sent to:

(a) the victim's representatives;

(b) the police agency which investigated the offenses for which commutation has been petitioned;

(c) the office or agency responsible for the prosecution of the offenses for which commutation has been petitioned; and

(d) the court which originally imposed the sentence for the offenses for which commutation has been petitioned.

(3) Notice of the commutation hearing will be provided to the public via the Board's ~~[-internet]~~ website, and the State of Utah Public Meeting and Notice website.

(4) If not otherwise called as a witness, a victim representative, as defined by ~~[Rule]~~ ~~Section~~ R671-203-1, shall be ~~[afforded]~~ ~~given~~ the opportunity to attend the commutation hearing, and to present testimony regarding the commutation of the death sentence, in accordance with, and subject to ~~[-the provisions of]~~ Subsections R671-203-4(1) ~~[-A]~~ through ~~R671-203-4(3)~~ ~~[-C]~~, and ~~Subsection R671-203-4(5)~~ ~~[-F]~~.

(5) A commutation hearing is not adversarial and neither party is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the petitioner, the petitioner's counsel, or the ~~[s]~~ ~~State's~~ counsel.

(6) The Utah Rules of Evidence do not apply to a commutation hearing. However, ~~[all]~~ ~~any~~ evidence and testimony sought to be introduced by the parties must be relevant to the issues to be decided by the Board. The Board, through the Board Chair, will make ~~[-all]~~ final determinations regarding evidence or testimony admissibility, relevance, or exclusion.

(7) In conducting the commutation hearing:

(a) The Board Chair or designee will place ~~[all]~~ ~~any~~ witnesses under oath and may impose a time limit on each side for presenting its case.

(b) The Board will record the commutation hearing in accordance with Subsection 77-27-8(2).

(c) Rule R671-302, ~~[-News Media and]~~ Public Access to Hearings, will govern media and public access to the hearing.

(d) The Board may take any action it considers necessary and appropriate to maintain the order, decorum, and dignity of the hearing.

(e) During the commutation hearing, no person, including either party, the petitioner, any witness, either party's counsel, or any other person associated with or employed by a party or counsel, may approach any member of the Board without leave from the Chair.

R671-312B-6. Commutation Decision.

(1) The Board shall determine by majority decision whether to grant or deny the commutation petition.

(2) The decision of the Board granting or denying commutation following a hearing shall be delivered by mail or electronic mail to the parties and ~~then~~ published by the Board in the same manner as other Board decisions.

(3) The decision of the Board will also be ~~[filed with]~~ ~~provided to~~ the court that entered the sentence or conviction that is the subject of the commutation petition.

KEY: capital punishment, death sentence, commutation

Date of Last Change: ~~[May 22, 2013]~~ 2024

Notice of Continuation: October 3, 2022

Authorizing, and Implemented or Interpreted Law: Art VII, Sec 12; 77-19-8; 77-27-2; 77-27-4; 77-27-5; 77-27-5.5; 77-27-8; 77-27-9; 77-27-9.5.

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-313	Filing ID: 56301

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-313. Commutation Hearings (Non-Death Penalty Cases)
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
Minor updates and clarifications, including rule citation and clerical corrections.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated impact on state budgets.
The changes will result in no different expenses.

B) Local governments:

This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.

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

This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.

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

The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:

Article VII, Section 12	Subsection 63G-3-201(3)	Section 77-27-1 et seq.
Section 77-27-5	Section 77-27-9	

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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:	03/25/2024
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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.

R671-313. Commutation Hearings (Non-Death Penalty Cases).

R671-313-1. Applicability.

(1) For purposes of this [R]rule and the decisions, determinations and orders of the Utah Board of Pardons and Parole [C]Board[], acting under its powers as authorized by the Utah Constitution, commutation may mean the change or reduction of the severity of a crime; the change or reduction of an imposed sentence; or the change or reduction of the type or level of offense. Commutation is an act of clemency. Commutation is not a conditional or unconditional pardon.

(2) No person has a right, privilege, or entitlement to commutation or clemency.

(3) Petitions for commutation of a death sentence shall be governed by applicable state constitutional provisions, statutes, and [Utah Administrative Code,] Rule R671-312.

(4) Any[H] other petitions seeking commutation of a Utah conviction or sentence shall be governed by applicable state constitutional provisions and statutes, and by this administrative rule.

(5) As used in this [R]rule, "subject" means the person whose conviction[C]s[] or sentence[C]s[] are sought to be commuted by the filing of a commutation petition with the Board.

(6) Any person, individually or through counsel, who has been convicted of any felony, Class A misdemeanor or Class B misdemeanor offense in this [S]state, may petition the Board for commutation of such conviction[C]s[] or sentence[C]s[] entered or imposed in this state, except for cases of treason or impeachment.

(7) The Utah Attorney General; [A]assistant [A]attorneys [G]general, as authorized by the [A]attorney [G]general; any [C]county [A]attorney or [D]district [A]attorney; or any [D]deputy [C]county or deputy [D]district [A]attorney as authorized by their elected [C]county or [D]district [A]attorney; may petition the Board, on behalf of any convicted person, for commutation of any such conviction or sentence entered or imposed in this state, except for cases of treason or impeachment.

(8) Any document, pleading, notice, attachment, or other item which is submitted as part of the commutation petition, response, or subsequent pleadings shall be delivered to and filed with the Board[']s Administrative Coordinator, at the Board's offices].

(9) A commutation petition, any response thereto, and any subsequent pleading, submission, or document submitted to the Board for consideration in relation to a commutation petition are considered public documents, unless the document is determined by the Board to be controlled, protected, or private, pursuant to any other statute, law, rule, or prior case law.

(10) Any order issued by the Board relating to a commutation petition is a public document.

R671-313-2. Eligibility.

(1) No commutation petition regarding a traffic citation, an infraction, or a Class C misdemeanor will be considered by the Board.

(2) No petition seeking a posthumous commutation of any offense will be considered by the Board.

(3) A petition for commutation may be filed with the Board any time after the sentencing court has entered a conviction and a sentence~~issued a Judgment and Commitment; a Sentence; or a Conviction~~. The Board may delay it¹s consideration of any petition where there is or remains pending any appeal or post-conviction litigation regarding the conviction¹(s) or sentence¹(s) which are the subject of the commutation petition.

(4) Failure of any petitioner or counsel to comply with this ~~[R]~~rule, any other Board rule, or any Board directive or order, may result in the summary denial of the petition and cancellation of any scheduled hearing.

R671-313-3. Petition Requirements.

(1)(a) The commutation petition shall be signed under oath. If the petitioner is not the subject of the petition, the subject of the petition shall also sign the petition.

(b) If the petitioner is represented by counsel, the petitioner's counsel shall also sign the petition.

(c) If the petitioner is represented by counsel, counsel shall comply in all respects with ~~[Utah Administrative Code,]~~Rule R671-103 - Attorneys.

(2) The commutation petition shall include:

(a) the petitioner's name, address, telephone number, and e¹(-)¹mail address;

(b) the subject's name, address, telephone number, and e¹(-)¹mail address;

(c) the name, address, telephone number, and e¹(-)¹mail address of any counsel representing the petitioner in the commutation proceeding;

(d) a certified copy of the ~~[Judgment, Conviction and Sentence for]~~judgment for which commutation is petitioned;

(e) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was appealed; and if so, a copy of any applicable appellate decision;

(f) a statement specifying whether or not the conviction or sentence for which commutation is petitioned was the subject of any complaint, petition or other court filing or litigation seeking collateral remedies, post-conviction relief, a writ of ~~[habeas]~~¹habeas corpus or any other extraordinary relief; and if so, a copy of all applicable final orders, rulings, determinations, and appellate decisions regarding such litigation¹(-);

(g) a copy of all police reports, pre-sentence reports, post-sentence reports and court dockets for the conviction¹(s) ~~and~~ sentence for which commutation is petitioned;

(h) a certified copy of the subject's Utah and NCIC criminal history reports¹(-~~obtained from the Utah Department of Public Safety~~);

(i) a statement wherein the subject and petitioner certify that no criminal cases or charges are pending against the subject in any court. If the subject has any pending criminal cases or charges, the statement shall identify and explain all criminal cases or charges pending in any ¹[S]state, ¹[F]federal, or local court and the nature of the cases pending. If such proceedings are pending, the statement must identify the court in which such cases are pending; explain the nature of the proceedings and charges; and note the status of the proceedings¹(-);

(j) a statement of the reasons and grounds which petitioner believes specifically support commutation¹(-);

(k) copies of all written evidence upon which petitioner intends to rely at the hearing, along with the names of all witnesses whom petitioner intends to call and a summary of their anticipated testimony¹(-);

(l) a statement specifying whether any of the stated reasons or grounds for commutation have been reviewed by ¹[a]the court¹(s); and shall include copy of any court decision entered or made by such a reviewing court; and

(m) if the grounds for commutation are based upon post-conviction, newly discovered evidence, the petition shall include a statement explaining why such evidence is considered new, why the purportedly new evidence was not or could not have been reviewed during the judicial, appellate, or post-conviction process, and why the purportedly new evidence is not currently subject to judicial review.

(3) If the subject is currently on probation or parole, the petition shall include¹(-) ~~[as an attachment,]~~a report from Adult Probation and Parole which summarizes and explains the subject's progress while under supervision¹(-). ~~[and which]~~This report shall include¹(s) a detailed report¹ information regarding the subject's¹(-of) progress toward completing all supervision requirements, treatment requirements, ~~[alternative events while under supervision,]~~violations and accomplishments, supervision history, and fulfillment of ~~[restitution, fine, fee and other]~~financial obligations while under supervision.

(4) If the subject is currently incarcerated, the petition shall include¹(-~~as an attachment,~~) a¹(n ~~updated and~~) current Institutional Progress Report from the Department of Corrections. This report shall include the subject's disciplinary history, program completion, employment history, and any other information about institutional conduct¹(- which summarizes and explains the subjects progress while under supervision; and which includes a detailed report of progress toward completing all supervision requirements, treatment requirements, alternative events while under supervision, and fulfillment of restitution, fine, fee and other financial obligations).

