

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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# TABLE OF CONTENTS

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## 1. SPECIAL NOTICES

Governor's Proclamation: Calling the Fifty-Third Legislature into an Extraordinary Session (Senate only) .....	1
Department of Environmental Quality, Utah Air Quality Board: Public Hearing - Review of the Utah State Implementation Plan (SIP) for Visibility .....	1
Department of Community and Economic Development, Community Development, Library: Utah State Publications	
List 99-1: January 12, 1999 .....	2
List 99-2: January 21, 1999 .....	6
List 99-3: February 2, 1999 .....	8
List 99-4: February 16, 1999 .....	9
List 99-5: March 1, 1999 .....	11
List 99-6: March 17, 1999 .....	12
List 99-7: April 1, 1999 .....	14

## 2. NOTICES OF PROPOSED RULES

### Insurance

#### Administration

No. 21942 (Amendment): R590-102. Insurance Department Fee Payment Deadlines .....	18
---	----

### Money Management Council

#### Administration

No. 21941 (Amendment): R628-2. Investment of Funds of Member Institutions of the State System of Higher Education .....	21
---	----

### Natural Resources

#### Parks and Recreation

No. 21924 (Amendment): R651-206. Carrying Passengers for Hire .....	23
---	----

#### Wildlife Resources

No. 21937 (Amendment): R657-14. Commercial Harvesting of Protected Aquatic Wildlife .....	25
No. 21938 (Amendment): R657-33. Taking Bear .....	33
No. 21939 (Amendment): R657-37. Cooperative Wildlife Management Units for Big Game .....	39
No. 21940 (Amendment): R657-41. Conservation and Sportsman Permits .....	45

### Public Safety

#### Driver License

No. 21933 (Repeal and Reenact): R708-30. Motorcycle Rider Training Schools .....	48
--	----

#### Law Enforcement and Technical Services, Regulatory Licensing

No. 21929 (Repeal and Reenact): R724-7. Undercover Driver's License .....	54
No. 21934 (Amendment): R724-9. Licensing of Private Investigators .....	56

TABLE OF CONTENTS

---

School and Institutional Trust Lands

Administration

No. 21932 (Amendment): R850-40-1600. Easement Assignments ..... 58

Tax Commission

Property Tax

No. 21930 (Amendment): R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5 ..... 59

No. 21931 (Amendment): R884-24P-32. Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303 ..... 61

**3. NOTICES OF CHANGES IN PROPOSED RULES**

Insurance

Administration

No. 21767: R590-190. Unfair Property, Liability and Title Claims Settlement Practices Rule ..... 64

No. 21781: R590-191. Unfair Life Insurance Claims Settlement Practices Rule ..... 69

**4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION**

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 21935: R414-54. Speech-Language Pathology Services ..... 73

Laboratory Services

No. 21928: R438-13. Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah ..... 73

**5. NOTICES OF RULE EFFECTIVE DATES ..... 75**

**6. RULES INDEX ..... 77**

# SPECIAL NOTICES

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## PROCLAMATION

**WHEREAS**, since the close of the 1999 General Session of the 53rd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

**NOW, THEREFORE, I, MICHAEL O. LEAVITT**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 53rd Legislature of the State of Utah into a First Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 21st day of April 1999, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 1999 General Session of the 53rd Legislature of the State of Utah.

**IN WITNESS WHEREOF**, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 6th day of April 1999.

(STATE SEAL)

**MICHAEL O. LEAVITT**  
Governor

**OLENE WALKER**  
Lieutenant Governor

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## DEPARTMENT OF ENVIRONMENTAL QUALITY UTAH AIR QUALITY BOARD

### PUBLIC HEARING REVIEW OF THE UTAH STATE IMPLEMENTATION PLAN (SIP) FOR VISIBILITY

The Utah Air Quality Board requests comment on the Review of the Utah State Implementation Plan (SIP) for Visibility. The Review and the SIP are available at: <http://www.eq.state.ut.us/eqair/planning>, or at the office of the Division of Air Quality at 150 North 1950 West in Salt Lake City.

The Visibility SIP is required to protect federal Class I areas; in Utah, those are our five national parks: Arches, Bryce, Canyonlands, Capitol Reef, and Zion. Affected federal land managers have been given the opportunity to comment on the Review, and the Review must be made available to the public and to the Environmental Protection Agency. There is no requirement to revise the SIP on any specific timetable.

## SPECIAL NOTICES

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The Review indicates that trends in visibility vary from season to season and from year to year, but have not changed much since the SIP was written in the late 1980s. Emissions from stationary sources near the Class I areas have generally declined, in spite of population growth in southern Utah.

A public hearing will be held on May 11, 1999, at 7:00 p.m. in Room 101 in the Department of Environmental Quality building, 168 North 1950 West, in Salt Lake City.

*Written comments may be submitted before 5:00 p.m. on May 16, 1999, to: Ursula K. Trueman, Executive Secretary, Division of Air Quality, Box 144820, Salt Lake City, UT 84114-4820. Comments may also be submitted by e-mail to: [jmiller@deq.state.ut.us](mailto:jmiller@deq.state.ut.us).*

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I 3112.13: Rep/997

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**Annual report of the Utah State Tax Commission.** FY July 1996- June 1997. Utah Department of Workforce Services.

A 5300.1: Rep/996-997

<http://www.tax.ex.state.ut.us/pubs/forms&pub.htm>

Taxation--Utah.

**Capitol connections : news for and about people in state government.** Vol. 6, no. 8 : January 1999. Utah. Dept. of Administrative Services. Utah. Office of the Governor.

A 4500.81: Cap/6/8

<http://www.das.state.ut.us/capconn/>

Civil service--Utah/State governments--Officials and employees.

**Comprehensive annual financial report for the fiscal year ended June 30, 1998.** State of Utah.

A 5200.1: Fin/998

<http://www.finance.state.ut.us/html/cafr.htm>

Finance, public--Utah/Utah. Appropriations and expenditures/Utah. Accounting Standards and Financial Reporting Section.

**Directions for Utah libraries.** Vol. 10, no. 5 : January 1998. Utah State Library.

H 6200.8: Dir/10/5

<http://www.state.lib.ut.us/division/pubs.htm>

Libraries--Utah--Periodicals.

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**Earthquake activity in the Utah region : preliminary epicenters.** April 1- June 30, 1998. University of Utah Seismograph Stations.

N 3222.8: Pre/998/2

<http://www.seis.utah.edu/HTML/QuarterReport.html>

Earthquake intensity--Utah--Statistics/Earthquakes--Utah/Seismography--Utah.

**Get up and go.** January 1999. Utah. Division of Aging and Adult Services.

P 3260.8: Gol/999/01

Aged--Utah/Aged--Services for--Utah/Aged--Legal status, laws, etc.--Utah.

**Fall enrollment report of Utah public and private schools.** December 1998. Utah. State Office of Education.

E 3180.13: Fal/998

School census--Utah/Education--Utah.

\* **Large mine permits and plants in Utah.** December 1998. By Roger L. Bon. Utah Geological Survey.

N 3300.71: Pub/61

Mines and mineral resources--Utah.

**Laws of the State of Utah.** 1998. State of Utah.

A 3012.6: Law/998

Law--Utah.

**Mortality by cause, age, gender and autopsy, residents : Utah 1997.** November 30, 1998. Utah. Bureau of Vital Records.

P 4085.13: Mor/997

[http://www.health.state.ut.us/bvr/html/data\\_and\\_publications.html](http://www.health.state.ut.us/bvr/html/data_and_publications.html)

Mortality--Utah--Statistics--Periodicals/ Utah--Statistics, Vital--Periodicals.

**Newsletter.** January 1, 1999. Utah. Division of Occupational and Professional Licensing.

I 4080.8: New/999/01

<http://www.commerce.state.ut.us/web/commerce/DOPI/NEWS/INTRO.HTM>

Licenses--Utah--Periodicals/ Business--Licenses--Utah--Periodicals.

\* **Oil and gas production report.** August 1998. Utah. Division of Oil, Gas and Mining.

N 3600.13: Pro/998/08

Petroleum industry and trade--Utah--Statistics--Periodicals/Gas industry--Utah--Statistics--Periodicals/ Energy industries--Utah--Statistics--Periodicals.

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**Quarterly economic newsletter : Cache and Rich. (Northern region)** First quarter 1998. Utah. Department of Workforce Services.

I 3112.C2/R5.8: Eco/998/1

<http://dwsa.state.ut.us/Labor/Regions/northern.htm>

Cache County (Utah)--Occupations--Statistics/ Rich County (Utah)--Occupations--Statistics/ Utah--Occupations--Statistics.

**Quarterly economic newsletter : Davis county. (Northern region)** First quarter 1998. Utah. Department of Workforce Services.

I 3112.D4.8: Eco/998/1

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Garfield County (Utah)--Occupations--Statistics/Utah--Occupations--Statistics.

SPECIAL NOTICES

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<http://dwsa.state.ut.us/Labor/Regions/western.htm>  
Iron County (Utah)--Occupations--Statistics/Utah--Occupations--Statistics.

**Quarterly economic newsletter : Juab County. (western region).** Second quarter 1998. Utah. Dept. of Workforce Services.  
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I 3112.M5.8: Eco/998/2  
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**Quarterly economic newsletter : Piute County. (western region).** Second quarter 1998. Utah. Dept. of Workforce Services.  
I 3112.P5.8: Eco/998/2  
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**Quarterly economic newsletter : Salt Lake and Tooele. (central region).** Second quarter 1998. Utah. Dept. of Workforce Services.  
I 3112.S2/T6.8: Eco/998/2  
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**Quarterly economic newsletter : Sanpete County. (western region).** Second quarter 1998. Utah. Dept. of Workforce Services.  
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**Quarterly economic newsletter : Sevier County. (western region).** Second quarter 1998. Utah. Dept. of Workforce Services.  
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Utah County (Utah)--Occupations--Statistics/Utah--Occupations--Statistics.

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**State of Utah, Division of Wildlife Resources proclamation of the Wildlife Board : fish and crayfish.** 1999. Utah. Division of Wildlife Resources.

N 4610.P76.9: Fis/999

<http://www.nr.state.ut.us/dwr/!aquati.htm>

Fishes--Utah/Fishing--Utah.

**Summary of southwestern willow flycatcher (*Empidonax trailii extimus*) surveys conducted in the Virgin River drainage, Washington county, Utah in 1998.** December 1998. Utah. Division of Wildlife Resources.

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**Summary of southwestern willow flycatcher investigations in southern Utah: 1997.** December 1998. Utah. Division of Wildlife Resources.

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A 5340.9: Tax/27-98

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**Utah big game proclamation.** 1999. Utah. Division of Wildlife Resources.

N 4810.P76.9: Big/999

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I 4300.8: Con/41/3

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**Utah economic and business review.** Vol. 58, nos. 5&6 : May/June 1998. University of Utah. Bureau of Economic and Business Research.

I 3090.8: UEB/58/5&6

Utah--Economic conditions--Periodicals.

**Utah real estate appraiser review : a publication for appraisal professionals.** Vol. 8. No. 1 : January 1999. Utah. Real Estate Division.

I 4200.A66.81: App/8/1

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**Utah real estate instructor's newsletter.** December 1998. Utah. Real Estate Division.

I 4200.81: Ins/998-12

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E 3190.81 Spe/19/3  
[http://www.ulrc.org/special\\_educator.html](http://www.ulrc.org/special_educator.html)  
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\* **Utah state digest.** No. 99-1 : January 1, 1999. Utah. Division of Administrative Rules.  
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**Utah statistics of income return year.** January 1999. Utah State Tax Commission. Economic & Statistical Unit.  
A 5340.I52.13: Sta/997  
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**Utah's vital statistics, births & deaths.** November 30, 1998. Utah. Bureau of Vital Records and Health Statistics.  
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**Wildlife review.** Fall 1998. Utah. Division of Wildlife Resources.  
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**2002 Winter Olympic Games, estimated local government olympic revenues.** November 1998. Utah. Governor's Office of Planning and Budget. Demographic and Economic Analysis.  
A 5360.W5.7: Win/998  
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P 4000.81: Bul/998-11  
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- Check deck : health information for Utah families.** 1998. Utah. Division of Community and Family Health Services.  
P 4000.3: Che/998  
Health--Information services--Directories/Health education--Utah/Health planning--Utah.
- Community health status : selected measures of health status by small area in Utah.** December 1998. Utah. Dept. of Health. Bureau of Surveillance and Analysis.  
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- Family and consumer sciences: child development : curriculum guide.** 1998. Utah. State Office of Education.  
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- General session preview 1999. a report to the 53rd Legislature on 1998 legislative interim studies.** 1998 : report #20. Utah. Legislature. Office of Legislative Research and General Counsel.  
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- An informed decision.** (videocassette) 1998. Utah. Dept. of Health.  
P 3346.78: Inf/998  
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- Legislative drafting manual: State of Utah.** December 1998. Utah. Legislature. Office of Legislative Research and General Counsel.  
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- Legislative report of the Permanent Community Impact Fund for fiscal year 1998.** 1998. Utah. Permanent Community Impact Fund Board.  
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- On-the-job : Industrial Commission of Utah quarterly newsletter.** 1<sup>st</sup> quarter 1999. Labor Commission, State of Utah.  
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Industrial safety--Utah.
- Parent news.** Vol. 22 no. 1 : Fall 1998. Utah State University. Developmental Center for Handicapped Persons.  
E 3190.81: Par/22/1  
Parents of exceptional children/Handicapped children--Services for--Utah/Child rearing.
- Utah model for comprehensive counseling and guidance.** 1998. Utah. State Office of Education.  
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- \* **Utah state bulletin.** No. 99-2 : January 15, 1999. Utah. Division of Administrative Rules.  
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**Utah state grants and services manual.** 1999. Utah. Governor's Office of Planning and Budget.  
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**Capitol connections : news for and about people in state government.** Vol. 6, no. 9 : February 1999. Utah. Dept. of Administrative Services. Utah. Office of the Governor.  
A 4500.81: Cap/6/9  
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\* **Coal resources of the Henry Mountains coalfield.** January 1999. David E. Tabet. Utah Geologic Survey.  
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\* **Gross taxable retail sales and purchases in the State of Utah.** January 1999. Utah State Tax Commission. Economic & Statistical Unit.  
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**Networth news.** Fourth quarter 1998. Utah. Department of Financial Institutions.  
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<http://www.dfi.state.ut.us/Public.htm>  
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**Newborn screening.** Winter 1998. Utah. Newborn Screening Program.

P 4179.N48.81: New/998/4

Infants (Newborn)--Medical examinations--Utah/Infants (Newborn)--Diseases--Genetic aspects--Utah.

**Quarterly economic newsletter : Beaver county. (Western region)** Second quarter 1998. Utah. Department of Workforce Services.

I 3112 .B4.8: Eco/998/2

Utah--Occupations--Statistics/Beaver County (Utah)--Occupations--Statistics.

**Quarterly economic newsletter : Summit and Wasatch. (Mountainland region)** Second quarter 1998. Utah. Department of Workforce Services.

I 3112 .S8.W2.8: Eco/998/2

Summit County (Utah)--Occupations--Statistics/Utah--Occupations--Statistics/Wasatch County--Occupations--Statistics.

**Quarterly economic newsletter : Wayne county. (Western region)** Second quarter 1998. Utah. Department of Workforce Services.

I 3112 .W4.8: Eco/998/2

Utah--Occupations--Statistics. Wayne County (Utah)--Occupations--Statistics.

\* **Survey notes.** Vol. 30, no. 2 : January 1998. ; Vol. 30, no. 3 : May 1998. Utah Geological Survey.

N 3300.8: Sur/30/2 ; N 3300.8: Sur/30/3

Utah Geological Survey/Geology--Utah--Periodicals/Hydrology--Utah--Periodicals/Mines and mineral resources--Utah--Periodicals.

**Utah labor market report.** Vol. 8. No. 12 : December 1998. Utah. Dept. of Employment Security

I 3112.13: Lab/8/12

Labor market--Utah--Statistics/Labor supply--Utah--Statistics.

\* **Utah state bulletin.** No. 99-3 : February 1, 1999. Utah. Division of Administrative Rules.

A 3025.61: Bul/99-3

<http://www.rules.state.ut.us/publicat/bulletin.htm>

Delegated legislation--Utah--Periodicals/Administrative procedure--Utah--Periodicals.

\* **Utah state digest.** No. 99-3 : February 1, 1999. Utah. Division of Administrative Rules.

A 3026.61: Dig/99-3

<http://www.rules.state.ut.us/publicat/digest.htm>

Delegated legislation--Utah--Periodicals.

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**UTAH STATE PUBLICATIONS**

**List 99-4**

**February 16, 1999**

Depository libraries: Asterisk (\*) indicates limited copies- make claims to issuing agency.

**This list is available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>**

## SPECIAL NOTICES

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**30 day review.** Vol. 6, No. 1 : January - February 1999. Utah. State Mental Hospital, Provo.

P 3221.8: Thi/6/1

Utah. State Mental Hospital, Provo--Periodicals/Psychiatric hospitals--Utah--Periodicals/Mentally ill--Care--Utah--Periodicals.

**CPD news.** Vol. 22, No. 1 : Fall 1998. Utah State University. Center for Persons with Disabilities

E 3190.81: CPD/22/1

Handicapped children--Services for--Utah/Handicapped children--Education/Handicapped children--Development/Rehabilitation.

**Directions for Utah libraries.** Vol. 11, No. 6 : February 1999. Utah State Library.

H 6200.8: Dir/11/6

<http://www.state.lib.ut.us/directns/directns.htm>

Libraries--Utah--Periodicals.

**Epidemiology newsletter.** November 1998 ; December 1998. Utah. Bureau of Epidemiology.

P 4120.8: New/998/11 ; P 4120.8: New/998/12

<http://hlunix.hl.state.ut.us/els/epidemiology/>

Communicable diseases--Utah/Diseases--Reporting--Utah.

**Get up & go.** February 1999. Utah. Division of Aging and Adult Services.

P 3260.8: Get/999/02

Aged--Utah/Aged--Services for--Utah/Aged--Legal status, laws, etc.--Utah.

\* **Oil and gas production report.** September 1998. Utah. Division of Oil, Gas and Mining.

N 3600.13: Pro/998/09

Petroleum industry and trade--Utah--Statistics--Periodicals/Gas industry--Utah--Statistics--Periodicals/Energy industries--Utah--Statistics--Periodicals.

**Quarterly economic newsletter : Weber and Morgan. (Northern region)** First quarter 1998. Utah. Department of Workforce Services.

I 3112 .W5.M6.8: Eco/998/1

<http://www.dws.state.ut.us/WI/Regions/north.htm>

Weber County (Utah)--Occupations--Statistics/Morgan County (Utah)--Occupations--Statistics/Utah--Occupations--Statistics.