(5) If the subject has ever applied for and been denied commutation, the petition shall set forth what, if any, new, significant, and previously unavailable information exists which supports commutation and the reasons this information was not previously submitted to the Board, and why this information supports commutation.

(6) At any time following submission of a commutation petition, the Board may seek additional information from the petitioner, the subject, or counsel.

R671-313-4. Petition Procedures.

(1)~~[(a)]~~ Within six months, or as soon as practicable, after ~~[of]~~receipt of the petition, the Board may:

(a) ~~[either]~~deny the commutation petition without a hearing;

(b) request a response from the original prosecuting agency, Attorney General's Office,¹(-or) the subject of the petition, or their counsel¹(- person whose conviction(s) or sentence(s) are sought to be commuted); or

(c) grant a commutation hearing ~~[in order to]~~further consider the petition.~~[The Board may, on it's own motion, extend the time for preliminary consideration of the petition.]~~

~~[(b) There is no right to a commutation hearing, and the Board retains complete and absolute discretion to determine whether to grant a hearing on the commutation petition.]~~

(2) ~~[The Board, after considering the commutation petition, may deny the petition without further pleadings, response, hearing or submissions.]~~If the Board denies a commutation petition without a hearing, it shall notify the petitioner and counsel, if represented, and the original prosecuting agency¹(-~~either by mail or electronic mail~~). The notification shall include a brief rationale for the Board's decision.

(3) ~~Upon receipt of a commutation petition, filed by the subject or counsel, the~~ The Board may request a response to the petition from the [A]ttorney [G]eneral, [D]istrict [A]ttorney, [C]ounty [A]ttorney or [C]ity [A]ttorney whose office or agency originally prosecuted the count[s], charge[s], or case resulting in the conviction and sentence for which commutation is sought; and from any [A]ttorney [G]eneral, [D]istrict [A]ttorney, [C]ounty [A]ttorney or [C]ity [A]ttorney whose office represented the prosecuting agency or office in relation to any appeal or post-conviction litigation regarding any conviction or sentence which is the subject of the commutation petition, [C]hereinafter referred to as the "[S]tate's response."]. The Board may also request a response from the subject of the petition or their counsel.

(4) ~~If requested prior to the Board scheduling a commutation hearing,~~ If the Board requests a response at any time, the [S]tate's response shall be filed with the Board within ~~sixty~~ [60] days of the Board's request, and shall clearly specify whether the responding agency or individual opposes or supports the commutation ~~relief requested in the petition~~. The [State's] response shall also include all statements and arguments which form the basis of any opposition to the petition, ~~and~~ This shall include all written evidence, [S] the names of all witnesses, [S] and a summary of the anticipated testimony upon which the responding agency or individual intends to rely ~~to challenge or oppose the petition~~. Following receipt of the State's response, the Board may request either the subject or the State to provide additional information.

(5) The Board, after considering the original commutation petition, and any requested response, may grant a commutation hearing, or may deny the petition ~~without further pleadings, response, hearing or submissions. If after receiving the State's response, the Board denies a commutation petition without hearing, it shall notify the petitioner, counsel, and responding counsel, either by mail or electronic mail. If the Board denies a commutation petition without a hearing, it shall notify the petitioner and counsel, if represented, and the original prosecuting agency. The notification shall include a brief rationale for the Board's decision.~~

(6) If the Board grants a commutation hearing:

(a) Within ten calendar days of receiving the Board's order granting a commutation hearing, the ~~petitioner~~ ~~subject or his counsel~~ shall serve a copy of the commutation petition and all attachments upon any entity identified as "the state" in Subsection R671-313-4(3). ~~the Attorney General, District Attorney, County Attorney or City Attorney whose office or agency originally prosecuted the count(s), charge(s) or case resulting in the conviction for which commutation is sought.~~

~~(b) If any appeal from the conviction was filed, the subject or his counsel shall also serve a copy of the commutation petition and all attachments upon the Attorney General, District Attorney, County Attorney or City Attorney whose office represented the prosecuting agency or office in relation to the appeal.~~

~~(c) If any post-conviction litigation was pursued on behalf of the petitioner or which challenged the conviction or sentence for which commutation is petitioned, the subject or his counsel shall also serve a copy of the commutation petition and all attachments upon the Attorney General, District Attorney, County Attorney or City Attorney whose office represented State, county or municipality in relation to the post-conviction litigation.~~

(b) The petitioner shall also serve the subject of the petition or their counsel if the subject has not already been served.

([d]c) Proof and verification of [all] service of pleadings as required ~~herein~~ in this rule shall be filed with the Board within seven calendar days of accomplishing such service.

(7)(a) ~~The original prosecuting agency, and any other office which represented the State, a county or a municipality in relation to the conviction, sentence, appeal or post-conviction litigation regarding the conviction or sentence which are the subject of the commutation petition may, Any responding agency or individual must file their response within sixty~~ [60] days of receiving a copy of the petition, ~~file a response to the commutation petition with the Board.~~

(b) ~~The State's~~ Responses shall be served on the petitioner, ~~delivered, either by mail, electronic mail or hand delivery to the petitioner and his counsel, if represented.~~ Proof and verification of [such] service of pleadings as required in this rule shall be filed with the Board within seven calendar days of accomplishing such service.

(c) The [State's] response to the petition shall clearly specify ~~if~~ whether the responding agency or individual opposes or supports the ~~relief requested in the~~ commutation ~~petition~~. The response shall also include all statements and arguments which form the basis of any opposition to the ~~commutation~~ petition ~~and~~. This shall include all written evidence, [S] the names of all witnesses, [S] and a summary of the anticipated testimony upon which the responding agency or individual intends to rely ~~to challenge or oppose the petition. Following receipt of the State's response, the Board may request either the petitioner or the State to provide additional information.~~

(8) If the Board grants a commutation hearing, the Board Chair or designee will schedule and hold a pre-hearing conference. ~~At that conference~~ ~~at which time~~ the Board Chair or designee, ~~after hearing from the parties,~~ will schedule the commutation hearing, [S] identify and set the witnesses to be called, [S] clarify the issues to be addressed, [S] and take any other action deemed necessary and appropriate to conduct the commutation proceedings.

(9) There is no right to a commutation hearing, and the Board retains complete and absolute discretion to determine whether to grant a hearing on the commutation petition.

R671-313-5. Commutation Hearing.

(1) Pursuant to Utah Constitution, Article [S] VII, Section 12, and [Utah Code Ann.,] Section 77-27-5, a commutation may only be granted after a full hearing ~~must be held~~ before the [full] Board.

(2) If a commutation hearing is granted:

(a) notice of hearing shall be published on:

(i) the Board's website; and

(ii) The Utah Public Notice website; and

(b) for each conviction which is the subject of the commutation hearing, notice of the hearing shall be mailed or otherwise sent to:

(i) any victim of record, if the victim can be located;

(ii) the arresting or investigating agency;

(iii) the sentencing court; and

(iv) the state.

~~(2) Notice of the commutation hearing shall be sent to the victim of, and the police agency which investigated the offenses for which commutation has been petitioned, pursuant to applicable statutes, rules or practices of the Board. Public notice of the commutation hearing will also be made via the Board's internet website, and the State of Utah Public Meeting and Notice website.~~

(3) If not otherwise called as a witness, a victim as defined in Section R671-203-1 ~~representative, as defined by Utah Administrative Code, Rule R671-203-1,~~ shall be ~~afforded~~ given the opportunity to attend the commutation hearing, and to present testimony regarding the commutation petition, in accordance with,

NOTICES OF PROPOSED RULES

and subject to ~~[the provisions of Administrative Rule]~~ Section R671-203-4 ~~[(A-C, and F)]~~.

(4) The commutation hearing is not adversarial and neither side is allowed to cross-examine the other party's witnesses. However, the Board may ask questions freely of any witness, the petitioner, the petitioner's counsel, the subject of the petition, and the subject's counsel. The Utah Rules of Evidence do not apply to a commutation hearing.

(5) In conducting the commutation hearing:

(a) The Board will place all witnesses under oath and may impose a time limit on each party for presenting its case.

(b) The Board will record the commutation hearing in accordance with ~~[Utah Code Ann.]~~ Subsection 77-27-8(2).

(c) ~~[Administrative]~~ Rule R671-302 "~~[News Media and]~~ Public Access to Hearings" will govern ~~[media and public]~~ access to the hearing.

(d) The Board may take any action it considers necessary and appropriate to maintain the order, decorum, and dignity of the hearing.

R671-313-6. Commutation Decision.

(1) The Board shall determine by majority decision whether ~~[and under what conditions, if any,]~~ to grant the petition~~[s]~~ in whole or in part~~[-, and to commute a conviction or sentence]~~. The Board may, by majority decision, impose conditions for the commutation.

(2) ~~[The decision of the Board regarding the grant or denial of commutation following a hearing shall be delivered by mail or electronic mail to the parties, and published by the Board in the same manner as other Board decisions.]~~ The Board shall notify the petitioner and counsel, if represented, and the original prosecuting agency of the Board's decision. The notification shall include a brief rationale for the decision.

(3) The decision of the Board will also be filed with the court which entered the sentence or conviction which are the basis of the commutation petition and published on the Board's website.

(4) If a sentence or conviction is commuted, the Board will ~~[also cause]~~ send a copy of the commutation order ~~[to be delivered]~~ to the Utah Department of Public Safety, ~~[—]~~ Bureau of Criminal ~~[Information]~~ Identification and the Federal Bureau of Investigation.

KEY: commutation, pardons, punishment

Date of Last Change: ~~[October 4, 2012]~~ 2024

Notice of Continuation: August 30, 2022

Authorizing, and Implemented or Interpreted Law: Art. VII, Sec. 12; 63G-3-201(3); 77-27-1 et seq.; 77-27-5; 77-27-9

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-314	Filing ID: 56302

Agency Information

1. Department:	Pardons (Board of)
Agency:	Administration
Street address:	448 E Winchester St. #300
City, state and zip:	Murray, UT 84107

Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-314. Compassionate Release
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
This rule amendment makes adjustments to include the newly created Department of Health and Human Services, Clinical Health Services Division, expands the parties that may file a compassionate release request, and permits the Board to appoint a lay representative or legal counsel to assist an offender.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Although the Board assumes the cost of appointing a lay representative or legal counsel to assist an offender, payment for this service occurs through a fixed cost contract and the number of hearings is expected to be very small.
The other amendments only make updates and clarifications that have no fiscal impact.
Thus, there is no expected fiscal impact from this rule amendment.
B) Local governments:
This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.

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

This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.

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

The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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

As stated above, while there may be a de minimis cost to appoint a representative, the nature and frequency of the appointment will result in no compliance costs to state government.

There are no compliance costs for affected persons because it does not affect the following parties: local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026

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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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:**

Article VII, Section 12	Subsection 63G-3-201(3)	Section 77-27-5
Section 77-27-7	Section 77-27-9	

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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:

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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.**R671-314. Compassionate Release.****R671-314-1. Rule.**

(1) For this rule, the "Department" means the Department of Corrections, the Department of Health and Human Services Clinical Health Services Division, or other designee of the Department of Corrections.

(2)(1) The Board shall consider a compassionate release when specified exceptional circumstances exist.

(3)(2) A compassionate release request submitted on behalf of an offender does not limit or preclude other requests for special attention or redetermination consideration.

(4)(3) Compassionate release consideration shall be initiated upon the receipt of a written request, as specified ~~[herein]~~ in this rule, explaining the circumstances supporting the release.

(5)(4) The Board shall consider a compassionate release in the following exceptional circumstances:

(a) Upon the request of the Department ~~of Corrections (Department)~~, the offender, an attorney representing the offender, or a member of the offender's immediate family, if an offender's public safety and recidivism risk is significantly reduced due to the effects or symptoms of advancing age, medical infirmity, disease, or disability, or mental health disease or disability, and the offender can be appropriately managed in the community;

(b) Upon the request of the Department, the offender, an attorney representing the offender, or a member of the offender's immediate family, if an offender suffers from a serious and persistent medical condition which requires extensive medical attention, nursing home care, or palliative care, or which cannot be adequately treated by the Department, and the offender can be appropriately managed in the community; or

(c) Upon the request of the Department, offender, or other interested person, if an offender's immediate family member dies within 120 days of a previously scheduled release.

(d) Requests made pursuant to Subsections (5)(a) and (b) of this rule will not be considered without corroborating documentation that is certified by a licensed medical professional.

(6) Unless the request for consideration of compassionate release is made by Board staff or the Department, the Board may request that the Department review the request, provide information as outlined in Subsection (9) of this rule, and make a recommendation.

(7) Requests for consideration of compassionate release that are repetitive, frivolous, or lacking in substantial merit shall be summarily denied and placed in the offender's file without a formal action or response.

(8) Unless otherwise ordered by the Board, requests for consideration of compassionate release shall be processed administratively based on written or electronic reports supplied to the Board without the personal appearance of the offender.

(9)(5) If the compassionate release request is submitted pursuant to ~~[paragraphs]~~ Subsections (5)(4)(a) or (b) ~~[of this rule]~~:

(a) the request shall include a report from the Department detailing:

(i) the specific effects, conditions, or symptoms to be considered;

(ii) the treatments available; ~~and,~~

(iii) when possible, the prognosis of such effects, conditions, or symptoms ~~[and]~~;

(iv) if and how the offender's physical or mental capacity has been significantly reduced by a chronic or permanent condition; and;

(v) if community-based care will be required, a recommendation for the transition time necessary to complete arrangements for a care center, nursing home, or home care placement.

(b) The Board may order a compassionate release contingent upon completing arrangements for community-based care.

(10)(6) For compassionate release requests submitted pursuant to this rule ~~[paragraph (4)(c)]~~:

(a) Immediate family member is defined as a parent, step[~~parent~~], spouse, child, sibling, grandparent, or grandchild;

(b) If submitted pursuant to Subsection (5)(c) of this rule, ~~[the]~~ the request shall be accompanied by a death certificate or other verification acceptable to the Board; and

(c) The Board may request that the Department review the request, provide any institutional or other reports requested by the Board, and make a recommendation regarding the request.

(11)(7) Except as provided in Subsection ~~(8)(11)~~ (a) of this rule, the Board may make a decision regarding a compassionate release with or without a hearing.

(8)(a) Before granting a compassionate release pursuant to this rule, the Board shall hold a hearing if the compassionate release would occur before an offender's original hearing.

(i) If the Board in the Board's discretion determines that an offender within the Board's jurisdiction is unable, due to physical, mental, or other circumstances, to meaningfully participate in a Board hearing or other Board proceeding, the Board may appoint, at the Board's own expense, legal counsel or a lay representative to assist the offender.

(ii) The Board shall determine the scope of the representation described in Subsection (11)(a)(i) based on a review of the totality of the circumstances.

(9)(b) Before granting a compassionate release without a hearing pursuant to this rule, the Board shall make a reasonable effort to contact, inform, and consider the input of any victim of record in the case for which the offender is incarcerated, if the victim of record has previously requested notice of hearings pursuant to ~~[Utah Code]~~ Subsection 77-38-3(8).

KEY: parole, inmates

Date of Last Change: ~~[October 22, 2015]~~ 2024

Notice of Continuation: September 8, 2020

Authorizing, and Implemented or Interpreted Law: Art. VII, Sec. 12; 63G-3-201(3); 77-27-5; 77-27-7; 77-27-9

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R671-509

Filing ID: 56303

Agency Information

1. Department: Pardons (Board of)

Agency: Administration

Street address: 448 E Winchester St. #300

City, state and zip: Murray, UT 84107

Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov
Zarah Borja	385910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-509. Parole Progress / Violation Reports
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
This amendment makes minor and clerical corrections.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated impact on state budgets, as these amendments are clerical in nature.
The changes will result in no different state expenses.
B) Local governments:
This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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 77-27-11		
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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:	03/18/2024
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B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:	03/25/2024
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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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.
R671-509. Parole Progress / Violation Reports.
R671-509-1. Progress / Violation Reports.

(1) In accordance with sentencing and supervision length guidelines, a ~~A~~ parole agent or other representative of the Department of Corrections shall submit a parole progress / violation report to the Board when an incident occurs that may constitute cause to modify the conditions of or revoke parole, including:

(a) ~~[-]~~ an arrest or conviction of any misdemeanor or felony;
 (b) ~~[-]~~ ~~significant~~ violations of the general or special conditions of parole; and
 (c) ~~[-]~~ an incident which results in the parole agent placing the parolee in jail, under arrest, in detention, or other conditions or incidents which result in the parolee being denied liberty.

(2) These reported parole violations shall be investigated and all incident reports along with a recommended course of action shall be submitted to the Board within 72 hours of confinement or, if the parolee is not confined, detained, or arrested, within seven days from the ~~date~~ discovery of the violation.

(3) The report shall advise the Board of a parolee's adjustment to parole and provide reasons for modification of the parole agreement conditions. ~~[Police reports, court orders, and~~ waivers of personal appearance from parolees shall be attached when applicable.

KEY: parole, incidents, progress, violations

Date of Last Change: ~~May 22, 2013~~ 2024

Notice of Continuation: October 3, 2022

Authorizing, and Implemented or Interpreted Law: 77-27-11

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R671-510	Filing ID: 56304
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Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jymim@utah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R671-510. Evidence for Issuance of Warrants
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
Updates to this rule were added to ensure compliance with state and federal probable cause requirements for the issuance of warrants. Clerical clarifications and corrections were also made.

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

There is no anticipated impact on state budgets.

The changes will result in no different state expenses.

B) Local governments:

This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.

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

This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.

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

The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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**):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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 77-27-11		
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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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on:	03/25/2024
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NOTICES OF PROPOSED RULES

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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.

R671-510. Evidence for Issuance of Warrants.

R671-510-1. Evidence for Issuance of Warrants.

(1) Board Warrants shall be issued only upon a showing that there is probable cause to believe that a parole violation has occurred.

(2) A ~~certified~~ Warrant Request shall be submitted by the parole agent setting forth facts that establish probable cause to believe that the parolee committed specific parole violations. ~~[All facts supporting probable cause shall be contained in the body of the warrant request, as—]~~ Each allegation shall have a probable cause statement sufficient to support the issuance of an arrest warrant. Supplementary reports or information that are attached or appended to the warrant request may not be considered in establishing probable cause.

(3) Upon approval of the request by the Board, a Warrant of Arrest shall be issued to arrest, detain, and return the parolee to custody.

(4) In response to a warrant request, the Board may issue the warrant, deny the warrant, deny the warrant and order a different sanction, or return the warrant.

(5) If the Board returns a warrant request, the parole agent may resubmit the warrant request with additional information.

(6) If the Board has a previously issued a warrant, the parole agent may amend the warrant to add allegations or other information.

R671-510-2. Warrant Request.

(1) Warrant requests shall include:

(a) the name of the parolee, offender number, and date of birth;

(b) the ~~nature of the~~ allegations that a parole violation has occurred that justify possible revocation of parole;

(c) the elements ~~[substantiating]~~ establishing probable cause for each allegation ~~[which should include who did what, when, and where];~~

(d) the condition of the parole agreement that the parolee is alleged to have violated, along with the date and location where the violation occurred; and

(e) the ~~legible~~ name~~;~~ and signature~~;~~ and telephone number~~]~~ of the parole ~~[officer and supervisor]~~ agent or the reporting agent and supervisor.~~;~~ and

~~(f) under separate or additional cover, contact information and phone numbers for the reporting agent.]~~

R671-510-3. Parole Information.

(1) The parole agent shall, on a form approved by the Board, provide the Board with the following information:

(a) the parolee's risk~~[7]~~ and need assessment level at the time of the current violation and a summary of the areas of concern;

(b) the number of prior paroles;

(c) the parolee's parole violation history;

- (d) the parolee's custody status;
- (e) financial obligation details regarding the parolee;
- (f) the parolee's address or living arrangements;
- (g) the parolee's treatment summary;
- (h) the results of any drug or alcohol tests;
- (i) any new referred offenses or new criminal charges;
- (j) any aggravating factors concerning the parolee;
- (k) any mitigating factors concerning the parolee; and
- (l) a summary of the parolee's current parole performance.

R671-510-4. Update Information.