\* **A summary of the geologic resource atlas of Utah.** January 1999. Douglas A. Sprinkel. Utah Geological Survey.

N 3300.71: Ope/364.

Geology--Utah--Maps/Mines and mineral resources--Utah.

**Utah employers, employment and wages, by size.** January 1999. Department of Workforce Services.

I 3112.13: Uta/998

<http://www.dws.state.ut.us/WI/pubs/publicat.htm>

Labor supply--Utah--Statistics--Periodicals/Wages--Utah--Statistics--Periodicals/Industries, Size of--Statistics--Periodicals.

**The Utah special educator.** Vol. 19, No. 4 : February 1999. Utah Learning Resource Center.

E 3190.81 Spe/19/4

[http://www.ulrc.org/special\\_educator.html](http://www.ulrc.org/special_educator.html)

Special education--Utah/Special education teachers--Utah.

**Utah State Fair report.** 1998. Utah. Division of Expositions.

H 6102.S82.13: Rep/998

Utah State Fair.

**Utah's vital statistics, abortions.** January 30, 1998. Utah. Bureau of Vital Records.

P 4081.13: Vit/997

<http://www.health.state.ut.us/bvr/home.html>

Abortion--Utah--Statistics--Periodicals.

- 
- \* **Utah state bulletin.** No. 99-4 : February 15, 1999. Utah. Division of Administrative Rules.  
A 3025.61: Bul/99-4  
<http://www.rules.state.ut.us/publicat/bulletin.htm>  
Delegated legislation--Utah--Periodicals/Administrative procedure--Utah--Periodicals.
- \* **Utah state digest.** No. 99-4 : February 15, 1999. Utah. Division of Administrative Rules.  
A 3026.61: Dig/99-4  
<http://www.rules.state.ut.us/publicat/digest.htm>  
Delegated legislation--Utah--Periodicals.
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**UTAH STATE PUBLICATIONS**

**List 99-5**

**March 1, 1999**

Depository libraries: Asterisk (\*) indicates limited copies- make claims to issuing agency.

**This list is available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>**

**Capitol connections : news for and about people in state government.** Vol. 6, No. 10 : March 1999. Utah. Dept. of Administrative Services. Utah. Office of the Governor.

A 4500.81: Cap/6/10

<http://www.das.state.ut.us/capconn/>

Civil service--Utah/State governments--Officials and employees.

**Laboratory bulletin.** February 1999. Utah. State Health Laboratory.

P 4129.9: Lab/999/02

<http://hlunix.hl.state.ut.us/els/labimp/index.html>

Medical laboratories--Utah--Periodicals/Diagnosis, Laboratory--Periodicals.

**Natural resource update.** January 21, 1999. Utah. Office of Energy and Resource Planning.

author

N 3510.R4.81: Nat/999/02/21

<http://www.nr.state.ut.us/energy/pub.htm>

Natural resources--Utah--Periodicals/Conservation of natural resources--Utah--Periodicals.

**Newborn screening.** January 1999. Utah. Newborn Screening Program.

P 4179.N48.81: New/999/01

Infants (Newborn)--Medical examinations--Utah/Infants (Newborn)--Diseases--Genetic aspects--Utah.

**Utah car and truck sales.** Third quarter 1998. [January 1999] Leslee Katayama. Utah State Tax Commission. Economic and Statistical Unit.

A 5340.S24.13: Car/998

Automobile industry and trade--Utah--Statistics.

SPECIAL NOTICES

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**Utah economic and business review.** Vol. 58, No. 7-8 : July/August 1998. University of Utah. Bureau of Economic and Business Research.

I 3090.8: UEB/58/7-8

Utah--Economic conditions--Periodicals.

\* **Utah state bulletin.** No. 99-5 : March 1, 1999. Utah. Division of Administrative Rules.

A 3025.61: Bul/99-5

<http://www.rules.state.ut.us/publicat/bulletin.htm>

Delegated legislation--Utah--Periodicals/Administrative procedure--Utah--Periodicals.

\* **Utah state digest.** No. 99-5 : March 1, 1999. Utah. Division of Administrative Rules.

A 3026.61: Dig/99-5

<http://www.rules.state.ut.us/publicat/digest.htm>

Delegated legislation--Utah--Periodicals.

**Utah State Fair commercial exhibitor handbook.** 1999. Utah. Division of Expositions

H 6102.S82.13: Rep/999

Utah State Fair.

**Utah state of the judiciary address 1999.** January 18, 1999. Utah. Supreme Court.

A 6000.14: Sta/

<http://courmlink.utcourts.gov>

Courts--Utah--Periodicals/Justice, Administration of--Utah--Periodicals.

**Utah System of Higher Education data book 1999-2000 : supplement to operating budget request ; submitted to the Hon. Michael O. Leavitt , Governor and the 53rd Legislature of the state of Utah, general session 1999.** 1999-2000. Utah System of Higher Education.

E 7000.1: Dat/999-000

Education, Higher--Utah--1965---Statistics/Education, Higher--Utah--State aid.

Higher education and state--Utah/Degrees, Academic--Utah.

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**UTAH STATE PUBLICATIONS**

**List 99-6**

**March 17, 1999**

Depository libraries: Asterisk (\*) indicates limited copies- make claims to issuing agency.

**This list is available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>**

**Annual report.** 1998. Utah. Division of Services for People with Disabilities.

P 3240.1: Rep/998

<http://www.hsdspd.state.ut.us>

Utah. Division of Services for People with Disabilities--Periodicals/Handicapped--Services for--Utah--Periodicals.



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**Biennial report.** December 1998. Utah Dept. of Health. Health Data Commission.

P 4000.D37.13: Rep/998

<http://hlunix.ex.state.ut.us/hda/>

Medical care--Utah--Statistics/Medical care--Utah--Utilization--Reporting/Health facilities--Utah--Statistics.

**Directions for Utah libraries.** Vol. 11, No. 7 : March 1999. Utah State Library.

H 6200.8: Dir/11/7

<http://www.state.lib.ut.us/directns/directns.htm>

Libraries--Utah--Periodicals.

**disAbility news & notes.** Vol. 9, No. 1 : January 1999. Utah. Division of Services for People with Disabilities.

P 3240.8: dis/9/1

Utah. Division of Services for People with Disabilities/Handicapped--Services for-- Utah/Developmentally disabled--Services for--Utah.

**Fir broom rust: identification and management.** February 1999. State of Utah Natural Resources. Division of Forestry, Fire and State Lands.

N 3832.7: Fir/999

Rust fungi--Control--Utah/Trees--Disease and pests--Utah.

**Hydrologic data for Curlew Valley, Utah.** 1998. State of Utah Natural Resources, Division of Water Rights.

N 4301.H9.7: Hyd/998

Water-supply --- Curlew Valley, Utah/Hydrology--Utah--Box Elder County/Hydrology--Curlew Valley, Utah/Box Elder County (Utah)/Curlew Valley, Utah.

**Natural resource update.** February 25, 1999. Utah. Office of Energy and Resource Planning.

N 3510.R4.81: Nat/999/02/25

<http://www.nr.state.ut.us/energy/pub.htm>

Natural resources--Utah--Periodicals/Conservation of natural resources--Utah--Periodicals.

\* **Oil and gas production report.** October 1998. : November 1998. Utah. Division of Oil, Gas and Mining.

N 3600.13: Pro/998/10 ; N 3600.13: Pro/998/11

Petroleum industry and trade--Utah--Statistics--Periodicals/Gas industry--Utah--Statistics--Periodicals/Energy industries--Utah--Statistics--Periodicals.

**Parent news.** Vol.22 no. 2 : Winter 1999. Utah State University. Developmental Center for Handicapped Person.

E 3190.81: Par/22/2

<http://www.cpd.usu.edu>

Parents of exceptional children/Handicapped children--Services for--Utah/Child rearing.

**Tax bulletin.** January 1, 1999. ; April 1, 1999. Utah State Tax Commission.

A 5340.9: Tax/[99] 1-99 ; A 5340.9: Tax/[99] 2-99 ; A 5340.9: Tax/[99] 3-99

<http://www.tax.ex.state.ut.us/pr/Whtnwpg.htm>

Utah State Tax Commission/Taxation--Law and legislation--Utah/Administrative law--Utah.

**Utah data guide : a newsletter for data users.** Winter 1999. Utah State Data Center. Utah. Office of Planning and Budget.

H 5010.19: Dat/999/1

[http://www.governor.state.ut.us/dea/publications/Data\\_Guide/data\\_guide.html](http://www.governor.state.ut.us/dea/publications/Data_Guide/data_guide.html)

Utah--Population--Statistics/Utah--Census.

**Utah hospital maternity guide.** December 1998. Utah. Dept. of Health.

P 4265.C6.3: Hos/998

<http://hlunix.ex.state.ut.us/hda/>

Hospitals--Utah--Maternity costs.

**Utah labor market report.** Vol. 9, No. 1 : January 1999. Utah. Dept. of Employment Security.

I 3112.13: Lab/9/1

Labor market--Utah--Statistics/Labor supply--Utah--Statistics.

## SPECIAL NOTICES

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**Utah real estate instructors' newsletter : a publication of the Utah Division of Real Estate.** March 1999. Utah. Real Estate Division.

I 4200.157.81: Rea/999-03

Real estate instructors--Utah--Periodicals/Real estate business--Utah--Periodicals.

**Utah real estate news : a publication of the Utah Division of Real Estate.** Vol. 29, No. 1 : February 1999. Utah. Real Estate Division.

I 4200.81: Rea/29/1

<http://www.commerce.state.ut.us/web/commerce/re/udre7.htm>

Real estate agents--Utah--Periodicals/Real estate business--Law and legislation-- Utah--Periodicals/Real estate business--Utah--Periodicals.

**Utah state constitution.** January 1999. Utah. Constitutional Revision Commission.

A 3000.6: Con/999

Utah--Constitution.

**Utah state government : [organizational chart]** July 1998. Utah. Legislature. Office of Legislative Research and General Counsel.

A 3110.5: Gov/998

Administrative agencies--Utah/Public administration--Utah/Utah--Executive departments.

\* **Utah state bulletin.** No. 99-6 : March 15, 1999. Utah. Division of Administrative Rules.

A 3025.61: Bul/99-6

<http://www.rules.state.ut.us/publicat/bulletin.htm>

Delegated legislation--Utah--Periodicals/Administrative procedure--Utah--Periodicals.

\* **Utah state digest.** No. 99-6 : March 15, 1999. Utah. Division of Administrative Rules.

A 3026.61: Dig/99-6

<http://www.rules.state.ut.us/publicat/digest.htm>

Delegated legislation--Utah--Periodicals.

**Western spruce budworm in Utah.** February 1999. State of Utah Natural Resources. Division of Forestry, Fire and State Lands.

N 3832.7: Wes/999

Western spruce budworm--Control--Utah/Trees--Disease and pests--Utah.

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#### UTAH STATE PUBLICATIONS

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This list is available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>

**Accountability reports for all districts and schools : the Utah statewide testing program 1998.** January 1999. Utah. State Office of Education.

E 3126.13: Acc/ 998

Educational tests and measurements--Utah/Educational tests and measurements--Law and legislation--Utah/Examinations--Utah--Scoring/Educational accountability--Utah/Educational accountability--Law and legislation--Utah/Educational indicators--Utah.

**Annual report.** 1998. Utah Rehabilitation Services Advisory Council.

E 3199.A38.1: Rep/998

<http://www.usoe.k12.ut.us/usor/html/rsac.htm>

Utah Rehabilitation Services Advisory Council/Vocational rehabilitation--Utah--Periodicals.

**Annual report of the Utah state superintendent of public instruction.** 1997-1998. Utah. State Office of Education.

E 3000.1: Rep/997-998

<http://www.usoe.k12.ut.us/admin/sr96.html>

Utah State Office of Education--Periodicals/ Public schools--Utah--Periodicals/Education--Utah--Statistics--Periodicals.

**Annual report of the Utah State Office of Rehabilitation.** January 1999. Utah State Office of Rehabilitation.

E 3199.1: Ann/998

Handicapped--Utah/Vocational rehabilitation--Utah/Blind--Utah--Rehabilitation/Deaf--Utah--Rehabilitation.

**BPCRHS bulletin.** March 15, 1999. Utah. Bureau of Primary Care and Rural Health Systems. Utah Department of Health.

P 4000.81: Bul/999-03

[http://hlunix.hl.state.ut.us/primary\\_care/bulletin.html](http://hlunix.hl.state.ut.us/primary_care/bulletin.html)

Medical care--Utah/Health planning--Utah.

**Capitol connections : news for and about people in state government.** Vol. 6, No. 11 : April 1999. Utah. Dept. of Administrative Services. Utah. Office of the Governor.

A 4500.81: Cap/6/11

<http://www.das.state.ut.us/capconn/>

Civil service--Utah/State governments--Officials and employees.

\* **Interim geologic map of the Escalante and parts of the Loa and Hite crossing 30' X 60' quadrangles, Garfield and Kane counties, Utah.** February 1999. Hellmut H.Doelling and Grant C. Willis. [Utah Geological Survey.]

N 3300.71: Ope/368

Geology--Utah--Kane County--Maps/Geology--Utah--Garfield County--Maps.

\* **Interim geologic map of the Kane 30' X 60' quadrangle, Kane and Washington Counties, Utah, and Coconino and Mohave counties, Arizona.** February 1999. Hellmut H.Doelling. [Utah Geological Survey.]

N 3300.71: Ope/366

Geology--Utah--Kane County--Maps/Geology--Utah--Washington County--Maps.

\* **Interim geologic map of the SE part of the Panguitch 30' X 60' quadrangle, Garfield and Kane counties, Utah.** February 1999. Hellmut H.Doelling and Grant C. Willis. [Utah Geological Survey.]

N 3300.71: Ope/367

Geology--Utah--Kane County--Maps/Geology--Utah--Garfield County--Maps.

\* **Progress report geologic map of the Ogden 30' X 60' quadrangle, Utah and Wyoming : year 2 of 3.** February 1999. James C. Coogan and Jon K. King. [Utah Geological Survey.]

N 3300.71: Ope/365

Geology--Utah--Ogden Region--Maps/Geology--Wyoming--Maps.

**Quarterly economic newsletter : Carbon and Emery. (Eastern region)** Second quarter 1998. Utah. Department of Workforce Services.

I 3112 .C3.E5.8: Eco/998/2

<http://www.dws.state.ut.us/WI/Regions/eastern.htm>

Carbon--Occupations--Statistics/Utah--Occupations--Statistics/Emery--Occupations--Statistics.

## SPECIAL NOTICES

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**Quarterly economic newsletter : Daggett, Duchesne, Uintah. (Eastern region)** Second quarter 1998. Utah. Department of Workforce Services.

I 3112 .U35.8: Eco/998/2

<http://www.dws.state.ut.us/WI/Regions/eastern.htm>

Daggett--Occupations--Statistics/Utah--Occupations--Statistics/Duchesne--Occupations--Statistics/Uintah--Occupations--Statistics.

**Quarterly economic newsletter : Iron county. (Western region)** Third quarter 1998. Utah. Department of Workforce Services.

I 3112 .C3.E5.8: Eco/998/2

<http://www.dws.state.ut.us/WI/Regions/Western.htm>

Iron--Occupations--Statistics/Utah--Occupations--Statistics.

**Summary of Job Service activities.** 1996-1997. Utah. Dept. of Employment Security.

I 3110.1: Rep/996-997

Labor supply--Utah--Statistics--Periodicals/Employment agencies--Utah--Statistics--Periodicals/Insurance, Unemployment--Utah--Statistics--Periodicals.

**The Utah special educator.** Vol. 19, No. 5 : March 1999. Utah Learning Resource Center.

E 3190.81 Spe/19/5

[http://www.ulrc.org/special\\_educator.html](http://www.ulrc.org/special_educator.html)

Special education--Utah/Special education teachers--Utah.

\* **Utah state bulletin.** No. 99-7 : April 1, 1999. Utah. Division of Administrative Rules.

A 3025.61: Bul/99-7

<http://www.rules.state.ut.us/publicat/bulletin.htm>

Delegated legislation--Utah--Periodicals/Administrative procedure--Utah--Periodicals.

\* **Utah state digest.** No. 99-7 : April 1, 1999. Utah. Division of Administrative Rules.

A 3026.61: Dig/99-7

<http://www.rules.state.ut.us/publicat/digest.htm>

Delegated legislation--Utah--Periodicals.

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 2, 1999, 12:00 a.m., and February 16, 1999, 11:59 p.m., are included in this, the March 1, 1999, 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 (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division 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 31, 1999. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "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 29, 1999, the agency may notify the Division 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 31 days 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 Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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 *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page.**

Insurance, Administration  
**R590-102**  
 Insurance Department Fee Payment  
 Deadlines

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 21942  
 FILED: 04/01/1999, 17:11  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To combine all individual producer and agency classification license fees into one global fee.

SUMMARY OF THE RULE OR CHANGE: This rule establishes fee deadlines and provides for the disclosure of this information to licensees and the public. The changes include a format change to combine fees of a similar type together and to combine all individual producer and agency classification license fees into one global fee. The renewal dates of agent and agency licenses are being deleted due to the change to staggered licensing. A provision for the payment of fees by credit cards has been added. Producers and agencies are no longer subject to retaliatory fees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-211, and 31A-3-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no costs beyond what is required through the normal process of business. The state will experience additional revenues of \$911,450 (see H.B. 1, Section 2, beginning at page 132, line 4,338).

(DAR Note: H.B. 1 is found at 1999 Utah Laws 330 and will be effective July 1, 1999.)

❖LOCAL GOVERNMENTS: There will be no cost or savings to local governments. Local governments do not participate in the regulation of the insurance industry.

❖OTHER PERSONS: The net increase to the insurance industry is \$911,450 due to fee increases (see H.B. 1, Section 2, beginning at page 132, line 4,338).

COMPLIANCE COSTS FOR AFFECTED PERSONS: All agency and full line individual license fees will increase \$30; all limited line individual license fees will increase \$15; insurer rate and form filing fees will increase \$5 per filing; agent appointment termination fees will increase \$7. These are the major changes in the fee schedule (see H.B. 1, Section 2, beginning at page 132, line 4,338).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As already noted, this rule, as passed in the budgetary process, will create a financial impact on the Utah insurance industry. Part of this money will be used to fund additional employees for the

Producer Licensing Services Division which will greatly increase the efficiency in responding to the licensing needs of the industry.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance  
 Administration  
 3110 State Office Building  
 Salt Lake City, UT 84114, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at idmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 05/04/1999, 11:00 a.m., 2112 State Office Building, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-102. Insurance Department Fee Payment Deadlines.**

**R590-102-1. Authority.**

This rule is adopted pursuant to the following sections:

- A. 31A-3-103(3), which requires the commissioner to include, in a compilation of rules, the fee schedule set by the legislature;
- B. 31A-3-103(5), which requires the commissioner, by rule, to establish the deadlines for each fee payment.