(1) Once the parolee is detained on a Board warrant, the parole agent shall track the case and keep the Board informed of any changes in status or circumstance of the allegations or parolee.

(2) ~~[-No less than seven days prior to the hearing, the agent shall send the Board all updated information and any amended allegations and recommendations. The agent shall provide the offender with a copy of the updated information no less than seven days prior to the hearing.]~~ (a) Within two weeks of a parolee's arrest, the parole agent shall submit information about the circumstances of the arrest and amend the warrant request, including adding allegations, as appropriate.

(b) If there are any additional updates or allegations, the amended warrant request shall be provided no less than two weeks before the hearing.

(c) The parole agent shall provide the offender or the offender's counsel with a copy of the updated information no less than two weeks before the hearing.

(3) At its discretion, the Board may dismiss the allegations if the updated information is not received in a timely manner, allow a continuance of the hearing, or take other appropriate action.

KEY: warrants, parole, probable cause

Date of Last Change: ~~[October 31, 2016]~~ **2024**

Notice of Continuation: October 4, 2022

Authorizing, and Implemented or Interpreted Law: 77-27-11

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R671-514

Filing ID:
56305

Agency Information

1. Department:	Pardons (Board of)	
Agency:	Administration	
Street address:	448 E Winchester St. #300	
City, state and zip:	Murray, UT 84107	
Contact persons:		
Name:	Phone:	Email:
Amanda Montague	801-440-0545	amontague@agutah.gov
Jennifer Yim	801-261-6464	jmyim@utah.gov

Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R671-514. Waiver and Pleas of Guilt
3. Purpose of the new rule or reason for the change:
This rule amendment is proposed in response to an ongoing effort by the Board of Pardons and Parole (Board) to update its administrative rules to ensure consistency with current statutory provisions, address concerns raised in its 2022 legislative audit, and fulfill goals outlined in its latest strategic plan.
4. Summary of the new rule or change:
This rule amendment clarifies the parole revocation process, including pleas and waivers.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated impact on state budgets.
The changes will result in no different budget expenses.
B) Local governments:
This rule change is not anticipated to have any fiscal impact on local governments because it does not affect local government.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not anticipated to have a fiscal impact on small businesses because it does not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule change does not have an effect on non-small businesses because non-small businesses are not an affected party to 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):

This amendment does not affect other persons because they are not impacted by this rule.

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 affected persons because it does not affect the following parties: state and local government, small and non-small businesses and other persons as described in Box 5E above.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Administrative Director of the Board of Pardons and Parole, Jennifer Yim, 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 77-27-9(4)	Section 77-27-11	Section 77-13-6
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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:		03/18/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
03/13/2024	3:00 PM	448 E Winchester St. #300, Murray, UT

9. This rule change MAY become effective on: 03/25/2024

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:	J. Scott Stephenson, Chair	Date:	01/26/2024
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R671. Pardons (Board of), Administration.**R671-514. Waiver and Admissions ~~[Pleas]~~ of Guilt.****R671-514-1. Waiver and Admissions ~~[Pleas]~~ of Guilt.**

After the execution of ~~[executing]~~ a Board warrant, ~~[the Department of Corrections employee shall inform]~~ the offender shall be informed of the opportunity to admit, deny, or plead no contest ~~[guilty]~~ to any or all ~~[of]~~ the alleged parole violations. An admission or plea of no contest to any allegation ~~[and that such a plea]~~ waives the right to a further hearing on that ~~[any]~~ allegation ~~[admitted in the waiver]~~. The offender shall be ~~[Department of Corrections employee shall also]~~ informed that an admission or plea ~~[the offender that a plea]~~ of no contest ~~[guilty]~~ is voluntary~~[;]~~ and there is no requirement to ~~[plead guilty or]~~ waive the offender's right to a parole violation hearing. If the offender declines to admit or plead no contest to an allegation, the Board will treat that as a denial of the allegation.

R671-514-2. [Guilty Pleas] Admissions or Pleas of No Contest Before Hearing.

(1) If an offender ~~[wishes]~~ decides to admit or ~~[to]~~ plead ~~[guilty or]~~ no contest to any alleged parole violation before a parole violation hearing, ~~[the Department of Corrections employee shall provide]~~ the offender shall be provided ~~[with]~~ a [n Affidavit of Waiver and Plea of Guilt] parole violation hearing waiver form.

(2) If the Board concludes ~~[agent believes]~~ the offender is unable to knowingly and voluntarily execute the waiver, ~~[understand]~~

the affidavit and waiver and appreciate the consequences of signing it for any reason, ~~[the Board]~~.

(a) ~~[The Department of Corrections employee may]~~ may not execute the waiver~~[;]~~ and may

(b) ~~[The Department of Corrections employee shall promptly inform the Board, which may]~~ assign counsel to represent the offender; or

(c) take other appropriate action ~~[the Board deems appropriate]~~ to assist the offender ~~[with understanding the parole violation process or the offender's rights]~~.

R671-514-3. Multiple Pleas Before Hearing.

An offender may admit or plead ~~[guilty or]~~ no contest to some of the allegations and [plead not guilty to] ~~[deny]~~ others. The Board may decide to dismiss the allegations ~~[to which]~~ the offender denied ~~[pled not guilty]~~ and enter a disposition based solely on the admissions or pleas of ~~[guilty or]~~ no contest. If the Board chooses to make a disposition based solely on the admissions or pleas of ~~[guilty or]~~ no contest, it will not hold an evidentiary or parole revocation hearing. ~~[However, at its discretion,]~~ The Board may schedule a hearing to [interview] ~~[receive testimony]~~ ~~[the offender or take victim testimony]~~, if the Board determines that doing so would assist ~~[the Board]~~ in its decision.

R671-514-4. Acceptance of Pleas.

(1) An offender may enter an admission or plea of [guilty or] no contest using the parole violation hearing waiver form ~~[at any time]~~.

(2) The parole violation hearing waiver form ~~[Before an offender pleads guilty or no contest at a revocation or evidentiary hearing, the hearing official]~~ shall explain ~~[to the offender]~~ that an admission or no contest plea will result in a revocation of parole. ~~[if offered, will be treated for dispositional purposes and revocation as a guilty plea]~~ The waiver shall also explain, if parole is revoked, ~~[; that a revocation of parole may result in]~~ the offender may be ~~[ing]~~ ordered to serve their full sentences to expiration.

(3) The waiver shall also include a statement that the offender is waiving the ~~[; and that such a plea waives the offender's]~~ rights to:

(a) a hearing at which the Department of Corrections ~~[state]~~ would be required to prove parole violation allegations by a preponderance of the evidence;

(b) the appointment of an attorney to assist the offender at an evidentiary hearing;

(c) ~~[hear and see]~~ be present at the hearing where the evidence and testimony supporting the allegations are presented;

(d) confront and cross-examine any witnesses who testify regarding the violation allegations, absent a showing of good cause for not allowing the confrontation;

(e) call witnesses and testify themselves regarding the violation allegations.

~~[The hearing official shall receive an admission and plea from the offender on the record.]~~

~~[The hearing official may then receive information, statements, testimony or recommendations to assist the Board in its final determination and disposition of the revocation proceedings.]~~

R671-514-5. Withdrawal of Admissions ~~[Pleas]~~.

(1) An admission or plea of [guilty or] no contest may only be withdrawn by an offender;

(a) ~~[prior to]~~ before the entry of the Board's revocation order and disposition based upon the plea; and ~~[;]~~

(b) ~~[(2) A plea of guilty or no contest may be withdrawn only upon leave of the Board after ~~and~~ a showing by the offender that the plea was not knowingly and voluntarily entered~~made~~.]~~

~~[(3)–](2) A request to withdraw an admission or plea of [guilty or] no contest shall:~~

- (a) be made in writing;
- (b) clearly state that it is a motion or request to withdraw a parole revocation plea;
- (c) be addressed to the Board Chair;
- (d) clearly state the reasons supporting the withdrawal; and
- (e) be ~~[delivered to]~~ received by the Board before entry of the disposition ~~[within 10 days of the guilty or no contest plea].~~

(4) The Board need not hold a hearing ~~[prior to]~~ before ruling on the request to withdraw a plea.

(5) The Board ~~[shall]~~ may rule on a motion or a ~~[the]~~ request to withdraw an admission or plea of ~~[guilty or]~~ no contest within ~~[thirty]~~ 30 days of receipt~~[.]~~ and shall promptly notify the offender of its decision.

KEY: parole, allegations, pleas

Date of Last Change: ~~[November 24, 2014]~~ 2024

Notice of Continuation: October 4, 2022

Authorizing, and Implemented or Interpreted Law: 77-27-9(4); 77-27-11; 77-13-6

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R865-19S-33	Filing ID: 56307
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Agency Information

1. Department:	Tax Commission	
Agency:	Auditing	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact persons:		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R865-19S-33. Admissions and User Fees Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103

3. Purpose of the new rule or reason for the change:

The purpose of this filing is to clarify the meaning of the phrase "annual membership dues paid to a private organization" for purposes of the sales and use tax.

4. Summary of the new rule or change:

The amendment clarifies the definition of "annual membership dues paid to a private organization" for purposes of sales and use tax to include dues paid by a member of the private organization who shares internal operational control of the organization or owns an equity interest in the organization.

Fiscal Information

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

A) State budget:

This amendment is not expected to impact the state budget because it is only a clarification of the Tax Commission's longstanding interpretation of the phrase "annual membership dues paid to a private organization."

B) Local governments:

This amendment is not expected to impact local governments because it is only a clarification of the Tax Commission's longstanding interpretation of the phrase "annual membership dues paid to a private organization."

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

This amendment is not expected to impact small businesses because it is only a clarification of the Tax Commission's longstanding interpretation of the phrase "annual membership dues paid to a private organization."

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

This amendment is not expected to impact non-small businesses because it is only a clarification of the Tax Commission's longstanding interpretation of the phrase "annual membership dues paid to a private organization."

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because it is only a clarification of the Tax Commission's longstanding interpretation of the phrase "annual membership dues paid to a private organization."

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

This amendment is not expected to impose compliance costs on affected persons because it is only a clarification of the Tax Commission's longstanding interpretation of the

phrase "annual membership dues paid to a private organization."

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Tax Commission Rebecca L. Rockwell 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 59-12-102 Section 59-12-103

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: 03/18/2024

9. This rule change MAY become effective on: 03/25/2024

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:	Rebecca L. Rockwell, Commissioner	Date:	01/18/2024
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R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-33. Admissions and User Fees Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103.

(1)(a) "Admission" means the right or privilege to enter into a place. Admission includes the amount paid for the right to use a reserved seat or any seat in an auditorium, theater, circus, stadium, schoolhouse, meeting house, or gymnasium to view any type of entertainment. Admission also includes the right to use a table at a night club, hotel, or roof garden whether such charge is designated as a cover charge, minimum charge, or any such similar charge.

(b) This applies whether the charge made for the use of the seat, table, or similar accommodation is combined with an admission charge to form a single charge, or is separate and distinct from an admission charge, or is the sole charge.

(2) "Annual membership dues paid to a private organization" ~~[includes only those]~~ include dues paid by a member ~~[members]~~ of the private organization who ~~[-]~~:

(a) directly or indirectly, [establish] establishes the level of the dues[-];

(b) shares internal operational control in the private organization, as demonstrated by membership participation in operational decisions; or

(c) owns an equity interest in the private organization.

(3) "Season passes" include amounts paid to participate in specific activities, once annual membership dues have been paid.

(4) If the original admission charge carries the right to remain in a place, or to use a seat or table, or other similar accommodation for a limited time only, and an additional charge is made for an extension of such time, the extra charge is paid for admission within the meaning of the law. Where a person or organization acquires the sole right to use any place or the right to dispose of all of the admissions to any place for one or more occasions, the amount paid is not subject to the tax on admissions. Such a transaction constitutes a rental of the entire place and if the person or organization in turn sells admissions, sales tax applies to amounts paid for such admissions.

(5) Annual membership dues may be paid in installments during the year.

(6) Amounts paid for the following activities are not admissions or user fees:

(a) lessons, public or private;

(b) sign up for amateur athletics if the activity is sponsored by a state governmental entity, or a nonprofit corporation or organization, the primary purpose of which, as stated in the corporation's or organization's articles or bylaws, is the sponsoring, promoting, and encouraging of amateur athletics;

(c) sign up for participation in school activities. Sign up for participation in school activities excludes attendance as a spectator at school activities.

KEY: charities, tax exemptions, religious activities, sales tax

Date of Last Change: 2024[January 12, 2023]

Notice of Continuation: November 9, 2021

Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R986-700	Filing ID: 56310
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Agency Information

1. Department:	Workforce Services	
Agency:	Employment Development	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Robert D. Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R986-700. Child Care Assistance
3. Purpose of the new rule or reason for the change:
The amendment authorizes the Office of Child Care to discontinue certain grant payments to a child care provider and adjust the provider's quality rating if the provider is

assessed a civil money penalty by the Utah Department of Health and Human Services, Division of Licensing and Background Checks, Child Care Licensing (CCL).

The amendment also makes technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah.

4. Summary of the new rule or change:

The amendment adds language to Section R986-700-741 and provides that a quality rating awarded to a child care provider will be reduced if the provider is assessed a civil money penalty by CCL.

The amendment also adds language to Section R986-700-742, and provides that a program will be ineligible for an Enhanced Subsidy Grant (ESG) if the program has been assessed a civil money penalty by CCL; that continued receipt of ESG payments is subject to satisfying all requirements during the grant period; and that ESG funding will be discontinued if the program is assessed a civil money penalty by CCL.

Fiscal Information

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

A) State budget:

This amendment is not expected to have any fiscal impact on state revenues or expenditures.

No additional state employees or resources are needed to oversee this rule amendment. The amendment will not increase the Department of Workforce Services' (Department) workload and can be carried out with its existing budget.

The amendment does not increase or decrease the amount of child care subsidies available.

B) Local governments:

This amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the program does not rely on local governments for funding, administration, or enforcement.

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

Since most child care providers are small businesses, this amendment impacts those businesses by making minor adjustments to requirements to maintain a quality rating and to maintain eligibility for ESG.

Providers who have been assessed a civil money penalty by CCL will have their quality rating reduced and will be ineligible for ESG.

The Department anticipates no fiscal cost to small businesses other than the existing and ongoing costs of complying with the rating and eligibility requirements.

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

This amendment is not expected to have an impact on non-small businesses other than those which are child care providers.

This amendment impacts them by making minor adjustments to requirements to maintain a quality rating and to maintain eligibility for ESG.

Providers who have been assessed a civil money penalty by CCL will have their quality rating reduced and will be ineligible for ESG.

The Department anticipates no fiscal cost to non-small businesses other than the existing and ongoing costs of complying with the rating and eligibility requirements.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendment is not expected to have a fiscal impact on other persons.

The change authorizes the Office of Child Care to discontinue ESG to a provider and adjust the provider's quality rating if the provider is assessed a civil money penalty by CCL.

The Department does not anticipate that the changes will reduce or increase the number of families eligible for a subsidy.

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 affected persons.

The amount of available child care subsidies is not changed by this rule amendment and the Department anticipates that child care providers will incur no costs beyond the existing and ongoing costs of complying with the rating and eligibility requirements.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Utah Department of Workforce Services, Casey Cameron, 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 35A-3-203	Section 35A-3-209	Section 35A-3-310
Section 35A-3-312	45 C.F.R. 98.21	

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:	03/18/2024
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9. This rule change MAY become effective on:	04/01/2024
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:	Casey Cameron, Executive Director	Date:	01/30/2024
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R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-701.1. Definitions and Acronyms.

(1) The terms used in this rule are defined in Sections 35A-3-102 and 35A-3-201, and in Sections R986-100-103 and R986-100-104 except as noted in Subsection (2) of this [S]section.

(2) In addition:

(a) "ADH" means administrative disqualification hearing.

(b) "Applicant" means a person requesting CC.

(c) "Approved Provider" means a provider ~~[who]~~that meets the requirements in Section R986-700-726.

(d) "CCDF" means Child Care and Development Fund.

(e) "CCL" means ~~[the]~~DHHS, ~~[d]~~Division of Licensing and Background Checks, Child Care Licensing.

(f) "CCQS" means Child Care Quality System, a comprehensive statewide system administered by OCC that provides quality ratings to eligible programs and supports programs in attaining higher levels of quality.

(g) "Certification period" as it relates to a recipient of CC is the period for which CC is presumptively approved.

(h) "Client" means an applicant for, or recipient of, CC.

(i) "Child" includes the singular and the plural, child or children~~[and vice versa]~~.

(j) "Child Care Provider" or "Provider" means a person, individual or corporation, institution, or organization that provides child care services.

(k) "Civil money penalty" is a fine assessed by CCL for repeat citations, or when the first instance of noncompliance results in, or is likely to result in, extreme risk or harm.

(~~[k]~~l) "DHHS" means the Department of Health and Human Services.

(~~[h]~~m) "Employment" means a job or providing a service that pays wages, a salary, in-kind benefits, or self-employment income, provided federal or state law does not prohibit the occupation.

(~~[m]~~n) "ES CC" means ~~[e]~~Employment ~~[s]~~Support Child Care assistance.

(~~[n]~~o) "ESG" means Enhanced Subsidy Grant. An ESG is a monthly payment issued to an eligible program serving children covered by CC subsidies and achieving a rating of CCQS High Quality or High Quality Plus.

(~~[e]~~p) "FEP CC" means Family Employment Program Child Care assistance.

(~~[p]~~q) "FFN provider" means Family, Friend, and Neighbor provider.

(~~[e]~~r) "GED" means General Education Development diploma.

(~~[f]~~s) "Licensed-center provider" means a non-hourly, licensed child care center that is regulated through CCL.

(~~[s]~~t) "OCC" means Department of Workforce Services, Office of Child Care.

(~~[t]~~u) "Parent" includes a natural, adoptive, or step parent.

(~~[u]~~v) "Recipient" means an individual receiving CC.

(~~[v]~~w) "Review or recertification" means the process to determine continued eligibility.

R986-700-741. Child Care Quality System Rating and Status.

(1) Each program of an eligible license type from CCL shall receive a CCQS rating or status, unless the program withdraws from participation following the process established by OCC policy.

(a) A licensed center program ~~[who]~~that chooses not to apply for a certified quality rating will receive a default Foundation of Quality rating.

(b) An eligible child care program shall participate in CCQS by maintaining at least a default Foundation of Quality rating. An eligible program is not required to ~~[submit an application]~~apply for a certified quality rating.

(c) CCQS ratings or statuses shall be made public on the Care About Childcare website.

(d) An eligible child care program ~~[which]~~that withdraws from participation in CCQS will become ineligible to receive CC subsidy and CCQS grants or funding.

(2) A program may apply for a certified quality rating in accordance with OCC policy through the Care About Childcare website.

(a) A rating shall be awarded or a status shall be assigned no later than 180 days after the application was submitted.

(b) Certified quality ratings will be published publicly on the first day of the month of the certified quality rating period.

(3) A certified quality rating shall remain in place during the 12-month certified quality rating period unless a program:

(a) loses its license in good standing and goes on conditional license; or

(b) is disqualified from accepting funds from CCDF.

(4) A program with a certified quality rating of high quality or high quality plus that is assessed a civil money penalty from CCL shall be reduced to a certified quality rating of building quality for the rest of the 12-month certified quality rating period during which the civil money penalty was assessed.

(~~[5]~~4) The 12-month certified quality rating period may be modified when a program is receiving CCQS technical assistance and support from OCC, in accordance with OCC policy.

(~~[6]~~5) Recertification. A program must recertify to maintain a certified quality rating.

(a) A program must follow the recertification procedures established by OCC policy.

(b) A program failing to recertify in a timely manner may receive one of the following ratings or statuses until a certified quality rating is awarded:

(i) a default Foundation of Quality rating for an eligible program;

(ii) not participating status for a program that is not eligible; or

(iii) denied participation status for a program operating on a conditional license at the time of recertification.

NOTICES OF PROPOSED RULES

R986-700-742. Enhanced Subsidy Grant.