**R590-102-2. Purpose and Scope.**

A. The purpose of this rule is to comply with the statutory requirement to establish fee deadlines and to provide for the disclosure of this information to licensees and the public.

B. The rule applies to all persons engaged in the business of insurance in Utah, to all licensees, to applicants for licenses or certificates, and to all transactions with the Insurance Department which require the payment of a fee.

**R590-102-3. Definitions.**

For the purposes of this rule the following definitions will apply:

- A. "Fee" is an amount set by the Legislature for services provided by the Insurance Department.
- B. "Deadline" is the final date or time by which timely payment ~~should~~ must be made.
- C. "Filed" means the receipt by the Insurance Department of a complete document, including the required fees.
- D. Mailed ~~annual statements of insurers~~ renewal documents of any type are ~~deemed to be filed~~ accepted as received the day they are postmarked.



- 34.]renewal: \$40
  - k. Agent's certificate of appointment [~~or renewal~~]; initial appointment, termination of appointment or renewal of appointment: per two-year period or fraction of it, [~~renewal due July 1 of odd-numbered years~~]: \$12
- 35. Termination of agent's certificate of appointment (if by nonrenewal, due July 1 of odd-numbered years): \$5
- 36. Authorization to appoint and remove agents: \$10
- 37. Issuance of duplicate license/code changes in existing license: \$10
- 38. Issuance of Certification/Clearance Letter: \$10
- 39. License processing fee (first time): \$10
- 40. Filing certificate(s)]\$12 initial and termination due when requested; renewal due not later than June 30 of odd numbered years.
  - 1. Addition of producer classification or line of authority to individual producer license or agency license, due with request for additional classification or line of authority: \$25
  - 2. Agency fees:
    - a. Resident and non-resident agency license or renewal per two year license period:
      - (1) Initial license, due with application: \$60
      - (2) Renewal license, due with application: \$60 effective January 1, 2000.
      - (3) The initial and renewal agency license fees include the first twenty designees to that license. Each designee beyond twenty must be paid for as described in 2.c. below.
    - b. Agency license, resident or nonresident renewal: \$30 until January 1, 2000.
    - c. Agency designee additions or terminations during the license period, due with request for addition or termination: \$12
  - 3. Continuing Education fees:
    - a. Filing certificate or other proof of completion of continuing education, per individual [~~due March 31 of even-numbered years~~]: \$10]licensee required to complete continuing education, due with license renewal: \$10
    - [41]b. Continuing education provider [application, per provider, due upon filing (annual renewal): \$100]initial application and annual renewal, due with application or renewal: \$100
    - [42]c. Continuing education course post-approval, due with request for approval: \$5 per credit hour, minimum fee \$25[~~due upon filing~~]
- D. Rate and Form filing fees:
  - [43]1. Filing policy forms, rates, rules, and related documents, due with filing: \$20
  - 2. Life insurance illustration certification filing: \$30
  - 3. Workers compensation loss cost multiplier list: \$5
- E. Other fees:
  - 1. Photocopy, per page: \$.25
  - [44]2. Copy complete annual statement, per book: \$40
  - [45]3. Affixing commissioner's seal and certifying any paper, [f]due within ten days of request[?]: \$10
  - [46]4. Accepting service of legal process: \$10

- [47]5. Copy of department's annual Report to the Governor: \$10
- [48]6. Issuance of mailing lists, or computer print-outs, per page: \$1
  - 7. Electronic format list, company, agency, individual, up to 500 records: minimum fee of \$50; over 500 records, \$.10 per record up to a maximum of \$500
- 8[49]. Returned check charge: \$15
- [50]9. Relative Value [study]Study book: \$10
- [B]E. Any fee which shall be payable to the Insurance Department and is not included in Subsection R590-102-4(A), (B), (C), (D) and (E) shall be due upon application or filing, if applicable; otherwise within ten days of notice.

**R590-102-5. Conditions or Exceptions.**

- A. Mailing. A fee payment which is delivered by mail will be considered to have been made as of the date of the postmark.
- B. Payment by check.
  - 1. Checks shall be made payable to the Utah Insurance Department.
  - 2. A check which is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Tender of a check to the department, that is subsequently dishonored, is a violation of this rule.
  - C. Cash payment. All payment in cash should be made in person, by exact change, if possible. The Insurance Department will not be responsible for unreceipted cash which is lost or misdelivered.
  - E. Payment by Credit Card.
    - 1. Any fee due may be paid with a credit card. Credit card payments shall be made to the Utah Insurance Department.
    - 2. Credit card payments that are disallowed will not constitute payment of the fee for which it was used and any action taken pursuant to the fee payment will be negated. Any late fees or penalties will apply until proper payment is made. Credit card payments that are disallowed are violations of this rule.
  - D. Retaliation. All fees, except individual producer and agency fees, are subject to retaliation, in accordance with Section 31A-3-401 if higher fees are imposed by other states or countries.

**R590-102-6. Separability.**

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances may not be affected.

**KEY: insurance**

[October 1, 1996]1999	31A-2-201
Notice of Continuation March 19, 1997	31A-2-211
	31A-3-103





Money Management Council,  
Administration  
**R628-2**  
Investment of Funds of Member  
Institutions of the State System of  
Higher Education

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 21941

FILED: 04/01/1999, 14:33

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed in response to a statute change (H.B. 232) which puts public education foundations under the Money Management Act and Rules.

(DAR Note: H.B. 232 is found at 1999 Utah Laws 225 and will be effective on May 3, 1999.)

SUMMARY OF THE RULE OR CHANGE: This change adds public education foundations to this rule allowing them access to investments that are longer term in nature. Because of the longer term nature of foundation monies, the changes to the statute allowed these types of funds to be invested as higher education endowment funds are currently being invested so they needed to be included in the rule to do so.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 51-7-13(2) and 51-7-18(2)(b)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Minimal additional mailing costs which can be handled within existing budget. Seventeen additional entities multiplied by .33 cents would be \$5.61 semi-annually.

❖LOCAL GOVERNMENTS: Minimal return mailing costs and approximately a half hour of time to fill out form. Potential for 2-3% increase on earnings of foundation monies, depending on how funds are currently invested.

❖OTHER PERSONS: This rule only applies to higher education foundations and public education foundations which are local governmental entities. No other persons will be affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only applies to higher education foundations and public education foundations. No other persons will be affected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change should have no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Money Management Council  
Administration  
215 State Capitol

PO Box 140510  
Salt Lake City, UT 84114-0510, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at (801) 538-1883, by FAX at (801) 538-1465, or by Internet E-mail at apedroza@asposupt.stmain.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Edward T. Alter, Treasurer

**R628. Money Management Council, Administration.**

**R628-2. Investment of Funds of Member Institutions of the State System of Higher Education and Public Education Foundations established under Section 53A-4-205.**

**R628-2-1. Authority.**

This rule is issued pursuant to Sections 51-7-13(2) and 51-7-18(2)(b).

**R628-2-2. Scope of Rule.**

This rule relates to all funds of member institutions of the state system of higher education and all funds of public education foundations established under Section 53A-4-205 acquired by gift, devise, or bequest or by federal or private grant and the corpus of funds functioning as endowments. For purposes of this rule, funds functioning as endowments means funds whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's or public education foundation's policy for designating such funds.

**R628-2-3. Investment Directions Contained in Gift or Grant.**

If any gift, devise, bequest or grant, whether outright or in trust, is made by a written instrument which contains directions as to investment thereof, the funds embodied within the gift or grant shall be invested in accordance with those directions. Common stock received by donation which is lettered stock, or which is restricted from sale because it is not registered with the Securities and Exchange Commission, may be retained by a member institution and public education foundations and shall be considered to be invested according to the terms of the donation.

**R628-2-4. Investment of Funds.**

A. Funds within the scope of this rule, except funds described in Section R628-2-3, may be invested in any of the following:

1. in any deposit or investment authorized by Section 51-7-11;  
2. in professionally managed pooled or commingled investment funds or mutual funds which:

a) have assets with a market value of at least \$100 million; and  
b) which conform with all investment limitations established by the Securities and Exchange Commission applicable to such funds; and

c) which assess no load factor or surrender charges for participation in the fund. Use of funds which assess a charge on the purchase or sale of shares is prohibited.

3. in equity securities, including common and convertible preferred stock and convertible bonds, issued by corporations listed on a major securities exchange or in the NASDAQ National Market System, in accordance with the following criteria applied at the time of investment:

a) no more than 20% of all funds invested under R628-2, determined on a cost basis, may be invested in securities listed in the NASDAQ National Market System;

b) no more than 5% of all funds invested under R628-2, determined on a cost basis, may be invested in the securities of any one issuer;

c) no more than 25% of all funds invested under R628-2, determined on a cost basis, may be invested in a particular industry;

d) no more than 5% of all funds invested under R628-2, determined on a cost basis, may be invested in securities of corporations that have been in continuous operation for less than three years;

e) no more than 5% of the outstanding voting securities of any one corporation may be held; and

f) at least 50% of the corporations in which equity investments are made under R628-2-4.(A)(3) must appear on the Standard and Poor's 500 Composite Stock Price Index or the Dow Jones Industrial Average Index;

4. in fixed-income securities, including bonds, notes, mortgage securities and zero coupon securities, issued by corporations rated A or higher by Moody's Investors Service, Inc. or by Standard and Poor's Corporation in accordance with the following criteria applied at the time of investment:

a) no more than 5% of all funds invested under R628-2, determined on a cost basis, may be invested in the securities of any one issuer;

b) no more than 25% of all funds invested under R628-2, determined on a cost basis, may be invested in a particular industry;

c) the dollar-weighted average maturity, determined on a cost basis, of fixed-income securities acquired under R628-2-4.(A)(4) may not exceed ten years; and

5. in fixed-income securities issued by agencies of the United States and United States government-sponsored organizations, including mortgage-backed pass-through certificates, mortgage-backed bonds and collateralized mortgage obligations (CMO's).

B. Investments made under this rule shall observe the following investment percentages for specified subsections;

1. no more than 75% of all funds invested under R628-2, determined on a cost basis, may be invested in equity securities (Subsection R628-2-4(A)(3) investments) at any one time.

2. no more than 5% of all funds invested under R628-2, determined on a cost basis, may be invested in collateralized mortgage obligations (CMO's) (Subsection R628-2-4(A)(5) investments) at any one time.

C. The selection criteria established in Section 51-7-14 shall apply to investments permitted by this rule.

D. Professional asset managers may be employed to assist in the investment of funds under this rule. Compensation to asset managers may be provided from earnings generated by the funds' investments.

#### **R628-2-5. Disposition of Nonqualifying Investments.**

A. If at any time securities do not qualify for investment in accordance with this rule, investments shall be disposed of within a reasonable time. In determining what constitutes reasonable time for the disposition of assets, the following factors, among others, shall be given consideration:

1. the legality of sale under the rules and regulations of the Securities and Exchange Commission and the Utah State Securities Commission;

2. the size of the investment held in relation to the normal trading volume therein, and the effect upon the market price of the sale of the investment; and

3. the wishes of the donor respecting the sale of the investment.

B. If, in the opinion of the custodian or investment manager of the funds, an orderly liquidation of a nonqualifying investment cannot be accomplished within a period of two years, a request may be made to the Council for approval of a specific plan of disposition of nonqualifying investments. Nothing contained in this paragraph shall make an investment nonqualifying, if the retention of the investment is specifically authorized or directed under terms of the gift, devise, bequest or grant, or if the security is restricted from sale as provided in this rule.

#### **R628-2-6. Nonqualifying Investments Held on Effective Date.**

Any nonqualifying investments held on July 3, 1995 shall be treated as having been received on the effective date and shall be disposed of as provided in Subsection R628-2-5.

#### **R628-2-7. Multiple Funds.**

If an institution or a public education foundation has more than one fund or investment pool in which funds covered by this rule are managed, the following rules apply in determining investment percentages:

A. If the investment of any funds is covered by a direction in the instrument creating a gift, devise, bequest or grant, or if the donation consists of securities restricted from sale, the funds shall be excluded from any computation of permitted investments.

B. All other funds within the scope of this rule shall be consolidated for determining the propriety of investments. Any restrictions as to investment percentages shall be determined as provided for in Subsection R628-2-4(B).

#### **R628-2-8. Reporting by Institutions and Public Education Foundations.**

Each member institution of the state system of higher education and each public education foundation, having funds acquired by gift, devise, bequest or grant and funds functioning as endowments shall file a written report with the Council on or before September 30 and March 31 of each year containing the following information for investments held on June 30 and December 31 respectively:

A. total amount of funds held under gifts, devise, bequest or grant and funds functioning as endowments;

B. amount invested under this rule;

C. amounts invested under this rule indicating the carrying value and market value of each category of investment; and

D. a list of all nonqualifying assets held under this rule containing the date acquired, the carrying value and market value of each asset.

**KEY: public investments, higher education, public education**  
**[July 3, 1995]1999** 51-7-11(4)  
**Notice of Continuation July 18, 1997** 51-7-13  
 51-7-18(2)



**Natural Resources, Parks and Recreation**  
**R651-206**  
**Carrying Passengers for Hire**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 21924  
 FILED: 03/16/1999, 17:29  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 73-18-4(4) gives the Board authority to promulgate rules such as regulating vessel operators who carry passengers for hire and setting a fee for these operators.

SUMMARY OF THE RULE OR CHANGE: Appropriations committee approved in August of 1998, fees for outfitters and river guides. There were protests and concerns by commercial river guides of increasing permit fees too rapidly without their having appropriate input. Parks will be looking at costs in this program during 1999 and will then adjust by amendment according to findings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:  
 ❖THE STATE BUDGET: Loss to the Boating Restricted Account of \$11,000.

❖LOCAL GOVERNMENTS: This is a state rule which affects outfitters and river guides and therefore, there is no impact to local government.

❖OTHER PERSONS: User will be paying a lower fee as detailed by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This will decrease costs for certain permits for river guides and outfitters.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A decrease in the permit fee will lower the costs of doing business for permittees. Fiscal impact will be positive.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources  
 Parks and Recreation  
 116  
 1594 West North Temple  
 Box 146001  
 Salt Lake City, UT 84114-6001, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or by Internet E-mail at nrdomain.dguess@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: David K. Morrow, Deputy Director

**R651. Natural Resources, Parks and Recreation.**  
**R651-206. Carrying Passengers for Hire.**  
**R651-206-1. Vessel Operator Permit.**

(1) As used in this rule: "Operator Permit" means a valid Utah Vessel Operator Permit issued by the division or a valid Coast Guard Motorboat Operator License. The operator permit must be accompanied by a current and original Standard American Red Cross First Aid Card or equivalent and a current and original American Red Cross or American Heart Association "CPR" card.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any lake or reservoir of this state unless the individual has in his possession an Operator Permit or is operating under Section R651-206-2.

(3) To obtain a Utah Vessel Operator Permit, the applicant must be at least 18 years old, complete the prescribed form, possess the required first aid and CPR certification, successfully complete a written examination, pay a \$60 fee, and have 80 hours of experience in vessel operation, 20 hours of which was obtained operating an equivalent type and size of vessel which will be used for carriage of passengers. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) A Utah Vessel Operator Permit is valid for three years from date of issue, unless suspended or revoked.

(5) A Utah Vessel Operator Permit may be renewed up to six months prior to expiration, upon completion of the prescribed form, presentation of required first aid and CPR certification, and payment of a \$45 fee. The renewed permit shall have the same month and day expiration date as the original permit.

(6) A Utah Vessel Operator Permit which has expired shall not be renewed but is required to obtain a new permit as outlined above.

(7) In the event a Utah Vessel Operator Permit is lost or stolen, a duplicate permit may be issued with the same expiration

date as the original permit upon completion of the prescribed form, payment of a \$25 fee. An application for a duplicate permit must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Current Utah Vessel Operator Permit holders shall notify the Division, within 30 days, of any change of address.

(9) A Utah Vessel Operator Permit may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period; or

(d) the division determines that the permit holder intentionally provided false or fictitious statements or qualifications to obtain the permit.

(10) A person shall not operate an unfamiliar vessel carrying passengers for hire or operate on unfamiliar water unless there is an operator permit holder aboard who is familiar with the vessel and the water area.

(11) A valid Coast Guard Motorboat Operator License must be possessed if engaging in carrying passengers for hire on Bear Lake, Flaming Gorge, or Lake Powell.

#### **R651-206-2. River Guide Permit.**

(1) As used in this rule:

(a) "Agent" means a person(s) designated by an outfitting company to act in behalf of that company in certifying a river guide's experience.

(b) "Certifying experience" means river running experience obtained within ten years of the date of application for the guide permit.

(c) "Guide 1" means a nonrestrictive river guide permit.

(d) "Guide 2" means a restricted river guide permit, which is valid only on other rivers.

(e) "Guide 3" means an apprentice river guide permit, which is valid only when the holder is accompanied on the white water river by a qualified Guide 1 permit holder. A Guide 3 permit is also valid on other rivers, but must be accompanied by either a Guide 1 or 2 permit holder.

(f) "Guide 4" means a restricted apprentice river guide permit, which is valid only on other rivers when the holder is accompanied on the trip by a qualified Guide 1 or 2 permit holder.

(g) "Guide permit" means a valid Guide 1, 2, 3, or 4 permit issued by the division for carrying passengers for hire. For a Guide 1 or 2 permit to be valid they must be accompanied by a current "Emergency Response" American Red Cross First Aid Card or equivalent and an American Heart Association or an American Red Cross "CPR" Card. For a Guide 3 or 4 permit to be valid they must be accompanied by a current "Standard" American Red Cross First Aid Card or equivalent and an American Heart Association or an American Red Cross "CPR" Card. A photo copy of both sides of the required first aid and CPR certification cards is allowed.

(h) "Low capacity vessel" means a vessel with a carrying capacity of three or fewer occupants (e.g. canoe, kayak, inflatable kayak or similar vessel).

(i) "Other rivers" means all rivers, river sections, or both in Utah not defined in Subsection R651-202-2(1) as a whitewater river.

(j) "Whitewater river" means the following river sections: the Green and Yampa rivers within Dinosaur National Monument, the Green River in Desolation-Gray Canyon (Mile 96 to Mile 20), the Colorado River in Westwater Canyon, the Colorado River in Cataract Canyon, or other division recognized whitewater rivers in other states.

(2) No person shall operate a vessel engaged in carrying passengers for hire on any river of this state unless that person has in his possession the appropriate valid river guide permit. For low capacity vessels not operated by but led by a guide permit holder, there shall be at least one qualified guide permit holder for every four low capacity vessels being led in the group.