- (1) To receive an ESG a program must:
- receive a certified quality rating of:
 - High Quality[~~3~~]; or
 - High Quality Plus;
 - serve children for whom child care was paid for with CC subsidy during the 12-month period used to calculate the ESG;
 - maintain a license in good standing with CCL during the 12-month certification period;
 - maintain status as a DWS-Eligible child care program during the 12-month certification period;
 - agree to ~~the~~ comply with each requirement outlined in the certified quality rating award notice;
 - agree to the amount of the ESG stated on the certified quality rating award notice;
 - agree to receive the ESG through the process established by OCC policy;
 - not be disqualified pursuant to Sections R986-700-733 and R986-700-734;
 - not have a pending administrative review on the awarded certified quality rating;~~and~~
 - not have a pending referral from the Director of OCC for an administrative disqualification hearing pursuant to Sections R986-700-733 and R986-700-734~~[-]; and~~
 - not be assessed a civil money penalty from CCL during the 12-month certified quality rating period.
- (2) Upon final disposition of a pending administrative review, an ESG may be issued retroactively where all other ESG requirements are met and the program has not been disqualified pursuant to Sections R986-700-733 and R986-700-734.
- (3) An ESG for a program that has an outstanding adjudicated overpayment or other debt owing to OCC shall be issued as follows:
- if the overpayment amount is less than the monthly ESG amount, the ESG shall be reduced by the amount of outstanding overpayment due; or
 - if the overpayment amount is greater than the monthly ESG, a monthly ESG shall continue to be reduced until the overpayment is fully repaid.
- (4) If a program is a party to a pending administrative review or appeal of an ~~An~~ overpayment ~~where there is~~ that does not involve a suspected IPV, the Department may not reduce the program's ESG as provided in Subsection (3) ~~and for which there is a pending administrative review or appeal shall not impact the ESG~~ until final disposition of the action is issued.
- (5) The monthly ESG will be calculated in accordance with OCC policy.
- (6) Continuing receipt of ESG is subject to the program satisfying the requirements in Subsection (1).
- (7) The Department shall discontinue ESG if a program is assessed a civil money penalty by CCL.

KEY: child care, grant programs

Date of Last Change: ~~July 3, 2023~~ 2024

Notice of Continuation: August 28, 2020

Authorizing, and Implemented or Interpreted Law: 35A-3-203; 35A-3-209; 35A-3-310; 35A-3-312; 45 C.F.R. 98.21

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R990-200-4	Filing ID: 56283
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Agency Information

1. Department:	Workforce Services	
Agency:	Housing and Community Development	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R990-200-4. Applicant Qualifications

3. Purpose of the new rule or reason for the change:

The purpose of this rule change is to authorize applicants to update or correct an application up to 15 days prior to the board meeting set to review the application.

4. Summary of the new rule or change:

This amendment adds a time frame for applicants to submit corrected or updated documentation for an existing application, and deletes Subsection R990-200-4(7), which prevented applicants from submitting corrections or updates after an application was filed.

Applicants may correct or update an application up to 15 days prior to the Private Activity Bond Board Meeting scheduled to consider the application. This allows greater flexibility to update applications as new information becomes available.

The amendment also makes nonsubstantive changes.

Fiscal Information

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

A) State budget:

This rule change is not expected to have any fiscal impact on state revenues or expenditures.

No additional state employees or resources will be needed to oversee this rule change.

This rule change will not increase workload and can be carried out with existing budget.

B) Local governments:

This rule change is not expected to have a fiscal impact on local governments' revenues or expenditures because the program does not rely on local governments for funding, administration, or enforcement.

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

This rule change may have an indirect positive fiscal impact on small businesses because it authorizes an applicant to submit corrected or updated documentation for an existing application.

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

This rule change may have an indirect positive fiscal impact on non-small businesses because it authorizes an applicant to submit corrected or updated documentation for an existing application.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change does not have a fiscal impact on other persons.

This rule change requires no action or compliance by a person other than an applicant submitting an application to the Board of Review.

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 affected persons because this rule change does not create new administrative fees.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 Utah Department of Workforce Services, Casey Cameron, 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 35A-8-2104		
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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.)

NOTICES OF PROPOSED RULES

A) Comments will be accepted until:	03/18/2024
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9. This rule change MAY become effective on:	03/25/2024
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:	Casey Cameron, Executive Director	Date:	01/09/2024
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R990. Workforce Services, Housing and Community Development.

R990-200. Private Activity Bonds.

R990-200-4. Applicant Qualifications.

(1) An application will be presented to the Board of Review only if each project applicant, owner, developer, and manager:

(a) is in good standing;

(b) ~~[in the ten years preceding the filing date of the application, has not been disbarred or otherwise sanctioned in any way by any state or federal agency or professional self regulatory body;~~

~~(c) in the ten years preceding the filing date of the application, has not been a partner, director, or other officer exercising managerial control over any business entity including a corporation, limited liability company, or professional limited liability company when said business entity has initiated bankruptcy proceedings;~~

~~(d) [has not been in default or breach of any mortgage or project-related contract within the previous five years; and]~~

~~([e]c) is not the subject, [—] in either a personal or professional capacity as a partner, director, or other officer exercising managerial control over any business entity, [—] of a pending fair-housing or civil-rights investigation; and~~

~~(d) [has not, in the ten years preceding the filing date of the application, has not been;~~

~~(i) the subject of a negative fair-housing or civil-rights determination;[—]~~

~~(ii) disbarred or otherwise sanctioned in any way by any state or federal agency or professional self-regulatory body; or~~

~~(iii) a partner, director, or other officer exercising managerial control over any business entity, including a corporation, limited liability company, or professional limited liability company, when the business entity initiated bankruptcy proceedings.~~

(2) An application shall include documentation:

(a) executed by each applicant, owner, developer, and manager certifying that each signatory meets each requirement identified in Subsection R990-200-4(1)[—]; and

~~([a]b) [An application shall include documentation]~~ supporting and verifying the accuracy of each certification.

(3) An applicant shall provide all required materials and supporting documents at least 55 calendar days before the Board of Review meeting at which the application will be considered.

(4) Application forms and materials are available on the Department of Workforce Services Housing and Community Development website.

(5) A ~~[n]~~ partial application will ~~[not]~~ be ~~denied~~ ~~considered until all required materials are provided and complete~~.

~~(6) [An incomplete application will be returned to the applicant.] Upon review of a complete application, staff will work with the applicant to ensure documentation accuracy.~~

(a) The applicant ~~[will have the opportunity to]~~ may correct a ~~[ny]~~ defect or provide ~~[any missing required]~~ additional documentation~~[—, subject to the submission deadline specified in Subsection R990-200-4(3)].~~

(b) All corrections or additional documentation must be submitted no later than 15 calendar days before the date of the Board of Review meeting scheduled to review the application.[

~~(7) Unless requested by program staff, no new, additional, or replacement documentation will be accepted after the application submission deadline specified in Subsection R990-200-4(3).]~~

KEY: allocation, private activity bond, volume cap

Date of Last Change: [October 24, 2023]2024

Authorizing, and Implemented or Interpreted Law: 35A-8-2104

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 18, 2024.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through June 14, 2024, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R436-7	Filing ID: 55961
Date of Previous Publication:	11/15/2023	

Agency Information

1. Department:	Health and Human Services	
Agency:	Data, Systems and Evaluation, Vital Records and Statistics	
Room number:	140	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141012	
City, state and zip:	Salt Lake City, UT 84114-1012	
Contact persons:		
Name:	Phone:	Email:
Linda S. Wininger	801-538-6262	Lindaw@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R436-7. Death Registration
3. Purpose of the new rule or reason for the change:
In the 2022 General Session, S.B. 43 was passed, which included certified nurse midwives (CNM) in the definition of a health care professional. Included in the definition was the requirement for the CNM to complete an education program regarding the completion of a certificate of death.
This change in proposed rule explains how the required education is completed and recorded.
4. Summary of the new rule or change:
This change to this rule adds requirements for nurse practitioners, physician assistants, and CNMs to complete an education program regarding certifying cause of death.
It also explains how to complete the requirements found in Subsections 26B-8-101(3), (19), and (22).
(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based

was published in the November 15, 2023, issue of the Utah State Bulletin, on page 181. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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 because the course is available through the CDC continuing education website for no charge.
B) Local governments:
This rule is not expected to have a fiscal impact on local governments' revenues or expenditures because they are not involved in this process.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule is not expected to have a fiscal impact on small businesses because the training is free and takes less than an hour to complete.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule is not expected to have a fiscal impact on non-small businesses because the training is free and takes less than an hour to complete.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule is not expected to have a fiscal impact on persons other than small businesses, state, or local government entities because the training is free and takes less than an hour to complete.
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 affected persons because the training is free and takes less than an hour to complete.

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	FY2024	FY2025	FY2026
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	FY2024	FY2025	FY2026
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 S. 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-8-114	Section 26B-1-224	
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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: 03/18/2024

9. This rule change MAY become effective on: 03/25/2024

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 S. Gruber, Executive Director	Date:	02/01/2024
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R436. Health and Human Services, Data, Systems, and Evaluation, Vital Records and Statistics.

R436-7. Death Registration.

R436-7-1. Purpose and Authority.

(1) This rule sets forth procedures for the registration of death and the requirements for physician assistants, certified nurse midwives, and nurse practitioners to certify deaths.

(2) Authority for this rule is found in Sections 26B-8-101 and 26B-8-114.

R436-7-2. Death Registration.

(1) Registration of [D]deaths will [be]occur [registered] within five days measured as 120 hours from the time of death.

(2) A physician, physician assistant, certified midwife, or nurse practitioner will certify the cause of death as defined in law.

(3) Physician assistants, certified nurse midwives, and nurse practitioners must complete the Center for Disease Control and Prevention (CDC) training "Improving Cause of Death Reporting" available through Training and Continuing Education Online (TCEO) before certifying deaths.

[(2)]4 If the information necessary to complete a death certificate is not available within the time prescribed for filing of the certificate, the funeral director shall file the certificate completed with the information that is available.

[(3)]5 In each case, the medical certification must be signed by the person responsible for such certification.

[(4)]6 If the cause of death is unknown, undetermined, or pending investigation, the cause of death shall be shown as such on the certificate.

[(5)]7 Final disposition of the deceased may not be made until the death certificate is registered or is authorized by the medical examiner.

(~~6~~8) An amendment providing the information missing from the original certificate shall be filed with the State Registrar.

R436-7-3. Penalty for Disposition of Deceased Before Death Registration and Failure to File or Certify the Death Within 120 Hours of the Death.

(1) A funeral director violates this rule and is subject to the penalties provided in Section 26B-1-224, including both administrative and civil penalties if the funeral director:

or;
(a) Dispositions the deceased before the death registration,

(b) Fails to register the death within 120 hours of the death without good cause.

(2) A medical certifier violates this rule and is subject to the penalties provided in Section 26B-1-224, including both administrative and civil penalties if the medical certifier fails to certify the death within 120 hours of the death without good cause.

(3) Good cause includes receiving the assignment close to or after the 120 hours timeframe.

KEY: vital statistics, death, funeral industries

Date of Last Change: 2024~~2023~~

Notice of Continuation: March 21, 2023

Authorizing, and Implemented or Interpreted Law: 26B-8-114; 26B-1-224

End of the Notices of Changes in 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:	R380-70	Filing ID: 50882
Effective Date:	01/22/2024	

Agency Information

1. Department:	Health and Human Services	
Agency:	Administration	
Room number:	104	
Building:	Martha Hughes Cannon Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Valli Chidambaram	801-739-4211	vchidambaram@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R380-70. Standards for Electronic Exchange of Clinical Health Information
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 26B-1-202(43) requires the Department of Health and Human Services (Department) to establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve.

Section 26B-8-411 requires the Department to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define clinical health information and health system arrangements between providers or organizations.

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.

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 governs electronic information exchanges between health care providers, laboratories, and third-party payers and is necessary per Subsection 26B-1-202(43) and Section 26B-8-411. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	01/22/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R392-303	Filing ID: 55893
Effective Date:	01/22/2024	

Agency Information

1. Department:	Health and Human Services	
Agency:	Population Health, Environmental Health	
Room number:	Second Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state and zip:	Salt Lake City, UT 84114-2102	
Contact persons:		
Name:	Phone:	Email:
Karl Hartman	801-538-6191	khartman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R392-303. Public Geothermal Pools and Bathing Places
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 under Sections 26B-1-202 and 26B-7-402, which requires the Department of Health and Human Services to establish and enforce, or provide for the enforcement of, minimum rules of sanitation necessary to protect the public health in public facilities including public geothermal pools and bathing places.
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.
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 establishes minimum standards for the design, construction, operation, and maintenance of public geothermal pools and public geothermal bathing places,

as defined by this rule, and provides for the prevention and control of hazards associated with public geothermal pools and bathing places that are likely to adversely affect public health and wellness including risk factors contributing to injury, sickness, death, disability, and the spread of disease. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	01/22/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R398-10	Filing ID: 56024
Effective Date:	01/22/2024	

Agency Information

1. Department:	Health and Human Services	
Agency:	Family Health, Children with Special Health Care Needs	
Room number:	3030	
Building:	Multi Agency State Office Building (MASOB)	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144610	
City, state and zip:	Salt Lake City, UT 84114-4610	
Contact persons:		
Name:	Phone:	Email:
Colin Kingsbury	385-310-5238	ckingsbury@utah.gov
Alexis Weight	801-273-2956	abweight@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R398-10. Autism Spectrum Disorders and Intellectual Disability Reporting

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 enacted in accordance with Subsections 26B-1-202(27) through 26B-1-202(30) and 53E-9-308(6)(b), and Sections 26B-1-229 and 26B-7-115. This rule establishes reporting requirements for autism spectrum disorder (ASD) and intellectual disability and related test results in individuals.

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.

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 essential as it defines the stakeholder requirements that are essential for carrying out the statute. Therefore, this rule should be continued.

The Department of Health and Human Services (Department) anticipates no amendments to this rule following the recent consolidation and recodification of the Department's statute.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	01/22/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-10	Filing ID:	51867
Effective Date:	01/17/2024		

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room number:	Suite 2600	
Street address:	4315 S 2700 W	
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 persons listed above.

General Information**2. Rule catchline:**

R708-10. Driver License Restrictions

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 under Subsection 53-3-104(1)(a) and is necessary to identify license restrictions described under Section 53-3-208. The existing rule also cites Section 53-3-208 for authority which is not correct and will be updated in a later filing.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no comments received 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 necessary to identify and define the possible license restrictions that may be placed on a driving privilege. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	01/17/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-22	Filing ID:	51875
Effective Date:	01/17/2024		

Agency Information

1. Department:	Public Safety		
Agency:	Driver License		
Room number:	Suite 2600		
Street address:	4315 S 2700 W		
City, state and zip:	Taylorsville, UT 84129		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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 persons listed above.		

General Information

2. Rule catchline:
R708-22. Commercial Driver License Administrative Proceedings
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 under Sections 63G-4-202 and 63G-4-203 and is necessary for the Driver License Division (Division) to set standards for the administrative proceedings for commercial driving privileges.
The existing rule has the authorizing statute listed Section 53-3-104 and will be updated in a later filing.
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 Division has not received any comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for the Division to set standards for commercial driving privilege administrative proceedings. Therefore, this rule should be continued.
The Division will update this rule to indicate the proceedings are informal, and to change the authorizing statute in a later filing.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	01/17/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-24	Filing ID: 51876
Effective Date:	01/17/2024	

Agency Information

1. Department:	Public Safety
Agency:	Driver License
Room number:	Suite 2600
Street address:	4315 S 2700 W
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 persons listed above.	

General Information

2. Rule catchline:
R708-24. Renewal of a Commercial Driver License (CDL)
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 under Section 53-1-104 and is necessary for the Driver License Division (Division) to set standards for the renewal and requirements regarding retesting for a commercial driving privilege.

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 Division has not received any comments 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 by statute and is necessary for the Division to establish standards for the renewal and requirements regarding testing a commercial driving privilege. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	01/17/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-26	Filing ID:	54635
Effective Date:	01/17/2024		

Agency Information

1. Department:	Public Safety		
Agency:	Driver License		
Room number:	Suite 2600		
Street address:	4315 S 2700 W		
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 persons listed above.			

General Information

2. Rule catchline:
R708-26. Learner Permit Rule

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 53-3-104(1)(d) which requires the Driver License Division to make rules regarding the restrictions to be imposed on an individual with a temporary learner permit or learner permit.

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 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 by statute and is necessary to impose safety restrictions for those with a temporary or regular learner permit. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	01/17/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R708-31	Filing ID:	51877
Effective Date:	01/17/2024		

Agency Information

1. Department:	Public Safety		
Agency:	Driver License		
Room number:	Suite 2600		
Street address:	4315 S 2700 W		
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	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R708-31. Ignition Interlock Systems
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 under Section 41-6a-518 and is necessary in order for the Driver License Division (Division) to set standards for the certification of ignition interlock systems.
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 Division has published proposed changes to this rule and has received public comments from six ignition interlock systems manufacturers as affected parties. The comments received asked for clarification on new provisions of the new rule, as well as offered suggestions for changes to be made to assist the manufacturers in meeting the requirements of this rule.

There was one comment that was in opposition of a singular provision of this rule which requires manufacturers to equip ignition interlock devices with cameras to aid in anti-circumvention.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required by statute and is necessary for the effective certification of ignition interlock systems. Therefore, this rule should be continued.

The Division has filed a proposed rule change which has not yet been made effective. There were no comments that were in outright opposition to this rule.

(EDITOR'S NOTE: The proposed change in proposed rule (CPR) for Rule R708-31 is under ID 55755 in the February 1, 2024, issue of the Bulletin. The original proposed repeal and reenact upon which the CPR is based is also under ID 55755 in the October 15, 2023, issue of the Bulletin.)

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	01/17/2024
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE

Rule Number:	R597-1	Filing ID: 52953
Effective Date:	02/06/2024	

Agency Information

1. Department:	Judicial Performance Evaluation Commission	
Agency:	Administration	
Street address:	350 N State St, Suite E-330	
City, state, and zip:	Salt Lake City, UT 84114-6800	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline):
R597-1. Definitions
3. Summary:
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

NOTICE OF EXPIRED RULE

Rule Number:	R597-3	Filing ID: 53471
Effective Date:	02/06/2024	

Agency Information

1. Department:	Judicial Performance Evaluation Commission		
Agency:	Administration		
Street address:	350 N State St, Suite E-330		
City, state, and zip:	Salt Lake City, UT 84114-6800		
Contact person(s):			
Name:	Phone:	Email:	
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov	

General Information

2. Title of rule (catchline):
R597-3. Judicial Performance Evaluations
3. Summary:
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

NOTICES OF FIVE-YEAR EXPIRATIONS

NOTICE OF EXPIRED RULE		
Rule Number:	R623-2	Filing ID: 51510
Effective Date:	01/30/2024	

Agency Information

1. Department:	Lieutenant Governor	
Agency:	Elections	
Street address:	350 N State St, Suite 220	
City, state, and zip:	Salt Lake City. UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline):
R623-2. Uniform Ballot Counting Standards
3. Summary:
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

End of the Notices of Notices of Five-Year Expirations 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

Conservation Commission

No. 56204 (New Rule) R64-5: Temporary Water Shortage
Emergency Loan Program

Published: 12/01/2023

Effective: 02/05/2024

Plant Industry

No. 56171 (Amendment) R68-29: Quality Assurance

Testing on Cannabis

Published: 12/01/2023

Effective: 02/05/2024

Commerce

Professional Licensing

No. 56209 (Repeal) R156-60: Mental Health Professional
Practice Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56210 (Amendment) R156-60a: Social Worker

Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56211 (Amendment) R156-60b: Marriage and Family

Therapist Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56216 (Amendment) R156-60c: Clinical Mental Health

Counselor Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56217 (Amendment) R156-60d: Substance Use

Disorder Counselor Act Rule

Published: 12/15/2023

Effective: 01/25/2024

Cultural and Community Engagement

Arts and Museums, Museum Services

No. 56237 (Repeal) R452-100: Certified Local Museum
Designation

Published: 12/15/2023

Effective: 01/24/2024

Education

Administration

No. 56254 (New Rule) R277-126: Utah Fits All Scholarship

Published: 01/01/2024

Effective: 02/07/2024

No. 56255 (Amendment) R277-925: Effective Teachers in
High Poverty Schools Incentive Program