(3) To qualify for a Guide 1 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a \$60 fee and have operated a vessel on at least nine whitewater river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(4) To qualify for a Guide 2 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, successfully complete a written examination, pay a ~~[\$60]~~\$30 fee and have operated a vessel on at least six river sections. If the applicant fails to pass the written examination, there is a 7-day waiting period and a \$15 retest fee per attempt.

(5) To qualify for a Guide 3 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a ~~[\$25]~~\$20 fee and have operated a vessel on at least three whitewater river sections.

(6) To qualify for a Guide 4 permit, the applicant must be at least 18 years of age, complete the prescribed form, be current in the required first aid and CPR certification, pay a ~~[\$25]~~\$20 fee and have operated a vessel on at least three river sections.

(7) Any person applying for a duplicate, renewal, or a new guide permit shall be employed by or be a prospective employee of an outfitting company currently registered with the division. The applicant shall be sponsored by that outfitting company, or be currently employed and sponsored by a federal, state or county agency. Permit applications must have original signatures and be accompanied by original documentation of required first aid and CPR certification.

(8) Guide 3 and 4 permits shall expire annually on December 31. Guide 1 and 2 permits shall expire three years from date of issuance.

(9) Guide 1 or 2 permits may be renewed up to six months prior to expiration upon completion of the prescribed form, presentation of current guide permit, required first aid and CPR certification, and payment of a ~~[\$45]~~\$30 fee. The renewed permit shall have the same month and day expiration date as the original permit. Any Guide 1 or 2 permit holder whose permit has expired shall be required to obtain a new Guide 1 or 2 permit as outlined above.

(10) In the event a guide permit is lost or stolen a duplicate guide permit may be issued with the same expiration date as the original permit upon completion of the prescribed form, furnishing the required information as described in (7) above and payment of the required fee. The fee shall be [~~\$25~~]\$15 for a Guide 1 or 2 permit, and \$15 for a Guide 3 or 4 permit.

(11) All boatman permits issued by the division are expired.

(12) Current Guide Permit holders shall notify the Division, within 30 days, of any change of address.

(13) A guide permit holder shall not carry passengers for hire on his first trip on an unfamiliar river unless there is a qualified Guide 1 or 2 permit holder aboard who has operated a similar vessel on that river segment.

(14) A guide permit may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the guide permit holder is convicted of boating under the influence of alcohol or any drug, or refuses to submit to any chemical test which determines blood or breath alcohol content;

(b) the guide permit holder's negligence causes personal injury or death as determined by due process of the law;

(c) the guide permit holder is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a three-year period;

(d) the division determines that the guide permit holder intentionally provided false or fictitious statements or qualifications to obtain the guide permit; or

(e) a guide permit holder has utilized a private river trip permit for carrying passengers for hire and has been prosecuted by the issuing agency and found guilty of the violation.

(15) Every outfitting company carrying passengers for hire on any river of this state shall register with the division annually prior to commencement of operation. The registration requires the completion of the prescribed form and providing the following: evidence of registration with the Department of Commerce, evidence of river trip authorization from the appropriate controlling state or federal agency, and payment of a [~~\$275~~]\$200 fee.

(16) The agent shall certify and guarantee that each river guide sponsored by the outfitting company that he represents has obtained the necessary experience, as required above, depending on the type of guide permit applied for.

(17) An outfitting company's division registration may be suspended or revoked for a length of time determined by the division director, or individual designated by the division director, if one of the following occurs:

(a) the outfitting company's or agent's negligence caused personal injury or death as determined by due process of the law;

(b) the outfitting company or agent is convicted of three violations of Title 73 Chapter 18 or rules promulgated thereunder during a calendar year period;

(c) false or fictitious statements were certified or false qualifications were used to qualify a person to obtain a guide permit for an employee or others;

(d) the division determines that the outfitting company intentionally provided false or fictitious statements or qualifications when registering with the division;

(e) an outfitting company has utilized a private river trip permit for carrying passengers for hire and have been prosecuted by the issuing agency and found guilty of the violation; or

(f) the outfitting company used a guide without a valid guide permit or without the appropriate guide permit while engaging in carrying passengers for hire.

**KEY: boating**

**[December 1, 1998]1999**

**73-18-4(4)**

**Notice of Continuation February 10, 1997**



## Natural Resources, Wildlife Resources

### R657-14

#### Commercial Harvesting of Protected Aquatic Wildlife

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21937

FILED: 03/31/1999, 14:50

RECEIVED BY: NL

##### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On June 11, 1996, the Wildlife Board determined it necessary to protect, manage, and conserve the brine shrimp resource; and amended Rule R657-14 to allocate a limited number of brine shrimp harvest Certificates of Registration for the 1996-97, 1997-98, and 1998-99 harvest seasons, while continued research is conducted to collect the best biological data and information on the brine shrimp resource and the Great Salt Lake ecosystem. These amendments are a result of the best available biological data and information collected thus far, the brine shrimp industry and Regional Advisory Council recommendations made to the Wildlife Board at meetings conducted for taking public input on the commercial harvesting of protected aquatic wildlife.

SUMMARY OF THE RULE OR CHANGE: This rule is amended to clarify objectives of the Wildlife Board to continue to allocate a limited number of certificates of registration to harvest brine shrimp and brine shrimp eggs to protect the brine shrimp resource and the Great Salt Lake ecosystem. In addition, this amendment provides certificate of registration renewal criteria for brine shrimp and brine shrimp egg harvesting, whereby a person or business entity issued a certificate of registration in the harvest year preceding the harvest year for which renewal is sought will be given preference for the same number of certificates of registration, provided that person satisfies the renewal criteria. The amendment further clarifies that a certificate of registration is not a right, but a privilege subject to all present and future conditions, restrictions and regulations imposed by the state or federal government. Lastly, the amendment adds civil and administrative adjudications of violating law pertaining to protected aquatic wildlife as a basis to revoke a certificate of registration or deny renewal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-3, 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The cost of a certificate of registration for harvesting brine shrimp and brine shrimp eggs is \$10,000. Due to a limited number of certificates of registration for the past three years, and the continued objective of the Wildlife Board to continue the limited number of certificates of registration issued, this amendment will not create a cost or savings impact to the state budget, or the Division of Wildlife Resources.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: Potentially, 79 certificates of registration may be issued by the Division of Wildlife Resources. Therefore, a total aggregated cost of \$790,000 is incurred by persons obtaining a certificate of registration for harvesting brine shrimp and brine shrimp eggs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A person is required to pay the \$10,000 certificate of registration fee for each certificate of registration obtained for harvesting brine shrimp and brine shrimp eggs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment replaces the former certificate of registration allocation process scheduled by rule to expire in 1999, and provides the framework for a long-term certificate of registration allocation process. No fiscal impacts are expected on businesses as a result of this rule amendment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources  
Wildlife Resources  
Suite 2110  
1594 West North Temple  
PO Box 146301  
Salt Lake City, UT 84114-6301, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at [nrdwr.dsundell@email.state.ut.us](mailto:nrdwr.dsundell@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.**

**R657-14. Commercial Harvesting of Protected Aquatic Wildlife.**

**R657-14-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-3, 23-14-18, and 23-14-19, and Sections 23-15-7 through 23-15-9, this rule provides the procedures, standards, and requirements for:

- (a) harvesting protected aquatic wildlife for use as fish bait;
- (b) commercially harvesting brine shrimp and brine shrimp eggs; and
- (c) seining protected aquatic wildlife.

(2) To the extent that this rule applies to the commercial harvest of brine shrimp and brine shrimp eggs, the objective of this rule is to protect, manage, and conserve the brine shrimp resource based upon the best available data and information and adequately preserve the Great Salt Lake ecosystem while recognizing the economic value of allowing the harvest of brine shrimp and brine shrimp eggs and maintaining a sustainable brine shrimp population.

**R657-14-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Alternate seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting authorized species of protected aquatic wildlife in the absence of the primary seiner.

(b) "Certified bait dealer" means a person who has obtained a certificate of registration authorizing the harvest, possession, or sale of protected aquatic wildlife for use as live or dead fish bait.

(c) "Harvest" means to seine, or gather in protected aquatic wildlife and reduce it to possession.

(d) "Harvest location" means the location where the gathering or harvesting of protected wildlife takes place. For purposes of harvesting brine shrimp, a harvest location is a 300 yard radius from the location of the fluorescent orange flag as required under Subsection R657-14[~~15(2)~~]-16(2).

(e) "Helper" means a person aiding a certificate of registration holder in the harvesting, transporting, or selling of protected aquatic wildlife, including any employee, agent, family member, or donated labor.

(f) "Helper card" means a card authorizing a person to act as a helper.

(g) "Nongame fish" means all species of fish, except:

(i) any species or hybrid species of trout, including albino, brook, brown, cutthroat, golden, grayling, kokanee salmon, lake or mackinaw, rainbow, splake, and tiger;

(ii) Bonneville cisco;

(iii) bluegill;

(iv) bullhead;

(v) catfish;

(vi) crappie;

(vii) green sunfish;

(viii) northern pike;

(ix) largemouth bass;

(x) Sacramento perch;

(xi) smallmouth bass;

- (xii) striped bass;
- (xiii) tiger muskellunge;
- (xiv) walleye;
- (xv) white bass;
- (xvi) whitefish;
- (xvii) wiper; and
- (xviii) yellow perch.

(h) "Primary seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting protected aquatic wildlife.

(i) "Purchase" means to buy, acquire, or obtain from sale, exchange, barter, or trade protected aquatic wildlife for pecuniary consideration or advantage.

(j) "Seining" means to harvest protected aquatic wildlife with the use of a net or other similar device.

(k) "Wildlife registration office" means the division office in Salt Lake responsible for processing applications and issuing certificates of registration.

### **R657-14-3. Certificate of Registration Required.**

(1)(a) A person may not harvest, possess, or transport protected aquatic wildlife without first obtaining a certificate of registration and a helper card for each individual assisting that person.

(b) The original copy of the certificate of registration must be present at the harvest location while harvesting protected aquatic wildlife.

(2) Except as provided in Subsection R657-14-13(4), a person must obtain a separate certificate of registration to engage in the following activities:

(a) harvesting or selling designated species of fish, salamanders, leeches, and crayfish for use as fish bait;

(b) seining and selling protected aquatic wildlife for any purpose other than for use as fish bait; and

(c) harvesting brine shrimp and brine shrimp eggs.

(3) A certificate of registration is not required:

(a) for the retail sale of protected aquatic wildlife imported into Utah, provided the product is clearly labeled as to its out-of-state origin;

(b) to process brine shrimp or brine shrimp eggs; or

(c) to sell brine shrimp or brine shrimp eggs, provided the brine shrimp or brine shrimp eggs were taken in accordance with the provisions of this rule by a person who has obtained a certificate of registration or as provided in Subsection R657- 3-18(4).

(4) Certificates of registration are not transferable.

(5)(a) Any certificate of registration issued to a business or any other commercial organization shall be void upon the termination of the business or organization or upon bankruptcy.

(b) If a brine shrimp corporation is sold or transferred during the period in which the certificate of registration is valid, the division may grant a transfer of that certificate of registration to the receiving entity if:

(i) the entity meets the ~~[qualifications]~~criteria imposed on new applicants; and

(ii) the person responsible for the entity signs a new certificate of registration.

(6)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and

requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

(7) Any certificate of registration issued or renewed by the division under this rule to harvest brine shrimp or brine shrimp eggs is a privilege and not a right. The certificate of registration authorizes the holder to harvest brine shrimp or brine shrimp eggs subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, the state of Utah, or the United States.

(8) A certificate of registration to harvest brine shrimp or brine shrimp eggs does not guarantee or otherwise legally entitle the holder to any of the following:

(a) a minimum harvest quota in any given season or seasons;

(b) a quota or percentage of the harvestable surplus as determined by the division;

(c) a particular harvesting or processing method;

(d) a particular harvest season duration, commencement date, or termination date;

(e) access to any particular area or site on the Great Salt Lake or on other waters in the state, regardless of historical authorization or use;

(f) marina access on the Great Salt Lake or elsewhere in the state, regardless of historical authorization or use;

(g) an increase, stabilization, or reduction in the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs;

(h) an exclusive opportunity to harvest;

(i) a particular quantity or quality of brine shrimp or brine shrimp eggs;

(j) a particular water condition or salinity level conducive to brine shrimp production, brine shrimp egg production, or harvest success;

(k) any particular level of protection for brine shrimp or brine shrimp eggs from disease, pesticides, or predators; or

(l) any other right or management philosophy beneficial to harvesting or production of brine shrimp and brine shrimp eggs.

(9) The procedures and processes outlined in this rule regulating the harvest of brine shrimp and brine shrimp eggs are all subject to change as the division and the Wildlife Board gather greater information and data on the impact current harvest regulations have on the sustainability of brine shrimp populations, the Great Salt Lake ecosystem, and the economic viability of the industry.

### **R657-14-4. Application for Certificate of Registration.**

(1) Applications for certificates of registration are available at division offices.

(2)(a) Applications for commercial seining or harvesting protected aquatic wildlife for use as fish bait may be submitted any time during the year.

(b) Applications for harvesting brine shrimp and brine shrimp eggs may be submitted May 1 through May 31 [~~however, in 1996, applications may be submitted through August 2~~]. Applications may be submitted by mail if postmarked no later than midnight on the last day of the application period.

(3) If an application for a certificate of registration is made in the name of a commercial organization, the applicant must specify the individual responsible for that entity.

(4)(a) Completed applications must be submitted to the wildlife registration office.

(b) The division may return any application that is incomplete or completed incorrectly.

(5)(a) The application review process may require up to 45 days.

(b) The division may deny issuing a certificate of registration to any applicant ~~[who]~~for any of the following reasons:

(i) the applicant has previously been issued a certificate of registration and has failed to submit any report required by this rule~~[-or], the division, or the Wildlife Board;~~

(ii) the applicant has been found guilty~~[-or pleaded guilty or no contest to any violation of:], pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or~~

~~[(A) this rule; or~~

~~—(B) any provision of the wildlife resources code](iii) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife.~~

(6) The division may limit the number of certificates of registration issued or deny any application in the interest of wildlife, wildlife habitat, ~~[or in the interest of]~~ servicing the public, or public safety.

(7) If an application is approved, the division shall issue the applicant a certificate of registration that specifies:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the gear that may be used;

(d) the hours during which protected aquatic wildlife may be harvested;

(e) the means and amounts of protected aquatic wildlife that may be transported; and

(f) any restriction imposed on the applicant in addition to the provisions of this rule.

(8)(a) Certificates of registration for seining or harvesting protected aquatic wildlife for use as fish bait are valid for a calendar year.

(b) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsection R657-14-14(2).

#### **R657-14-5. Use of Helpers.**

(1)(a) Except as provided in Subsections (2) and R657-14~~[-14(5)]-14(6)~~, any person aiding the certificate of registration holder in seining protected aquatic wildlife or harvesting brine shrimp and brine shrimp eggs shall be in possession of a helper card.

(b) A helper card shall be deemed to be in possession if it is on the person or on the boat from which the person is working.

(2) A helper card is not required of any person engaged only in the retail sale or transportation of protected aquatic wildlife, except as provided in Subsection R657~~[-14-14(5)(c)]-14-14(7)~~.

(3) Helper cards are issued in the name of the certificate of registration holder and are transferable among individuals assisting the certificate of registration holder.

(4)(a) A helper may assist in the harvest of protected aquatic wildlife only while working under the direct supervision of a primary or alternate seiner.

(b) For purposes of this rule, "direct supervision" means to be physically present, either on a boat with the helper or within close proximity so as to be able to provide direct instructions to the helper.

(5) Twelve additional helper cards for each Certificate of Registration may be obtained from the wildlife registration office at any time during the year.

#### **R657-14-6. Records -- Report of Activities.**

(1) Each person who has been issued a certificate of registration authorizing the harvest or sale of protected aquatic wildlife shall keep accurate records of the number or weight harvested and to whom the products were sold.

(2) The records required under Subsection (1) shall be retained for at least five years and must be available for inspection upon division request.

(3)(a) A person who has been issued a certificate of registration for seining or harvesting protected aquatic wildlife for use as fish bait shall include the following information, broken down by month, in an annual report to the division:

(i) the species of protected aquatic wildlife harvested;

(ii) the water from which the protected aquatic wildlife were harvested; and

(iii) the total number or weight of protected aquatic wildlife harvested.

(b) A person who has been issued a certificate of registration for the retail sale of protected aquatic wildlife shall include the following information, broken down by month, in an annual report to the division:

(i) the name and address of each person from which protected aquatic wildlife was purchased or sold;

(ii) the species of protected aquatic wildlife purchased or sold; and

(iii) the weight and number of protected aquatic wildlife purchased or sold.

(c)(i) A person who has been issued a certificate of registration for harvesting brine shrimp and brine shrimp eggs must submit a weekly harvest report to the ~~[Wildlife Registration Office]~~wildlife registration office. The report shall include the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day. The reports must be received or postmarked by Monday each week.

(ii) Report forms are provided by the division.

#### **R657-14-7. Species of Protected Aquatic Wildlife That May Be Harvested.**

(1)(a) The division may authorize a person to harvest or sell nongame fish, salamanders, leeches, crayfish, brine shrimp or brine shrimp eggs, or overabundant nuisance game species as determined by the division.

(b) The certificate of registration shall identify those species of protected aquatic wildlife that may be harvested or sold.



(2) Any species of protected aquatic wildlife caught that is not authorized for harvest must be immediately returned alive and unharmed to the water from which it was harvested.

**R657-14-8. Prohibited Nongame Species.**

The following species of protected aquatic wildlife may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which it was taken:

- (1) bonytail chub (*Gila elegans*);
- (2) Colorado squawfish (*Ptychocheilus lucius*);
- (3) flannelmouth sucker (*Catostomus latipinnis*);
- (4) gizzard shad (*Dorosoma cepedianum*);
- (5) grass carp (*Ctenopharyngodon idella*);
- (6) humpback chub (*Gila cypha*);
- (7) June sucker (*Chasmistes liorus*);
- (8) least chub (*Notichthys phlegethontis*);
- (9) leatherside chub (*Gila cypha*);
- (10) razorback sucker (*Xyrauchen texanus*);
- (11) roundtail chub (*Gila robusta*);
- (12) Virgin River chub (*Gila robusta seminuda*);
- (13) Virgin spinedace (*Lepidomeda mollispinis*); and
- (14) woundfin (*Plagopterus argentissimus*).

**R657-14-9. Harvest Hours.**

(1)(a) Protected aquatic wildlife, except brine shrimp and brine shrimp eggs may be harvested from 5 a.m. to 10 p.m. year-round, unless otherwise specified on the certificate of registration.

(b) Brine shrimp and brine shrimp eggs may be harvested one hour before official sunrise through official sunset.

(2) Harvesting equipment may not be left in the water after legal harvest hours, except as provided in Subsection R657-14-17(1)(b).

**R657-14-10. Identification of Traps and Nets.**

(1) A metal tag or plate stamped with the owner's name and certificate of registration number must be securely attached to each seine, trap and net.

(2) Any improperly tagged seine, trap, or net may be seized by the division.

**R657-14-11. Transportation, Purchase, or Sale of Live Protected Aquatic Wildlife.**

(1) A person may not have in possession any live species of protected aquatic wildlife, except as provided in Subsection R657-14-12(1), or as otherwise provided in Rules R657-3 or R657-16.

(2) A person may not purchase any live protected aquatic wildlife from or sell any live protected aquatic wildlife to any person or entity who has not obtained a certificate of registration to possess or sell live protected aquatic wildlife, except as provided in Subsection R657-14-3(3).

**R657-14-12. Certified Bait Dealers.**

(1) The division may authorize a person to:

(a) harvest salamanders or leeches and retain them alive as fish bait;

(b) transport live or dead salamanders or leeches into or out of Utah;

(c) establish an outlet for the sale of live or dead salamanders or leeches; or

(d) harvest or sell designated species of dead protected aquatic wildlife for use as fishing bait, including cut baits.

(2) The division may allow a person to harvest, possess, or sell the following species of protected aquatic wildlife for use as dead fish bait:

(a) nongame fish, except those prohibited species described in Section R657-14-8;

(b) crayfish;

(c) salamanders;

(d) leeches; or

(e) any overabundant game species as determined by the division and indicated on the certificate of registration.

(3)(a) A person may not purchase dead fish bait from any person who has not obtained a certificate of registration from the division.

(b) Subsection (a) does not preclude commerce with out-of-state sellers of dead, prepared fish baits if the dead fish bait is clearly labeled as to its origin.

(4)(a) Only a person who has obtained a certificate of registration from the division may harvest, sell, or trade protected aquatic wildlife for use as fish bait.

(b) Any protected aquatic wildlife sold for use as fish bait must be packaged in a suitable container, and have securely attached a clearly discernable business label on each package that provides the brand or business name, business address, type of product, and certificate of registration number.

(5) A person may not purchase or sell any dead fish bait that does not have a label attached to the package as provided in Subsection (4)(b).

**R657-14-13. Commercial Seining.**

(1) The division may issue a certificate of registration authorizing a person to harvest designated species of protected aquatic wildlife by seining.

(2)(a) Three helper cards are issued with the certificate of registration.

(b) Additional helper cards may be obtained from the division.

(3) A seiner may harvest any species of nongame fish, except those prohibited species as designated in Section R657-14-8, and any overabundant game species as determined by the division and indicated on the certificate of registration.

(4) A seiner may harvest or sell protected aquatic wildlife for use as fish bait as provided in Section R657-14-12, if authorization is obtained from the division and indicated on the certificate of registration.

**R657-14-14. Harvesting Brine Shrimp and Brine Shrimp Eggs -- Certificate of Registration -- Helper Cards.**

(1)(a) The division may issue a certificate of registration authorizing a person to harvest brine shrimp and brine shrimp eggs.

(b) A separate certificate of registration is required for each harvest location.

(c)(i) The provisions of this rule do not apply:

(A) to the harvest of 200 pounds or less of brine shrimp or brine shrimp eggs, during a single calendar year, for culturing ornamental fish, provided the brine shrimp eggs are not sold, bartered, or traded; or

(B) for the retail sale of brine shrimp or brine shrimp eggs.

(ii) A certificate of registration is required for the activities described in Subsection (i) as provided in Rule R657-3-18.

(2) Except as provided in Subsections R657-14~~[+18(4)]~~-19(4) and (5), the certificate of registration is valid for harvesting brine shrimp and brine shrimp eggs only during the harvest season beginning October 1 and ending January 31. If October 1 falls on a Sunday, the harvest season shall begin on the following Monday.

(3)~~(a)~~ The Wildlife Board, after considering the best available biological data and other information received from the division and the public, has determined that:

~~(i) beginning in 1996, a limitation on the harvest, and subsequently, the number of certificates of registration issued by the division, it is necessary to protect the brine shrimp resource and the Great Salt Lake ecosystem; and~~

~~(ii) given the harvest restrictions adopted in this rule, a total of 79 certificates of registration may be issued without harming the sustainability of the brine shrimp resource.~~

~~(b) The division shall use the criteria provided in this section to allocate the limited number of certificates of registration. The objective of these criteria is to equitably allocate the limited number of certificates of registration by:~~

~~(i) acknowledging the commitment of existing brine shrimp harvest companies to the brine shrimp harvest industry;~~

~~(ii) responding to the needs of persons who, in reliance upon a previously unlimited number of certificates of registration, made significant investments of time and financial resources preparing to enter the brine shrimp harvest industry before the division first recommended to the Wildlife Board at the March 21, 1996 Board Meeting, that the number of certificates of registration be limited for the 1996-97, 1997-98, and 1998-99 harvest seasons;~~

~~(iii) promoting the safety of harvesters, state personnel and others who work or recreate on the Great Salt Lake; and~~

~~(iv) ensuring the proper care and treatment of harvested brine shrimp and brine shrimp eggs.~~

~~(4) The division shall issue certificates of registration as follows:~~

~~(a) Any person who obtained a certificate of registration for harvesting brine shrimp or brine shrimp eggs within the past three harvest seasons may receive the same number of certificates of registration held for the person's last harvest season.~~

~~(b) An applicant who did not hold a certificate of registration during any of the last three harvest seasons may apply for and receive one certificate of registration provided the applicant meets each of the criteria provided in Subsections (i), (ii), and (iii) below:~~

~~(i) The applicant must have intended to harvest brine shrimp and brine shrimp eggs prior to March 21, 1996, and acted upon that intent. Such intent to harvest brine shrimp and brine shrimp eggs must be demonstrated in one of the following ways:~~

~~(A) the formation of a business entity prior to March 21, 1996 whose express written purpose, as demonstrated by appropriately-dated, written, verifiable documentation, is to harvest brine shrimp and brine shrimp eggs;~~

~~(B) written, verifiable, documentation received by the division prior to March 21, 1996, demonstrating clear intent to form a brine shrimp harvesting company; or~~

~~(C) written, verifiable documentation dated prior to March 21, 1996 that, in the opinion of the division, demonstrates a clear intent to harvest brine shrimp and brine shrimp eggs.~~

~~(ii) To promote safety on the Great Salt Lake and minimize harm to the brine shrimp resource, the applicant, or a principal with a minimum of 20 percent ownership in the company, must have been involved in harvesting brine shrimp and brine shrimp eggs for at least one harvest season during the past two years.~~

~~(iii) The applicant must have spent \$15,000 or more on equipment or investments associated with harvesting brine shrimp and brine shrimp eggs prior to March 21, 1996, in anticipation of entering the Great Salt Lake brine shrimp industry in 1996. For purposes of this section, "equipment associated with the harvesting of brine shrimp" includes boats, boat motors, containment booms, pumps, harvest bags, or planes. "Investments" include access leases around the Great Salt Lake or any other investment or contract directly related to harvesting brine shrimp from the Great Salt Lake.~~

~~(c)(i) Each applicant must submit an application and written documentation verifying compliance with all of the criteria provided in Subsection (4)(b). Each applicant must provide a written narrative summary describing compliance with the criteria provided in Subsection (4)(b) and documentation supporting the narrative. Compliance, and qualifying substantial compliance, with the criteria provided in Subsection (4)(b) shall be determined by the division. If the division determines false information has been included with an application, that application shall be void.~~

~~(ii) If, in the opinion of the division, any application appears to have been submitted for the purpose of expanding an existing company the application will be rejected unless it includes appropriately-dated, written, verifiable documentation demonstrating clear intent and action prior to March 21, 1996, to form a new and separate harvesting entity from the company that operated under the previously held certificate of registration. Absent such a demonstration, additional certificates of registration shall not be issued to such applicants, unless the certificates of registration are obtained through the random drawing.~~

~~(iii) In no case shall an individual or entity that has not held a certificate of registration in the past receive more than one certificate of registration under the current application process, unless the second certificate of registration is obtained through the random drawing.~~

~~(d) If fewer applicants qualify under the criteria provided in Subsection (4)(b) than the number of available certificates of registration, each qualifying applicant will be issued a certificate of registration.~~

~~(e)(i) Any remaining certificates of registration shall be issued through a random drawing to be conducted by the division.~~

~~(ii) Each qualified applicant may participate in the random drawing by submitting one additional application through August 2.~~

~~(f) If more applicants qualify under Subsection (4)(b) than the number of certificates of registration available, each company that qualifies under Subsection (4)(b) may submit one application and the division shall issue the available certificates of registration through a random drawing.~~

~~(g) A certified check for \$10,000 must accompany each application.~~

~~(h) If a company that obtained a certificate of registration for harvesting brine shrimp within the past three seasons does not apply for a certificate of registration that certificate of registration may be distributed through a random drawing.~~

~~(i) Any random drawings will be conducted at the Division of Wildlife Resources, Salt Lake office.~~

~~(j) Absent data or information indicating the need to do otherwise, or a change in controlling statutes, it is the intent of the Wildlife Board that the effective number of certificates of registration issued in 1996 will be continued through the 1998-99 harvest season.~~

~~(5)(a)(a) a limitation on the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs, is currently necessary to protect the brine shrimp resource and the Great Salt Lake ecosystem;~~

~~(b) additional research and scientific data is necessary to adequately understand the dynamics of the brine shrimp populations, the Great Salt Lake ecosystem, and the impact harvesting has on the sustainability of the resource;~~

~~(c) given the current number of certificates of registration, the need for additional scientific data, and the increasing efficiency in the industry's ability to harvest large quantities of brine shrimp and brine shrimp eggs in short periods, the issuance of additional certificates at this point in time may compromise the division's ability to effectively regulate the harvest to avoid jeopardizing resource sustainability; and~~

~~(d) given these factors and the harvest restrictions adopted in this rule, a total of 79 certificates of registration may be issued.~~

~~(4) Certificates of registration that may become available for issuance through revocation, expiration, nonrenewal, or surrender may either be retired by the division or reallocated to eligible persons and entities through random drawings conducted at the Division of Wildlife Resources, Salt Lake City office.~~

~~(5) All persons or entities applying for a certificate of registration to harvest brine shrimp and brine shrimp eggs made available for issuance through Subsection (4) shall satisfy the following requirements:~~

~~(a) submit a certificate of registration application to the wildlife registration office consistent with the requirements set forth in R657-14-4; and~~

~~(b) submit a cashier's check to the division in the amount of \$10,000 for each certificate of registration applied for.~~

~~(6)(a) One certificate of registration is required for each harvest location.~~

~~(b) The original certificate of registration must be in possession at the harvest location and available for inspection by the division or any peace officer upon demand.~~

~~(7)(a) Three individual helper cards are issued with the certificate of registration and are transferable.~~

~~(b) Additional helper cards may be obtained from the division.~~

~~(c) Any crew member harvesting or transporting brine shrimp or brine shrimp eggs from the harvest location must have a helper card in possession. A primary or alternate seiner does not have to be present while transporting brine shrimp or brine shrimp eggs from the harvest location.~~

~~(d) An employee directing harvest operations from a plane does not have to have a helper card.~~

~~(e) The driver of a truck transporting brine shrimp or brine shrimp eggs from the lake to a storage or processing plant does not have to have a helper card. Any crew member loading brine shrimp and brine shrimp eggs into a truck must have a helper card in possession.~~

~~(7)(a)(8)(a) A primary seiner and an alternate seiner card are issued with the certificate of registration and are transferable within the entity holding the certificate of registration.~~

~~(b) A primary seiner or an alternate seiner must be present and directly supervise the harvest activity.~~

~~(c) The primary or alternate seiner must have a primary or alternate seiner card in possession at the harvest location.~~

**~~R657-14-15. [Harvesting Brine Shrimp and Brine Shrimp Eggs -- Identification of Equipment] Certificate of Registration Renewal for Brine Shrimp and Brine Shrimp Egg Harvesting.~~**

~~(1) Each certificate of registration to harvest brine shrimp and brine shrimp eggs issued under this rule may be renewed by the division on an annual basis consistent with the provisions in this section.~~

~~(2) Persons or business entities issued certificates of registration by the division in the harvest year immediately preceding the harvest year for which renewal is sought will have a preference for the same number of certificates of registration, provided the applicant satisfies the renewal criteria for each certificate of registration.~~

~~(3) The annual expiration date of a certificate of registration shall be shown on the certificate of registration. A certificate of registration that is not renewed prior to the expiration date shown on the certificate of registration automatically expires.~~

~~(a) A certificate of registration automatically expires prior to the expiration date shown on the certificate of registration upon the death of a holder that is a natural person, or upon the dissolution of a holder that is a partnership, corporation, or other business entity.~~

~~(b)(i) Failure to annually renew a certificate of registration by satisfying all the renewal criteria outlined in this rule prior to the expiration date shown on the certificate of registration shall automatically deprive the prospective holder of a renewal preference in succeeding years.~~

~~(ii) Preference forfeiture results whether unsuccessful renewal is the consequence of automatic expiration, applicant neglect, or division denial.~~

~~(iii) Failure to renew in years where the harvest of brine shrimp or brine shrimp eggs is closed for regulatory or management purposes will result in preference forfeiture.~~

~~(c) Expiration of a certificate of registration is not an adjudicative proceeding under Title 63, Chapter 46b of the Utah Administrative Procedures Act.~~

~~(4) Renewal applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at the division's wildlife registration office in Salt Lake City.~~

~~(a) Completed renewal applications shall be submitted to the wildlife registration office between May 1 and May 31 of each year. Applications are considered "submitted" for purposes of this rule when hand delivered to the wildlife registration office on or before the application deadline, or when mailed to the wildlife registration office and postmarked no later than midnight on the last day of the application period.~~

~~(b) Where a certificate of registration renewal application is submitted in the name of a commercial organization, the applicant must specify the individual responsible for that entity.~~

~~(c) The division may return any application that is incomplete or completed incorrectly.~~

(d) Applications for renewal that are filed within the prescribed time period set in this rule but returned as incomplete or completed incorrectly may be granted where the errors are corrected and the application resubmitted to the wildlife registration office within 30 days from the date the initial application was rejected.

(e) The application review process may require up to 45 days.

(5) The criteria for certificate of registration renewal are as follows:

(a) the applicant was issued a certificate of registration to harvest brine shrimp and brine shrimp eggs in the immediate harvest season preceding the application for renewal;

(b) the applicant has accurately and completely filled out the division's renewal application and submitted it to the division within the time period prescribed in this rule;

(c) the applicant has submitted with the renewal application a cashiers check for \$10,000 for each certificate of registration; and

(d) the applicant satisfies all other requirements prerequisite to receiving an initial certificate of registration to harvest brine shrimp or brine shrimp eggs as found in R657-14-4.

(6) The division may refuse to renew a certificate of registration for any of the following reasons:

(a) the applicant has failed to submit any report required by the division in writing, or any report required by this rule or the Wildlife Board;

(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife;

(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(d) where the division determines that renewal may significantly damage or is not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application for renewal is approved, the Division shall issue the applicant a new certificate of registration that may specify:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the equipment that may be used;

(d) the hours during which protected aquatic wildlife may be harvested; and

(e) any restriction imposed on the applicant in addition to the provisions of this rule.

(8) Any applicant who has been refused renewal of a certificate of registration may submit a request for agency action to the Wildlife Board, in care of the Division of Wildlife Resources, within 30 days following notification of the refusal to renew. The format and content of the request for agency action and any subsequent proceedings initiated thereunder shall comply with Rule R657-2.

(9) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsections R657-14-14(2) and R657-14-19(4).

**R657-14-16. Harvesting Brine Shrimp and Brine Shrimp Eggs -- Identification of Equipment.**

(1)(a) Any boat, boom, vehicle except an OHV, camper, house trailer, or motor home used for harvesting operations must be identifiable from the air and land with either the company name, company initials, or certificate of registration number.

(b) The letters or numbers shall be written clearly and shall meet the following requirements:

(i) letters or numbers on the top of a boat, vehicle, camper, house trailer, or motor home shall be at least 36 inches in height;

(ii) letters or numbers used on the sides of a boat, vehicle, camper, house trailer, or motor home shall be at least 24 inches in height; and

(iii) letters and numbers used on booms shall be at least three inches in height.

(c) Identification may be done with a magnetic sign placed on top of and the sides of the vehicle or boat.

(2)(a) Only one fluorescent orange flag for each Certificate of Registration will be displayed at each harvest location as follows:

(i) on the boat with the certificate of registration on board;

(ii) on the harvest boat or attached to the boom; or

(iii) on the shore while harvesting brine shrimp or brine shrimp eggs from shore.

(b) The last three numbers of the certificate of registration must be written legibly on the fluorescent orange flag and those numbers shall be at least 6 inches in height.

(c) The fluorescent orange flag must be displayed in a manner that is visible from a distance of at least 300 yards.

**R657-14-~~16~~-17. Harvesting Brine Shrimp and Brine Shrimp Eggs -- Use of Booms.**

(1)(a) A primary seiner, alternate seiner, or helper must remain within one mile of any boom attached to the shore, whether open or closed, 24 hours a day so that an officer may easily locate the person tending the boom.

(b) A boom may be left in the water after the end of legal harvest hours if:

(i) the boom is properly identified as provided in Subsection R657-14-~~15~~-16; and

(ii) the boom is closed.

(2) On a causeway or dike where camping is not allowed, a primary seiner, alternate seiner, or helper must be stationed at the closest possible camping site, not more than 10 miles away, and that location must be clearly identified on a tag securely attached to the shore end of the boom.

(3) A person may not harvest any brine shrimp or brine shrimp eggs within 300 yards of any fluorescent orange flag displayed at a harvest location as provided in Subsection R657-~~14-15~~(2)(a)-14-16(2)(a) without permission from the company that first began harvesting in that location.

(4) Brine shrimp and brine shrimp eggs may be removed from another person's boom only with written permission from the person who owns the boom.

(5) A person may not deploy more than one continuous length of boom for each certificate of registration.

**R657-14[~~17~~]-18. Harvesting Brine Shrimp and Brine Shrimp Eggs -- Unlawful Method -- Use of Equipment.**

(1) A person may not intentionally drive a boat through, or create a wake through, a streak of brine shrimp eggs that another person is harvesting.

(2)(a) A person may test the equipment to be used in harvesting brine shrimp from March 1 through September 30.

(b) At least 48 hours before testing the equipment, the person must notify the division's Northern Regional Office.

(c) Any brine shrimp or brine shrimp eggs collected while testing the equipment must be immediately returned within 1/4 mile of the location in which they were collected.

(3) Brine shrimp and brine shrimp eggs may not be taken to a storage facility, test site located greater than 1/4 mile from the location in which they were collected, or to the shore, except as provided in Section R657-14[~~18(4)~~]-19(4).