Published: 01/01/2024

Effective: 02/07/2024

Environmental Quality

Air Quality

No. 56123 (Amendment) R307-110: General

Requirements: State Implementation Plan

Published: 11/15/2023

Effective: 02/07/2024

No. 56124 (Amendment) R307-415-6g: Permits: Operating

Permit Requirements

Published: 11/15/2023

Effective: 02/07/2024

Waste Management and Radiation Control, Radiation

No. 56174 (Amendment) R313-19-13: Exemptions

Published: 12/01/2023

Effective: 01/16/2024

No. 56175 (Amendment) R313-21-21: General Licenses--

Source Material

Published: 12/01/2023

Effective: 01/16/2024

NOTICES OF RULE EFFECTIVE DATES

No. 56176 (Amendment) R313-22-55: Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21
Published: 12/01/2023
Effective: 01/16/2024

Waste Management and Radiation Control, Waste Management
No. 56178 (Amendment) R315-124: Procedures for Decisionmaking
Published: 12/01/2023
Effective: 01/16/2024

No. 56180 (Amendment) R315-301: Solid Waste Authority, Definitions, and General Requirements
Published: 12/01/2023
Effective: 01/16/2024

No. 56181 (Amendment) R315-302: Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements
Published: 12/01/2023
Effective: 01/16/2024

No. 56182 (Amendment) R315-304: Industrial Solid Waste Landfill Requirements
Published: 12/01/2023
Effective: 01/16/2024

No. 56183 (Amendment) R315-306: Incinerator Standards
Published: 12/01/2023
Effective: 01/16/2024

No. 56179 (Amendment) R315-311: Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities
Published: 12/01/2023
Effective: 01/16/2024

No. 56186 (Amendment) R315-314: Facility Standards for Piles Used for Storage and Treatment
Published: 12/01/2023
Effective: 01/16/2024

Government Operations

Records Committee
No. 55850 (Amendment) R35-1: State Records Committee Appeal Hearing Procedures
Published: 12/15/2023
Effective: 01/29/2024

No. 55851 (Amendment) R35-2: Scheduling and Declining Hearings
Published: 12/15/2023
Effective: 01/29/2024

Governor

Criminal and Juvenile Justice (State Commission on)
No. 56220 (Amendment) R356-6: Electronic Meetings
Published: 12/15/2023
Effective: 01/25/2024

Economic Opportunity
No. 56228 (Amendment) R357-3: Economic Development Tax Increment Financing Rule
Published: 12/15/2023
Effective: 01/25/2024

No. 56205 (Amendment) R357-13: Procedures for the Administration of the Hotel Impact Mitigation Fund
Published: 12/01/2023
Effective: 01/25/2024

Health and Human Services

Administration
No. 55993 (Repeal and Reenact) R380-20: Government Records Access and Management
Published: 11/15/2023
Effective: 02/12/2024

No. 55970 (Amendment) R380-42: Open and Public Meetings Act Electronic Meetings
Published: 11/15/2023
Effective: 02/12/2024

No. 56059 (Amendment) R380-50: Local Health Department Funding Allocation Formula
Published: 12/01/2023
Effective: 02/07/2024

No. 55994 (New Rule) R380-67: Code Blue Alert Protocols
Published: 12/01/2023
Effective: 01/22/2024

No. 56006 (Repeal) R380-77: Coordination of Patient Identification and Validation Services
Published: 11/15/2023
Effective: 02/07/2024

No. 56011 (New Rule) R380-80: Provider Code of Conduct and Client Rights
Published: 11/15/2023
Effective: 01/22/2024

No. 56055 (New Rule) R380-808: Fatality Review Act
Published: 11/15/2023
Effective: 02/07/2024

Population Health, Environmental Health
No. 55954 (Amendment) R392-702: Cosmetology Facility Sanitation
Published: 11/15/2023
Effective: 01/11/2024

Family Health, Children with Special Health Care Needs
No. 56061 (Amendment) R398-4: Cytomegalovirus Public Health Initiative
Published: 11/15/2023
Effective: 02/07/2024

Integrated Healthcare
No. 55906 (Amendment) R414-22: Administrative Sanction
Procedures and Regulations
Published: 11/15/2023
Effective: 01/22/2024

No. 56007 (Amendment) R414-70: Medical Supplies,
Durable Medical Equipment, and Prosthetic Devices
Published: 11/15/2023
Effective: 02/12/2024

No. 55964 (Amendment) R414-71: Early and Periodic
Screening, Diagnostic and Treatment Program
Published: 11/15/2023
Effective: 01/22/2024

No. 55966 (Amendment) R414-302: Eligibility
Requirements
Published: 11/15/2023
Effective: 01/22/2024

No. 55969 (Amendment) R414-307: Eligibility for Home
and Community-Based Services Waivers
Published: 11/15/2023
Effective: 01/22/2024

No. 55968 (Amendment) R414-508: Requirements for
Transfer of Bed Licenses
Published: 11/15/2023
Effective: 02/12/2024

No. 56116 (Amendment) R414-511: Medicaid Accountable
Care Organization Incentives to Appropriately Use
Emergency Room Services
Published: 11/15/2023
Effective: 02/12/2024

No. 55965 (Amendment) R414-514: Requirements for
Moratorium Exception
Published: 11/15/2023
Effective: 02/07/2024

Health Care Facility Licensing
No. 55959 (Amendment) R432-107: Specialty Hospital -
Cancer Treatment
Published: 11/15/2023
Effective: 01/22/2024

No. 56018 (Amendment) R432-200: Small Health Care
Facility - Four to Sixteen Beds
Published: 11/15/2023
Effective: 01/22/2024

Family Health, Maternal and Child Health
No. 55924 (Amendment) R433-200: Family Planning
Access Act
Published: 11/15/2023
Effective: 02/01/2024

Clinical Services, Primary Care and Rural Health
No. 55910 (Amendment) R434-40: Utah Health Care
Workforce Financial Assistance Program
Published: 11/15/2023
Effective: 01/11/2024

Disease Control and Prevention, Laboratory Services
No. 55952 (Repeal) R438-13: Rules for the Certification of
Institutions to Obtain Impounded Animals in the State of Utah
Published: 11/15/2023
Effective: 02/12/2024

Administration (Human Services)
No. 56056 (Repeal) R495-808: Fatality Review Act
Published: 11/15/2023
Effective: 02/07/2024

No. 56057 (Repeal) R495-810: Government Records
Access and Management Act
Published: 11/15/2023
Effective: 02/12/2024

No. 56214 (Repeal) R495-861: Requirements for Local
Discretionary Social Services Block Grant Funds
Published: 12/15/2023
Effective: 02/07/2024

No. 56010 (Repeal) R495-876: Provider Code of Conduct
Published: 11/15/2023
Effective: 01/22/2024

No. 56009 (Repeal) R495-879: Parental Support for
Children in Care
Published: 11/15/2023
Effective: 01/22/2024

No. 55908 (Repeal) R495-880: Adoption Assistance
Published: 11/15/2023
Effective: 01/11/2024

Human Services Program Licensing
No. 56048 (Amendment) R501-14: Human Service
Program Background Screening
Published: 11/15/2023
Effective: 01/22/2024

No. 56053 (Amendment) R501-19: Residential Treatment
Programs
Published: 11/15/2023
Effective: 01/22/2024

No. 55926 (Amendment) R501-21: Outpatient Treatment
Programs
Published: 11/15/2023
Effective: 01/22/2024

No. 55927 (Amendment) R501-22: Residential Support
Programs
Published: 11/15/2023
Effective: 01/22/2024

NOTICES OF RULE EFFECTIVE DATES

Child and Family Services

No. 55905 (Amendment) R512-43: Adoption Assistance
Published: 11/15/2023
Effective: 01/11/2024

Recovery Services

No. 56187 (New Rule) R527-220: Parental Support for Children in Care
Published: 12/01/2023
Effective: 01/22/2024

Insurance

Administration

No. 56218 (Amendment) R590-171: Surplus Lines Procedures Rule
Published: 12/15/2023
Effective: 01/24/2024

No. 55510 (Repeal and Reenact) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 07/15/2023
Effective: 01/24/2024

No. 55510 (First Change in Proposed Rule) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 10/15/2023
Effective: 01/24/2024

No. 55510 (Second Change in Proposed Rule) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 12/15/2023
Effective: 01/24/2024

No. 56219 (Amendment) R590-281: License Applications Submitted by Individuals Who Have a Criminal Conviction
Published: 12/15/2023
Effective: 01/24/2024

Natural Resources

Wildlife Resources

No. 56245 (Amendment) R657-5: Harvest Reporting
Published: 01/01/2024
Effective: 02/07/2024

No. 56246 (Amendment) R657-38: Dedicated Hunter Program
Published: 01/01/2024
Effective: 02/07/2024

No. 56247 (Amendment) R657-42: Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents
Published: 01/01/2024
Effective: 02/07/2024

No. 56248 (Amendment) R657-43: Landowner Permits
Published: 01/01/2024
Effective: 02/07/2024

No. 56249 (Amendment) R657-62: Drawing Application Procedures
Published: 01/01/2024
Effective: 02/07/2024

Transportation

Administration

No. 56202 (Amendment) R907-80: Sale or Exchange Involving a Large Public Transit District
Published: 12/01/2023
Effective: 01/12/2024

Motor Carrier

No. 56223 (Amendment) R909-1: Safety Regulations for Motor Carriers
Published: 01/01/2024
Effective: 02/07/2024

No. 56224 (Amendment) R909-19: Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification
Published: 12/15/2023
Effective: 01/23/2024

Operations, Maintenance

No. 56225 (Repeal and Reenact) R918-4: Using Volunteer Groups and Third-Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs
Published: 12/15/2023
Effective: 01/23/2024

Transportation Commission

Administration

No. 56222 (Amendment) R940-6: Prioritization of New Transportation Capacity Projects
Published: 12/15/2023
Effective: 01/23/2024

End of the Notices of Rule Effective Dates Section