**R657-14[~~18~~]-19. Harvesting Brine Shrimp and Brine Shrimp Eggs -- Areas of Harvest and Season Dates.**

(1) The division may authorize the harvest of brine shrimp and brine shrimp eggs from:

(a) the Great Salt Lake and surrounding areas, including ponds operated in a normal manner for mineral extraction; and

(b) the Sevier River.

(2) The area east of the north-south line from the tip of Promontory Point south along the east shore of Fremont and Antelope Islands and along the dike extending from the south end of Antelope Island to the south shore of the Great Salt Lake is closed to the commercial harvesting of brine shrimp and brine shrimp eggs.

(3) Except as provided in Subsections (4) and (5), brine shrimp and brine shrimp eggs may be harvested only from October 1 through January 31. If October 1 falls on a Sunday, the harvest season shall begin on the following Monday.

(4)(a) Any person who has a valid certificate of registration may cumulatively collect up to 25 pounds of brine shrimp eggs between March 1 and September 30 for the purpose of conducting research.

(b) For the purpose of conducting research, a person may not collect more than one pound of brine shrimp eggs during a single day regardless of the number of certificates of registration issued to that person.

(c) Brine shrimp and brine shrimp eggs collected for research under the authority of this section may not be sold, traded, or bartered.

(5)(a) Brine shrimp and brine shrimp eggs may be harvested from mineral extraction ponds located along the shores of the Great Salt Lake any time during the year.

(b) A pond may not be built solely for the purpose of raising or harvesting brine shrimp or brine shrimp eggs.

(c) Brine shrimp or brine shrimp eggs may not be introduced into the Great Salt Lake or any pond. Brine shrimp and brine shrimp eggs must enter into the pond during normal mineral extraction processes.

**R657-14[~~19~~]-20. Violations.**

(1) The penalty for any violation of this rule is a class C misdemeanor as provided in Section 23-13-11(2).

(2) Any violation of, or failure to comply with the provisions of this rule[~~19~~], any requirement contained in a certificate of registration issued pursuant to this rule, any Wildlife Board Order, or any statute related to the harvesting, possession or transfer of brine shrimp or brine shrimp eggs may be grounds for revocation, suspension or denial of future certificates of registration as determined by a division hearing officer.

**KEY: game laws, bait dealers, commercialization of aquatic wildlife**

~~[September 3, 1997]1999~~ **23-14-18**  
**Notice of Continuation July 14, 1997** **23-14-19**  
**23-13-13**  
**23-15-7**  
**23-15-8**  
**23-15-9**  
**23-14-3**



**Natural Resources, Wildlife Resources**  
**R657-33**  
**Taking Bear**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 21938  
FILED: 03/31/1999, 14:50  
RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to the Wildlife Board meeting conducted annually for taking public input on the taking and pursuit of bear.

**SUMMARY OF THE RULE OR CHANGE:** Provisions of this rule are being amended to eliminate the cougar/bear pursuit permit, which is replaced by a bear only pursuit permit. The spotlighting provision is restructured to add Subsection R657-33-10(1)(b) as an exception to Section 23-13-17. Clarify that written permission from the appropriate landowner or land managing agency is required when obtaining a certificate of registration for bear baiting on private land or obtaining a permit to hunt on private land. Clarification that a person must be 12 years of age or older prior to the last day of the application period to apply in the drawing for a bear permit. Provide clarification of the application procedures and requirements and obtaining remaining permits, if available, after the drawing. This filing also makes other technical changes for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

## ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The cost of a cougar/bear pursuit permit was \$25. The cost of the bear only pursuit permit is \$25. Thus, the rule may impact the Division of Wildlife Resources budget by increasing revenue due to a person purchasing both a bear pursuit permit and a cougar pursuit permit separately.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: A total of 644 cougar/bear pursuit permits were issued in 1998 for a total cost of \$16,100 to persons. The Division of Wildlife is unable to determine the aggregated cost to persons for the bear only pursuit permit because the Division does not know how many of the 644 cougar/bear pursuit permits issued to persons only pursued bear. The Division received 855 limited entry bear applications with a \$5 handling fee per application for a total cost of \$4,275. The Division issued 179 limited entry resident permits and 23 nonresident limited entry permits for a total cost of \$8,950 for residents and \$5,750 for nonresidents. The Wildlife Board authorized the Division to issue 194 resident permits and 26 nonresident permits for 1999 for a total cost of \$9,700 for residents and \$6,500 for nonresidents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A person may purchase a bear only pursuit permit for a fee of \$25. A person may also apply in the drawing for a limited entry bear permit for an application fee of \$5, and if successful, must pay \$50 for the limited entry bear permit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources  
Wildlife Resources  
Suite 2110  
1594 West North Temple  
PO Box 146301  
Salt Lake City, UT 84114-6301, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at [nrdwr.dsundell@email.state.ut.us](mailto:nrdwr.dsundell@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.****R657-33. Taking Bear.****R657-33-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, of the Utah Code, the Wildlife Board has established this rule for taking and pursuing bear.

(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking and pursuing bear.

**R657-33-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Bait" means any lure containing animal, mineral or plant materials.

(b) "Baiting" means the placing, exposing, depositing, distributing or scattering of bait to lure, attract or entice bear on or over any area.

(c) "Bear" means *Ursus americanus*, commonly known as black bear.

(d) "Canned hunt" means that a bear is treed, cornered, held at bay or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the bear.

(e) "Cub" means a bear less than one year of age.

(f) "Evidence of sex" means the sex organs of a bear, including a penis, scrotum or vulva.

(g) "Green pelt" means the untanned hide or skin of a bear.

(h) "Pursue" means to chase, tree, corner or hold a bear at bay.

(i) "Waiting period" means a specified period of time that a person who has obtained a bear permit must wait before applying for any other bear permit.

(j) "Wildlife Habitat Authorization" means a document granting authority to purchase a license or permit.

**R657-33-3. Permits for Taking Bear.**

(1) ~~[A wildlife habitat authorization and a]~~(a) To take a bear, a person must first obtain an annual Wildlife Habitat Authorization, a valid small game or combination license, and [must be purchased before a person may take or pursue bear.

~~—(2) To take a bear, a person must first obtain]~~ a limited entry bear permit for a specified management unit as provided in the proclamation of the Wildlife Board for taking bear.

~~[(3)](b)~~ To pursue bear, a person must first obtain [a cougar/bear]an annual Wildlife Habitat Authorization, a valid small game or combination license, and a bear pursuit permit from a division office.

~~(c) Beginning July 1, 1999, a valid small game or combination license is no longer required before obtaining a limited entry bear permit or a bear pursuit permit.~~

~~(2)](4)~~ Any limited entry bear permit purchased after the season opens is not valid until seven days after the date of purchase.

~~[(5)](3)~~ Residents and nonresidents may apply for limited entry bear permits and purchase ~~[cougar/bear]bear~~ pursuit permits.

**R657-33-4. Purchase of License or Permit by Mail.**

(1) A nonresident may purchase a small game license by mail by sending the following information to the Salt Lake division

office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, driver's license number (if available), proof of hunter education certification and fee.

(2) A person may purchase a pursuit permit by mail by sending the following information to the Salt Lake division office: full name, complete mailing address, phone number, small game or combination license number and fee.

(3)(a) Residents may send a personal check, cashier's check or money order.

(b) Nonresidents must send either a cashier's check or money order. Personal checks are not accepted from nonresidents.

(c) Checks must be made payable to the Utah Division of Wildlife Resources.

#### **R657-33-5. Hunting Hours.**

Bear may be taken or pursued only between one-half hour before official sunrise through one-half hour after official sunset.

#### **R657-33-6. Firearms and Archery Equipment.**

(1) A person may use the following to take bear:

(a) any firearm not capable of being fired fully automatic, except a firearm using a rimfire cartridge; and

(b) a bow and arrows, except a crossbow may not be used.

#### **R657-33-7. Traps and Trapping Devices.**

(1) Bear may not be taken with a trap, snare or any other trapping device, except as authorized by the division.

(2) Bear accidentally caught in any trapping device must be released unharmed.

(3)(a) Written permission must be obtained from a division representative to remove the carcass of a bear from any trapping device.

(b) The carcass shall remain the property of the state of Utah and must be surrendered to the division.

#### **R657-33-8. State Parks.**

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated by the Division of Parks and Recreation in Section R651-603-5.

(2) Hunting with a rifle, handgun or muzzleloader in park areas designated open is prohibited within one mile of all area park facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps and developed beaches.

(3) Hunting with shotguns and archery tackle is prohibited within one quarter mile of the above stated areas.

#### **R657-33-9. Prohibited Methods.**

(1) Bear may be taken or pursued only during open seasons and using methods prescribed in this rule and the proclamation of the Wildlife Board for taking and pursuing bear. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to possess, capture, kill, injure, drug, rope, trap, snare, or in any way harm or transport bear.

(2) After a bear has been pursued, chased, treed, cornered, legally baited or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.

(3) A person may not engage in a canned hunt.

(4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

#### **R657-33-10. Spotlighting.**

(1) ~~[(a) Except as provided in Section 23-13-17.]~~ Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; ~~and[-]~~

(b) ~~[The]~~ the use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

#### **R657-33-11. Party Hunting.**

A person may not take a bear for another person.

#### **R657-33-12. Use of Dogs.**

(1) Dogs may be used to take or pursue bear only during open seasons as provided in the proclamation of the Wildlife Board for taking bear.

(2) The owner and handler of dogs used to take or pursue bear must have a valid bear permit or ~~[cougar/bear]~~ bear pursuit permit in possession while engaged in taking or pursuing bear.

(3) When dogs are used in the pursuit of a bear, the licensed hunter intending to take the bear must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

(4) When dogs are used to take a bear and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Subsection (3).

#### **R657-33-13. Certificate of Registration Required for Bear Baiting.**

(1) A certificate of registration for baiting must be obtained before establishing a bait station.

(2) Certificates of registration are issued only to holders of valid limited entry bear archery permits.

(3) A certificate of registration may be obtained from the division office within the region where the bait station will be established.

(4) The following information must be provided to obtain a certificate of registration for baiting: township, range, section to the nearest 1/4 section, county, drainage, type of bait used, and written permission from the appropriate landowner ~~[or land-managing agency.]~~ for private lands or appropriate land management agency for public lands.

(5)(a) The division recommends that any person interested in baiting on any lands administered by the Forest Service or Bureau of Land Management verify that the lands are open to baiting before applying for a limited entry bear archery permit.

(b) Areas which are open to baiting on National Forests are designated on a map which may be obtained from district offices. Baiting locations and applicable travel restrictions must be verified by the district supervisor prior to applying for a certificate of registration.

(c) Areas generally closed to baiting stations by these federal agencies include:

- (i) designated Wilderness Areas;
- (ii) heavily used drainages or recreation areas; and
- (iii) critical watersheds.

(6) A \$5 handling fee must accompany the application.

(7) Only hunters listed on the certificate of registration may hunt over the bait station and the certificate of registration must be in possession while hunting over the bait station.

(8) Any person tending a bait station must be listed on the certificate of registration.

**R657-33-14[- Written Permission Required:**

~~— (1) Written permission from the appropriate landowner must be obtained before baiting on private lands.~~

~~— (2) A special use permit is required, in addition to a certificate of registration, to bait on any land under the jurisdiction of the state, except on lands owned by the Division of Wildlife Resources. These permits are available at regional offices of the respective agency.~~

~~— (3)(a) A copy of the certificate of registration for baiting on lands administered by the U.S. Forest Service or Bureau of Land Management is sent by the division to the respective Forest Supervisor's office or Bureau of Land Management district office.~~

~~— (b) Receipt of a copy of the certificate of registration by the Forest Service or Bureau of Land Management constitutes written permission.~~

**R657-33-15]. Use of Bait.**

(1)(a) A person who has obtained a limited entry bear archery permit may use archery tackle only, even when hunting bear away from the bait station.

(b) A person may establish or use only one bait station. The bait station may be used during both open seasons.

(c) Bear lured to a bait station may not be taken with any firearm ~~[over bait nor may dogs be run from any bait]~~ or the use of dogs.

(d) Bait may not be contained in or include any metal, glass, porcelain, plastic, cardboard, or paper.

(e) The bait station must be marked with a sign provided by the division and posted within 10 feet of the bait.

(2)(a) Bait may be placed only in areas open to hunting and only during the open seasons.

(b) All materials used as bait must be removed within 72 hours after the close of the season.

(3) A person may use nongame fish as bait, except those listed as prohibited in Rule R657-13 and the proclamation of the Wildlife Board for Taking Fish and Crayfish. No other species of protected wildlife may be used as bait.

(4)(a) Domestic livestock or its parts, including processed meat scraps, may be used as bait.

(b) A person using domestic livestock or their parts for bait must have in possession:

(i) a certificate from a licensed veterinarian certifying that the domestic livestock or their parts does not have a contagious disease, and stating the cause and date of death; and

(ii) a certificate of brand inspection or other proof of ownership or legal possession.

(5) Bait may not be placed within:

- (a) 100 yards of water or a public road or designated trail; or
- (b) 1/2 mile of any permanent dwelling or campground.

(6) Violations of this rule and the proclamation of the Wildlife Board for taking and pursuing bear concerning baiting on federal lands may be a violation of federal regulations and prosecuted under federal law.

**R657-33-[16]15. Tagging Requirements.**

(1) The carcass of a bear must be tagged in accordance with Section 23-20-30.

(2) The carcass of a bear must be tagged with a temporary possession tag before the carcass is moved from or the hunter leaves the site of kill.

(3) A person may not hunt or pursue bear after the notches have been removed from the tag or the tag has been detached from the permit.

(4) The temporary possession tag:

(a) must remain attached to the pelt or unskinned carcass until the permanent possession tag is attached; and

(b) is only valid for 48 hours after the date of kill.

(5) A person may not possess a bear pelt or unskinned carcass without a valid permanent possession tag affixed to the pelt or unskinned carcass. This provision does not apply to a person in possession of a properly tagged carcass or pelt within 48 hours after the kill, provided the person was issued and is in possession of a valid permit.

**R657-33-[17]16. Evidence of Sex and Age.**

(1) Evidence of sex must remain attached to the carcass or pelt of each bear until a permanent tag has been attached by the division.

(2) The pelt and skull must be presented to the division in an unfrozen condition to allow the division to gather management data.

(3) The division may seize any pelt not accompanied by its skull.

**R657-33-[18]17. Permanent Tag.**

(1) Each bear must be taken by the permit holder to a conservation officer or division office within 48 hours after the date of kill to have a permanent possession tag affixed to the pelt or unskinned carcass.

(2) A person may not possess a green pelt after the 48-hour check-in period, ship a green pelt out of Utah, or present a green pelt to a taxidermist if the green pelt does not have a permanent possession tag attached.

**R657-33-[19]18. Transporting Bear.**

Bear that have been legally taken may be transported by the permit holder provided the bear is properly tagged and the permittee possesses a valid small game or combination license and the appropriate permit.



**R657-33-~~20~~19. Exporting Bear from Utah.**

(1) A person may export a legally taken bear or its parts if that person has a valid license and permit and the bear is properly tagged with a permanent possession tag.

(2) A person may not ship or cause to be shipped from Utah, a bear pelt without first obtaining a shipping permit issued by an authorized division representative.

**R657-33-~~21~~20. Donating.**

(1) A person may donate protected wildlife or their parts to another person in accordance with Section 23-20-9.

(2) A written statement of donation must be kept with the protected wildlife or parts showing:

(a) the number and species of protected wildlife or parts donated;

(b) the date of donation;

(c) the license or permit number of the donor and the permanent possession tag number; and

(d) the signature of the donor.

(3) A green pelt of any bear donated to another person must have a permanent possession tag affixed.

(4) The written statement of donation must be retained with the pelt.

**R657-33-~~22~~21. Purchasing or Selling.**

(1) Legally obtained tanned bear hides may be purchased or sold.

(2) A person may not purchase, sell, offer for sale or barter a gall bladder, tooth, claw, paw or skull of any bear.

**R657-33-~~23~~22. Waste of Wildlife.**

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts in accordance with Section 23-20-8.

(2) The skinned carcass of a bear may be left in the field and does not constitute waste of wildlife, however, the division recommends that hunters remove the carcass from the field.

**R657-33-~~24~~23. Livestock Depredation.**

(1) If a bear is harassing, chasing, disturbing, harming, attacking or killing livestock, or has committed such an act within the past 72 hours:

(a) in depredation cases, the livestock owner, an immediate family member or an employee of the owner on a regular payroll, and not hired specifically to take bear, may kill the bear;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, which shall authorize a local hunter to take the offending bear or notify a Wildlife Services specialist, supervised by the USDA Wildlife Program; or

(c) the livestock owner may notify a Wildlife Services specialist of the depredation who may take the depredating bear.

(2) Depredating bear may be taken at any time by a Wildlife Services specialist[, supervised by the USDA Wildlife Program,] while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3) A depredating bear may be taken with any weapon authorized for taking bear.

(4)(a) Any bear taken pursuant to this section must be delivered to a division office or employee within 72 hours.

(b) A bear that is killed in accordance with Subsection (1)(a) shall remain the property of the state, except the division may sell a bear damage permit to a person who has killed a depredating bear if that person wishes to maintain possession of the bear.

(c) A person may acquire only one bear annually.

(5)(a) Hunters interested in taking depredating bear as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating bear as needed.

**R657-33-~~25~~24. Questionnaire.**

Each permittee who receives a questionnaire should return the questionnaire to the division regardless of success. Returning the questionnaire helps the division evaluate population trends, harvest success and other valuable information.

**R657-33-~~26~~25. Taking Furbearers.**

(1) Furbearers, including badger, beaver, black-footed ferret, bobcat, fisher, red fox, gray fox, kit fox, lynx, marten, mink, otter, ringtail, skunk, weasel, wolf and wolverine may be taken only in accordance with the Furbearer Proclamation.

(2) A person may not disturb, remove or possess a trap, trapping device or any wildlife held in a trap without first obtaining written permission from the trap owner.

**R657-33-~~27~~26. Taking Bear.**

(1) A person may take only one bear during the season and from the limited entry area specified on the permit.

(2)(a) A person may not take or pursue a female bear with cubs.

(b) Any bear, except a cub or a sow accompanied by cubs, may be taken during the prescribed seasons.

(3) Permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking and pursuing bear.

(4) Season dates, closed areas and limited entry permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

**R657-33-~~28. Cougar/Bear~~27. Bear Pursuit.**

(1) Bear may be pursued only by persons who have obtained a [~~cougar/bear~~]bear pursuit permit. The [~~cougar/bear~~]bear pursuit permit does not allow a person to kill a bear.

(2) A person may not:

(a) take or pursue a female bear with cubs;

(b) repeatedly pursue, chase, tree, corner or hold at bay the same bear during the same day; or

(c) possess a firearm or any device that could be used to kill a bear while pursuing bear.

(3) If eligible, a person who has obtained a [~~cougar/bear~~]bear pursuit permit may also obtain a limited entry bear permit.

(4) When dogs are used to take a bear and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Section R657-33-12(3).

(5) Season dates, closed areas and ~~cougar/bear~~ bear pursuit permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

**R657-33-~~29~~28. General Application Information.**

(1) A person must apply for or obtain an annual wildlife habitat authorization, and a small game or combination license before the division may issue a bear permit.

(2) A person may not apply for or obtain more than one bear permit for the same year, except as provided in Subsection R657-33-~~28(3)~~27(3).

(3) A person must be 12 years of age or older prior to the last day of the application period to apply for a bear permit.

(4) Limited entry bear permits are valid only for the management unit and for the specified season designated on the permit.

**R657-33-~~30~~29. Waiting Period.**

(1) Any person who purchases a permit valid for the current season, may not apply for a permit for a period of two years.

(2) Any person who draws a permit for the current season, may not apply for a permit for a period of two years.

**R657-33-~~31~~30. Application Procedure.**

(1) Applications are available from ~~[division offices:]~~ license agents and division offices.

(2)(a) Group applications are not accepted. A person may not apply more than once annually.

(b) Applicants may select up to three management unit choices when applying for limited entry bear permits. Management unit choices must be listed in order of preference.

~~(b)~~(c) Applicants must specify on the application whether they want a limited entry bear permit or a limited entry bear archery permit.

(i) The application may be rejected if the applicant does not specify either a limited entry bear permit or limited entry bear archery permit.

(ii) Any person obtaining a limited entry bear archery permit must also obtain a certificate of registration if intending to use bait as provided in Section R657-33-14.

(3) A wildlife habitat authorization and small game or combination license may be obtained before applying, or will be issued upon successfully drawing a permit. Fees must be submitted with the application.

(4)(a)~~(3)(a)~~ Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking and pursuing bear. Applications filled out incorrectly or received later than the date prescribed in the bear proclamation may be rejected. Late applications will be returned unopened.

(b) If an error is found on an application, the applicant may be contacted for correction.

~~(4) Applications must be sent to: Utah Bear Applications, P.O. Box 168888, Salt Lake City, Utah 84116-8888.~~

~~(5) Group applications are not accepted. A person may not apply more than once annually.~~

~~(6) A wildlife habitat authorization and small game or combination license may be obtained before applying, or will be issued upon successfully drawing a permit. Fees must be submitted with the application.~~

~~(7) Licenses and permits are mailed to successful applicants.~~

**R657-33-32. Fees:**

~~(1)(a)~~(5) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Section R657-33-32(6)(b).

**R657-33-31. Fees.**

(1) Each application must include:

(a) the permit fee, which includes the nonrefundable handling fee;

(b) the wildlife habitat authorization fee, if it has not yet been purchased; and

(c) the small game or combination license fee, if it has not yet been purchased.

(2)(a) Personal checks, money orders, cashier's checks and credit cards are accepted from residents.

(b) Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(c) All payments must be made payable to the Utah Division of Wildlife Resources.

(3)(a) Credit cards must be valid at least 30 days after the drawing results are posted.

~~(b)~~(b) Handling fees are charged to the credit card when the application is processed. Permit fees are charged after the drawing, if successful.

~~(2) A \$5 application fee is added to the price of the permit on the application form. The \$5 fee must be included and is nonrefundable.~~

~~(3)~~(4) An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

**R657-33-~~33. Drawing:]32. Drawings and Remaining Permits.~~**

~~(1) If more applications are received for limited entry permits than the number of permits available, a drawing will be held.](1) Drawing results will be posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the proclamation of the Wildlife Board for taking and pursuing bear.~~

~~(2)(a) Permits remaining after the drawing are available from the Salt Lake division office by mail-in application and are sold on a first-come, first-served basis as provided.] A list of remaining permits will be available on the date published in the proclamation of the Wildlife Board for taking and pursuing bear.~~

~~(3) Permits remaining after the initial drawing are sold only by mail beginning and ending on the dates provided in the proclamation of the Wildlife Board for taking and pursuing bear.~~

~~(4) Applications are available from division offices and license agents.~~

~~(5)(b)~~ The same application form used for the ~~limited entry bear~~ initial drawing must be used when applying for remaining permits by mail. The handling fees are nonrefundable.

~~(6)(a)~~ Permits remaining after both drawings will be sold over-the-counter, in person or through the mail on a first-come, first-served basis only from the Salt Lake division office on the date published in the proclamation of the Wildlife Board for taking and pursuing bear.

~~(b)~~ Residents or nonresidents may purchase any of the remaining permits.

~~(7)(3)~~ Waiting periods do not apply to the purchase of remaining permits. However, waiting periods are incurred as a result of purchasing remaining permits.

**R657-33-34. Bonus Points.** ~~(8)(a)~~ A person may withdraw their application for the bear drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking and pursuing bear.

~~(1)(a)~~ Bonus points are used to improve odds for drawing limited entry bear permits. ~~(b)~~ The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

~~(b)~~ Each applicant is entered into the drawing once for each bonus point collected. ~~(c)~~ A person may not amend a withdrawn application, nor reapply after the application has been withdrawn.

~~(2)~~ ~~(d)~~ Handling fees will not be refunded.

**R657-33-33. Bonus Points.**

~~(1)~~ A bonus point is awarded for a valid unsuccessful application in the drawing.

~~(3)~~ ~~(2)~~ Bonus points are forfeited if ~~the person skips three consecutive years in applying or~~ the person obtains a permit.

~~(4)~~ ~~(3)~~ Bonus points are not transferable.

~~(5)~~ ~~(4)~~ Bonus points are tracked by using the applicant's social security number or division-issued hunter identification number.

**R657-33-~~35. Refunds~~34. Refunds.**

~~(1)~~ Unless a donation is specified, the total amount of the license or permit fee, minus the handling fee, is refunded. ~~(1)(a)~~ Unsuccessful applicants, who applied in the initial drawing and who applied with a check or money order, will receive a refund in July.

~~(2)~~ Refunds are mailed within six weeks after the drawing results are posted. ~~(b)~~ Unsuccessful applicants, who applied for remaining permits and who applied with a check or money order, will receive a refund in August.

~~(3)~~ Any permit unlawfully applied for or obtained is void and will be seized. ~~(2)~~ Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

~~(3)~~ The handling fees are nonrefundable.

**R657-33-35. Duplicate License, Wildlife Habitat Authorization and Permit.**

Whenever any unexpired license, wildlife habitat authorization, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, wildlife habitat authorization or permit, whichever is less.

**KEY: wildlife, bear\*, game laws**

~~May 18, 1998~~ 1999

Notice of Continuation March 24, 1998

23-14-18

23-14-19

23-13-2



Natural Resources, Wildlife Resources  
**R657-37**  
 Cooperative Wildlife Management  
 Units for Big Game

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 21939

FILED: 03/31/1999, 14:50

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the Wildlife Board meeting and Regional Advisory Council meetings conducted for taking public input on the standards and procedures applicable to cooperative wildlife management units organized for the hunting of big game.

SUMMARY OF THE RULE OR CHANGE: On March 17, 1999, the Wildlife Board placed a moratorium on any new Cooperative Wildlife Management Units (CWMU) less than 10,000 acres, including both contiguous and noncontiguous acreage, until further criteria is established based upon additional information. This rule is amended to clarify existing criteria for the establishment of a CWMU for hunting big game. In addition, this amendment provides that a landowner association member must submit a CWMU Management Plan consistent with statewide and unit management objectives as approved by the Wildlife Board. The amendment further clarifies the application and renewal procedures for obtaining a certificate of registration to operate a CWMU; and clarifies the private and public hunting permit allocation. Lastly, the amendment adds provisions of violating law pertaining to the CWMU, whereby the Wildlife Board may deny or revoke a certificate of registration. Other technical changes are made for clarity and consistency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies the standards and procedures, and provides the framework applicable to the establishment of cooperative wildlife management units organized for hunting big game. Therefore, the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or saving impact to local governments because

they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies the standards and procedures, and provides the framework applicable to the establishment of cooperative wildlife management units organized for hunting big game. Therefore, the amendment does not create compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources  
Wildlife Resources  
Suite 2110  
1594 West North Temple  
PO Box 146301  
Salt Lake City, UT 84114-6301, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at [nrdwr.dsundell@email.state.ut.us](mailto:nrdwr.dsundell@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: John Kimball, Director

## **R657. Natural Resources, Wildlife Resources.**

### **R657-37. Cooperative Wildlife Management Units for Big Game.**

#### **R657-37-1. Purpose and Authority.**

(1) Under authority of Section 23-23-3, this rule provides the standards and procedures applicable to Cooperative Wildlife Management units organized for the hunting of big game.

(2) Cooperative Wildlife Management units are established to:

(a) increase wildlife resources;

(b) provide income to landowners;

~~(b) create satisfying hunting opportunities;~~

~~(c) increase wildlife resources;~~

~~(d) provide adequate protection to landowners who open their lands for hunting; and~~

~~(e)](c) provide the general public access to private and public lands for hunting big game within a Cooperative Wildlife Management Unit[-];~~

(d) create satisfying hunting opportunities; and

(e) provide adequate protection to landowners who open their lands for hunting.

#### **R657-37-2. Definitions.**

(1) Terms used in this rule are defined in Sections 23-13-2 and 23-23-2.

(2) In addition:

(a) ~~["General public"]~~ "CWMU" means Cooperative Wildlife Management Unit.

(b) "CWMU agent" means a person appointed by a landowner association member or landowner association operator to protect private property within the CWMU.

(c) "General public" means all persons except landowner association members, landowner association operators and their spouse or dependant children.

~~[(b) "Landowner"]~~(d) "Landowner association member["] means a landowner or an organization of owners of private land who sign the [~~Cooperative Wildlife Management Unit~~]CWMU application form.

~~[(c) "Landowner"]~~(e) "Landowner association operator["] means a person designated by a landowner association member to operate the [~~Cooperative Wildlife Management Unit~~]CWMU.

~~[(d) "Voucher"]~~(f) "Voucher" means a document issued by the division to a landowner[-, landowner] association[-, or Cooperative Wildlife Management Unit] member or landowner association operator, allowing a landowner[-, landowner association, or Cooperative Wildlife Management Unit operator-] association member or landowner association operator, to designate who may purchase a [~~Cooperative Wildlife Management Unit~~]CWMU big game hunting permit from a division office.

#### **R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.**~~[Operation by Landowner Association.]~~

~~[(1)(a) Cooperative Wildlife Management units must be operated by a landowner or landowners who own land within the Cooperative Wildlife Management Unit or a landowner association operator who leases or otherwise controls hunting on land within the] Cooperative Wildlife Management Unit.~~

~~(b) A landowner or landowner association may appoint Cooperative Wildlife Management unit agents to protect private property within the Cooperative Wildlife Management Unit; however the landowner or landowner association must assume ultimate responsibility for the operation of the Cooperative Wildlife Management Unit.~~

~~[(2)(a)](1)(a) The minimum allowable acreage for a [Cooperative Wildlife Management Unit]CWMU is 10,000 contiguous acres, except as provided in Subsection (2).[-]~~

(b) A CWMU shall not contain a domestic elk farming operation within, next to, or adjacent to the CWMU boundaries.

(2) The Wildlife Board may [approve a Cooperative Wildlife Management Unit]renew a CWMU that is less than 10,000 acres provided the CWMU legally possessed a 1999 CWMU Certificate of Registration, allowing for acreage less than 10,000 contiguous acres or allowing noncontiguous land parcels.[contiguous acres only if:

(i) significant populations of big game are using the private land for an extended period of time;

(ii) the private land block is large enough to support a hunttable unit; and

(iii) it is in the best interest of wildlife, landowners, and the public.]

(3)(a) Cooperative Wildlife Management Units organized for hunting big game, shall consist of private land to the extent practicable.

(b) ~~[Public land may be included within a Cooperative Wildlife Management Unit provided:]~~The Wildlife Board may approve a CWMU containing public land only if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

(ii) ~~[including]the public land is necessary to establish [a readily identifiable boundary; or]an enforceable boundary clearly identifiable to both the general public and public and private permit holders; or~~

~~[(iii) including](iii) the public land is necessary to achieve [big game]statewide and unit management objectives.~~

(c) If any public land is included within a ~~[Cooperative Wildlife Management Unit]CWMU~~, the landowner association member shall meet applicable federal and state land use requirements on the public land.

~~[(4)](d)~~ The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportional habitat on public land to private land within the ~~[Cooperative Wildlife Management Unit]CWMU~~.

~~(5) At least every five years.]~~

**R657-37-4. Cooperative Wildlife Management Unit Management Plan.**~~[Cooperative Wildlife Management units containing public land shall be reviewed by the Regional Advisory Councils and the Wildlife Board.]~~

~~[(6)](1)~~ The landowner association ~~[shall consider the following in the operation of a Cooperative Wildlife Management Unit:]~~member shall manage the CWMU in compliance with a CWMU Management Plan consistent with statewide and unit management objectives for the respective big game unit and approved by the Wildlife Board.

~~[(a) the seasonal movement and distribution of big game on their land;](2)(a)~~ The CWMU Management Plan may be approved by the Wildlife Board for a period of five years, expiring on January 31 at the end of the five-year period.

~~[(b) hunt strategies that shall compliment](b)~~ The CWMU Management Plan must be amended when the management plan or land ownership changes.~~[for the entire unit; and~~

~~(c) work with adjacent landowners outside the Cooperative Wildlife Management Unit being impacted by big game effected by the operation of the unit.~~

~~(7)(a) A landowner association or landowner association operator may enter into reciprocal agreements with any other landowner association or landowner association operator to allow hunters who have obtained a Cooperative Wildlife Management Unit permit to hunt within each other's Cooperative Wildlife Management units as provided in Subsection R657-37-4(8).~~

~~(b) If a person is authorized to hunt in one or more Cooperative Wildlife Management units as provided in Subsection (a), written permission from the landowner association must be in the person's possession while hunting.~~

~~(8)(a) A landowner association or landowner association operator shall provide any person that has obtained a permit, including general public permittees, a comparable hunting opportunity in terms of hunting area and number of days to hunt big game.~~

~~(b) A person who has obtained a Cooperative Wildlife Management Unit permit may hunt only in the Cooperative Wildlife Management Unit for which the permit is issued, except as provided under Subsection (7)(b).~~

~~(9) Each landowner association shall post all boundaries of the Cooperative Wildlife Management Unit in accordance with Section 23-23-7(6).~~

**R657-37-4. Application for Certificate of Registration.**

~~(c) The CWMU Management Plan may be amended as requested by the Wildlife Board, the division or the CWMU landowner association member or operator.~~

~~(3)(a) The CWMU Management Plan must include:~~

~~(i) big game management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game unit, including population management and antlerless harvest;~~

~~(ii) procedures for obtaining age and harvest data;~~

~~(iii) an explanation of how comparable hunting opportunities will be provided to both the private and public permit holders on the CWMU as required in Section 23-23-7.5 and Rule R657-37-7(3)(a);~~

~~(iv) private and public permit ratio;~~

~~(v) rationale and purpose for including public land within the CWMU boundaries, if public land is included;~~

~~(vi) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;~~

~~(vii) rules and guidelines defining the CWMU landowner association member, landowner association operator or CWMU agent responsibilities;~~

~~(viii) County Recorder Plat Maps, dated by receipt of purchase within 30 days of the initial or renewal application deadline for a certificate of registration, depicting boundaries and ownership for all property within the CWMU;~~

~~(ix) two original 1:100,000 USGS maps, which shall be filed in the appropriate regional office and the Salt Lake office, depicting all interior and exterior boundaries of the proposed CWMU; and~~

~~(x) strategies and methods that avoid adverse impacts to adjacent landowners resulting from the operation of the CWMU.~~

~~(b) The division shall, upon the applicant's request, provide assistance in preparing the CWMU Management Plan.~~

**R657-37-5. Application for Certificate of Registration.**

~~(1) [Applications for Cooperative Wildlife Management units are available from division offices and division wildlife biologists.]An application for a CWMU Certificate of Registration must be completed and returned to the division regional office where the proposed CWMU is located no later than August 1.~~

~~[(2) In addition to the application, the landowner association shall provide:](2) The application must be accompanied by:~~

~~[(a) a management plan specifying the big game management objectives for the Cooperative Wildlife Management Unit, which must be consistent with division objectives for the respective big game units;](a) the CWMU Management Plan as described in R657-37-4(3), including all maps;~~

~~(b) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the [Cooperative Wildlife Management Unit]CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code;~~

(c) ~~a 1:100,000 USGS land ownership map of the proposed Cooperative Wildlife Management Unit;~~

~~(d) the name of the designated landowner association operator; and~~

~~(e)(d) a \$5 nonrefundable handling fee.~~

~~(3) The division shall, upon request of the applicant, provide assistance in preparing the management plan and map for the proposed Cooperative Wildlife Management Unit.~~

~~(4) Applications must be completed and returned to the division wildlife biologist in the region that the Cooperative Wildlife Management Unit is to be established prior to August 1.~~

~~(5) The division may return (3) The division may reject any application that is incomplete or completed incorrectly.~~

~~(6)(4) The division shall forward the complete and correct application and required documentation to the Wildlife Board for consideration.~~

~~(7)(5) Upon [receipt of]receiving the application, required documentation[and], appropriate fee and recommendation from the division, the Wildlife Board may:~~

~~(a) [issue]authorize the issuance of a certificate of registration[authorizing], for one year, allowing the landowner association member to operate a [Cooperative Wildlife Management Unit]CWMU; or~~

~~(b) deny the application and provide the landowner association member with reasons for the [denial:]decision.~~

~~(8)(a)(6)(a) A landowner association member or landowner association operator issued a certificate of registration must request an amendment to the original certificate of registration [for any variation of the following:]as provided in Subsection (b) or through the renewal process described in R657-37-6 for any variation in:~~

~~(i) season dates; (i) the CWMU Management Plan; or~~

~~(ii) method of harvest;~~

~~(iii) permit and tag allocation;~~

~~(iv) additional property to be included within the Cooperative Wildlife Management Unit; and~~

~~(v)(ii) any other matter related to the management and operation of the [Cooperative Wildlife Management Unit]CWMU not originally included in the certificate of registration.~~

~~(b) [Requests]A request for an amendment to a certificate of registration to allow a CWMU permit holder to hunt within a reciprocal CWMU must be made in writing and submitted to the appropriate division regional supervisor and wildlife manager.~~

~~(c) The Wildlife Board must approve any variation to the original certificate of registration except:~~

~~(i) a request to allow hunters who have obtained a Cooperative Wildlife Management Unit permit to hunt within each other's Cooperative Wildlife Management unit. Approval may be granted (i) Upon approval by the regional supervisor [and the regional wildlife manager.~~

~~(d) Upon approval], an amendment to the original certificate of registration shall be issued in writing.~~

~~(9)(7) The Wildlife Board shall consider any violation of the provisions of Title 23, Wildlife Resources Code and any information provided by the division, landowners, and the public in determining whether to [issue]authorize the issuance of a certificate of registration for a [Cooperative Wildlife Management Unit]CWMU.~~

~~(10) Cooperative Wildlife Management Unit certificates of registration are (8) A CWMU Certificate of Registration is issued~~

on an annual basis and shall expire on January 31, providing the certificate of registration is not suspended or revoked prior to the expiration date.

(9) The CWMU application/agreement is binding upon the landowner association members, landowner association operators and all successors in interest to the CWMU property or the hunting rights thereon as it pertains to allowing public permit holders reasonable access to all CWMU property during the applicable hunting seasons for purposes of filling the permit.

#### **R657-37-[5]6. Renewal of a Certificate of Registration.**

(1) [The landowner association may request the Wildlife Board to renew a]A CWMU Certificate of Registration must be renewed by the Wildlife Board annually or when any changes occur in the activities or information authorized by the Wildlife Board in the original certificate of registration [for a Cooperative Wildlife Management Unit by completing and submitting a renewal application and a nonrefundable \$5 handling fee:]or CWMU Management Plan.

[(2)(a) Any changes from the previous year's](2) An application for renewal of a certificate of registration must be [indicated on the renewal application:]completed and returned to the division regional office where the CWMU is established no later than September 1.

[(b) The Wildlife Board shall consider the previous performance of the Cooperative Wildlife Management Unit, including the actions of the landowner, landowner association and (3) The renewal application must identify all changes from the previous years CWMU Certificate of Registration or CWMU Management Plan.

(4) The renewal application must be accompanied by:

(a) the CWMU Management Plan, including all maps as described in R657-37-4(3), if the plan has expired or is being amended;

(b) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code;

(c) the name of the designated landowner association operator [when reviewing renewal of the certificate of registration:] and

[(3)(a) If the landowner association requests additional land to be included in the Cooperative Wildlife Management Unit, the application must contain:](d) a \$5 nonrefundable handling fee.

[(i) the signatures of the additional landowners; and](5) The division may reject any application that is incomplete or completed incorrectly.

[(ii) a 1:100,000 USGS land ownership map showing the new proposed boundary.

(b) If the landowner association requests land to be withdrawn from the Cooperative Wildlife Management Unit, the application must include:

(i) a copy of the previously submitted petition with the appropriate landowners' signatures deleted; and

(ii) a 1:100,000 USGS land ownership map showing the new proposed boundary.

(4) Renewal applications must be submitted to the division prior to September 1.

~~(5)~~(6) The division shall forward the complete and correct renewal application to the Wildlife Board for consideration.

(7) The Wildlife Board shall consider:

(a) the previous performance of the CWMU, including the actions of the landowner association member or landowner association operator when reviewing renewal of the certificate of registration; and

(b) any violation of Title 23, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided from any source related to the applicant's fitness to operate a CWMU.

~~(8) Upon receiving~~~~(6) Upon receipt of~~ the application, required documentation ~~and~~, appropriate fee and recommendation from the division, the Wildlife Board may:

(a) ~~issue~~ authorize the issuance of a certificate of registration ~~authorizing~~ allowing the landowner association ~~to operate a Cooperative Wildlife Management Unit~~ member or landowner association operator to operate a CWMU; or

(b) deny the application and provide the landowner association member with reasons for the ~~denial~~ decision.

~~(7) The Wildlife Board shall consider any violation of the provisions of Title 23, Wildlife Resources Code, Rule R657-37, any of the stipulations specified on~~~~(9) A CWMU Certificate of Registration for renewal is authorized annually and shall expire on January 31, providing the certificate of registration, and any information provided by the division, a member of a Cooperative Wildlife Management Unit, or the public in determining whether to renew a certificate of registration for a Cooperative Wildlife Management Unit.~~ is not revoked or suspended prior to the expiration date.

#### **R657-37-7. Operation by Landowner Association.**

(1)(a) A CWMU must be operated by a landowner association member who owns land within the CWMU or a landowner association operator who leases or otherwise controls hunting on land within the CWMU.

(b) A landowner association member or landowner association operator may appoint CWMU agents to protect private property within the CWMU; however, the landowner association member or landowner association operator must assume ultimate responsibility for the operation of the CWMU.

(2)(a) A landowner association member or landowner association operator may enter into reciprocal agreements with any other landowner association member or landowner association operator to allow hunters who have obtained a CWMU permit to hunt within each other's CWMUs as provided in Subsections R657-37-5(6)(b) and R657-37-7(3)(b).

(b) If a person is authorized to hunt in one or more CWMUs as provided in Subsection (a), written permission from the landowner association member or landowner association operator must be in the person's possession while hunting.

(3)(a) A landowner association member or landowner association operator shall provide any person who has obtained a permit, including general public permittees, a comparable hunting opportunity in terms of hunting area and number of days to hunt big game.

(b) A person who has obtained a CWMU permit may hunt only in the CWMU for which the permit is issued, except as provided under Subsection (2).

(4) Each landowner association member or landowner association operator shall post all boundaries of the CWMU in accordance with Section 23-23-7(6).

#### **R657-37-[6]8. Cooperative Wildlife Management Unit Agents.**

(1) A landowner association member may appoint ~~Cooperative Wildlife Management Unit~~CWMU agents to monitor access and protect the private property of the ~~Cooperative Wildlife Management Unit~~CWMU.

~~(2) Each Cooperative Wildlife Management Unit~~(2) Each CWMU agent shall wear or have in possession a form of identification prescribed by the Wildlife Board which indicates the agent is a ~~Cooperative Wildlife Management Unit agent~~CWMU agent.

~~(3) A Cooperative Wildlife Management Unit~~(3) A CWMU agent may refuse entry into the private land portions of a ~~Cooperative Wildlife Management Unit~~CWMU to any person, except owners of land within the unit and their employees, who:

(a) ~~do~~ does not have in their possession a ~~Cooperative Wildlife Management Unit~~CWMU permit;

(b) endangers or has endangered human safety;

(c) damages or has damaged private property within a ~~Cooperative Wildlife Management Unit~~CWMU; or

(d) fails or has failed to comply with reasonable rules of a landowner association.

(4) ~~Cooperative Wildlife Management Unit agents~~A CWMU agent may not refuse entry to the general public onto any public land within the boundaries of a ~~Cooperative Wildlife Management Unit~~CWMU that is otherwise accessible to the public for purposes other than hunting big game for which the ~~Cooperative Wildlife Management Unit~~CWMU is authorized.

(5) In performing the functions described in this section, a ~~Cooperative Wildlife Management Unit~~CWMU agent shall comply with the relevant laws of this state.

#### **R657-37-[7]9. Permit Allocation.**

(1) The division shall issue ~~Cooperative Wildlife Management Unit~~CWMU permits for hunting big game to permittees:

(a) qualifying through a general public drawing; or

(b) named by the landowner association member or landowner association operator.

(2) ~~Landowner~~A landowner association~~;~~ member or landowner association ~~operators~~operator shall be issued vouchers that may be used to purchase hunting permits from division offices.

(3) The division and the landowner association member shall, in accordance with the tables provided in Subsection (4), jointly determine:

(a) the total number of permits to be issued for the ~~Cooperative Wildlife Management Unit~~CWMU; and

(b) the number of permits that may be offered by the landowner association member to the general public as defined in Subsection R657-37-2(c).

(4)(a) Permits may be allocated ~~as follows, with a minimum of one permit that must be offered~~ using an option from:

(i) table one for moose and pronghorn; or

(ii) table two for elk and deer.

(b) At least one buck or bull permit or at least 10% of the bucks or bulls permits, whichever is greater, must be made available to the general public through the big game drawing process.[-]

TABLE 1

MOOSE AND PRONGHORN			
Option	<del>[Antlered]</del> Bucks/Bulls	Unit's Share	
1	60%	Antlerless	
2	60%	40%	
Public's Share			
Option	<del>[Antlered]</del> Bucks/Bulls	Antlerless	
1	40%	0%	
2	40%	60%	

TABLE 2

ELK AND DEER			
Option	<del>[Antlered]</del> Bucks/Bulls	Unit's Share	
1	90%	0%	
2	85%	25%	
3	80%	40%	
4	75%	50%	
5	50%	0%	
Public's Share			
Option	<del>[Antlered]</del> Bucks/Bulls	Antlerless	
1	10%	100%	
2	15%	75%	
3	20%	60%	
4	25%	50%	
5	50%	0%	

(5) ~~[If the division recommends that antlerless deer or elk should not be taken within a Cooperative Wildlife Management Unit because of decreased or declining populations, up to 90% of the permits recommended for that Cooperative Wildlife Management Unit may] Antlerless permits must be allocated to the [landowner association. At least 10% of the permits allocated to the Cooperative Wildlife Management Unit shall be offered to the public through the big game drawings.] CWMU proportional to the ratio of numbers of big game species using the CWMU compared to the total herd population of the respective big game species on the herd management unit.~~

~~[(6) Landowners or landowner associations](6) A landowner association member or landowner association operator shall provide access free of charge to any person who has received a [Cooperative Wildlife Management Unit] CWMU permit through the general public big game drawings, except as provided in Section 23-23-11.~~

(7) If the division and the landowner association member disagree on the number of permits to be issued, the number of permits allocated for a species or sex of big game, or the method of take, the Wildlife Board shall ~~[determine the number of permits to be issued] make the determination~~ based on the biological needs of the big game herds, including available forage, depredation, and other mitigating factors.

(8) A ~~[Cooperative Wildlife Management Unit] CWMU~~ permit entitles the holder to hunt the species and sex of big game specified on the permit and only in accordance with the certificate of registration and the rules and proclamations of the Wildlife Board.

(9) Vouchers for antlerless permits may be designated by a landowner ~~[associations] association member~~ to any eligible person ~~[regardless of whether the person has obtained a bull or buck permit through the general public big game drawings].~~

~~— (10) A person may not obtain more than one permit for each species of big game, except ] as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, and Rule R657-42.[-]~~

~~[(H)](11)(a) A complete list of the current [Cooperative Wildlife Management units] CWMUs, big game hunts, and the date, time, and number of permits available for public drawing shall be published in the proclamation of the Wildlife Board for taking big game.~~

(b) The division reserves the exclusive right to list approved CWMUs in the proclamation of the Wildlife Board for taking big game. The division may unilaterally decline to list a CWMU in the proclamation where the unit is under investigation for wildlife violations, a portion of the property comprising the CWMU is transferred to a new owner, or any other condition or circumstance that calls into question the CWMUs ability or willingness to allow a meaningful hunting opportunity to all the public permit holders that would otherwise draw out on the public permits.

**R657-37-[8]10. Permit Cost.**

The fee for permits allocated to any ~~[Cooperative Wildlife Management Unit] CWMU~~ is the same as the applicable:

- (a) limited entry permit fee for elk and pronghorn;
- (b) general season, limited entry or premium limited entry permit fee for deer; and
- (c) once-in-a-lifetime permit fee for moose.

**R657-37-[9]11. Possession of Permits and License by Hunters - Restrictions.**

(1) A person may not hunt in a ~~[Cooperative Wildlife Management Unit] CWMU~~ without having in his possession:

- (a) a valid ~~[Cooperative Wildlife Management Unit] CWMU~~ permit; and
- (b) the necessary hunting licenses, permits, ~~[- tags, and stamps].~~

~~— (2) A Cooperative Wildlife Management Unit] and tags.~~

(2) A CWMU permit:  
 (a) entitles the holder to hunt only ~~[in] on~~ the ~~[unit] CWMU~~ specified on the permit pursuant to the rules of the Wildlife Board and does not entitle the holder to hunt on any other public or private land, except as provided under Subsection R657-37-~~[3(6)(b)] 7(2)(a); and~~

(b) constitutes written permission for trespass as required under Section 23-20-14.

(3) Prior to hunting on a ~~[Cooperative Wildlife Management Unit] CWMU~~ each permittee must:

- (a) contact the relevant landowner association ~~[and request the Cooperative Wildlife Management Unit] member or landowner association operator and request the CWMU~~ rules and requirements; and
- (b) make arrangements with the landowner association ~~member or landowner association operator~~ for the hunt.



**R657-37-[10]12. Season Lengths.**

(1) A landowner association member or landowner association operator may arrange for permittees to hunt on the [~~Cooperative Wildlife Management Unit~~]CWMU during the following dates:

(a) [~~general season buck deer, general season bull elk, pronghorn, and moose seasons may be established September 1 through October 31;~~

~~(b)~~ archery buck deer and archery bull elk seasons may be established beginning with the opening of the general archery deer season through October 31;

~~(c)~~ muzzleloader deer and elk (b) general season buck deer, general season bull elk, pronghorn, and moose seasons may be established September 1 through [the end of the state muzzleloader season;]October 31, or the closing date of the general season for the respective species, whichever is later;

~~(d)~~(c) muzzleloader deer seasons may be established September 1, 1999 through November 14, 1999;

(d) beginning January 1, 2000, muzzleloader deer seasons may be established September 1 through October 31, or the closing date of the muzzleloader deer season on the state wildlife management unit that contains the CWMU, whichever is later;

(e) muzzleloader elk seasons may be established September 1 through the end of the general muzzleloader elk season;

(e) antlerless elk seasons may be established August 15 through January 31; and

~~(f)~~(f) antlerless deer seasons may be established August 15 through December 31.

(2) The Wildlife Board may make variances to the seasons provided in Subsection (1) for good cause.

**R657-37-[11]13. Rights-of-Way.**

~~[Landowner associations]~~A landowner association member may not restrict established public access to public land enclosed by the [~~Cooperative Wildlife Management Unit~~]CWMU.

**R657-37-14. Discipline or Violation.**

(1) The Wildlife Board may refuse to issue a certificate of registration to an applicant, and may refuse to renew or may revoke, restrict, place on probation, or otherwise act upon a certificate of registration where the holder has:

(a) violated any provision of this rule, the Wildlife Resources Code, the certificate of registration, or the CWMU application/agreement; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship to the operator's or applicant's ability to safely and responsibly operate a CWMU.

(2) The procedures and rules governing any adverse action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

**KEY: wildlife, cooperative wildlife management unit**  
**[January 15, 1998]1999 23-23-3**



Natural Resources, Wildlife Resources  
**R657-41**  
 Conservation and Sportsman Permits

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 21940

FILED: 03/31/1999, 14:50

RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to the Wildlife Board meeting and Regional Advisory Council meetings conducted for taking public input on the method for determining the number of conservation and sportsman permits authorized by the Wildlife Board and obtaining the conservation and sportsman permits by conservation organizations.

**SUMMARY OF THE RULE OR CHANGE:** This amendment: shortens the pronghorn and moose season for statewide conservation permits; provides clarification on the method used for determining the number of conservation and sportsman permits, allowing authorization of a limited number of area conservation permits with a maximum of 5% of the permits or eight permits, whichever is less, unless a higher number of permits is specifically authorized by the Wildlife Board; provides a recommended minimum permit bid amount; and clarifies the criteria the division shall use to make recommendations to the Wildlife Board on the conservation organizations to receive each of the conservation permits. This amendment also makes other technical changes for consistency and clarity.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-14-18 and 23-14-19

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** This rule may impact the Division of Wildlife Resources budget by increasing revenue due to the conservation organization's auction or fund raising activity for the conservation permit. This rule requires 90% of the auction or fund raising activity be submitted to the division to benefit the species for which the conservation permit is issued.

❖**LOCAL GOVERNMENTS:** None--this filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖**OTHER PERSONS:** No impact--these amendments do not impose any requirements on persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A conservation organization may retain 10% of the permit bid amount from the auction or fund raising activity for administrative costs. If a conservation organization is paying the permit fee and Wildlife Habitat Authorization fee for the permit recipient, those fees must be paid from the 10% retained by the conservation organization.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Natural Resources  
 Wildlife Resources  
 Suite 2110  
 1594 West North Temple  
 PO Box 146301  
 Salt Lake City, UT 84114-6301, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at [nrdwr.dsundell@email.state.ut.us](mailto:nrdwr.dsundell@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.**

**R657-41. Conservation and Sportsman Permits.**

**R657-41-1. Purpose and Authority.**

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

- (a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and
- (b) sportsman permits.

(2) The division must use all revenue derived from conservation permits for the benefit of the species for which the permit is issued.

**R657-41-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a specific species, and may include an extended season, or legal weapon choice, or both, beyond the general season.
  - (b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.
  - (c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division to generate revenue for the benefit of the species for which the permit is authorized and issued.
  - (d) "Sportsman Permit" means a harvest permit authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

- (e) "Statewide Conservation Permit" means a permit which allows a permittee to hunt:
  - (i) big game species on any open unit from September 1 through December 31, except pronghorn and moose from September 1 through October 31; and
  - (ii) small game species on any open unit during the season authorized by the Wildlife Board.

**R657-41-3. Method for Determining the Number of Conservation and Sportsman Permits.**

- (1) The number of conservation permits ~~issued~~authorized by the Wildlife Board is based on:
  - (a) the species population trend, size, and distribution to protect the long-term health of the population;
  - (b) the hunting and viewing opportunity for the general public, both short and long term; and
  - (c) the potential revenue that will support protection and enhancement of the species.
- (2) The recommended number of conservation permits available will be based on the following table.

TABLE 1  
 PERMIT NUMBERS

Public Permits	Conservation Permits
2-14	1
15-24	2
25-34	3
35-44	4
45-54	5
55-70	6
71-85	7
86-100	8
<del>101-150</del>	<del>9</del>
<del>151-200</del>	<del>10</del>
<del>201+]</del> 101+	9[5%

(3) One statewide conservation permit may be authorized for each big game and small game species for which limited permits are available.

(4) A limited number of area conservation permits may be authorized, with a maximum of ~~[five percent]~~5% of the permits or eight permits, whichever is less, for any unit or hunt area, unless a higher number is specifically authorized by the Wildlife Board.

(5) The number of conservation and sportsman permits available for use during the following year will be determined by the Wildlife Board annually.

~~(6) [Dedicated hunter and poaching reward permits may reduce the formula for conservation permits. Dedicated hunter and poaching reward permits are defined in Rules R657-38 and R657-5 respectively.~~

~~(7) ]~~Conservation permits are deducted from the number of public drawing permits.

~~(8)]~~(7) One sportsman permit may be authorized for each statewide conservation permit authorized.

**R657-41-4. Obtaining Conservation Permits.**

(1) Statewide and area conservation permits are available to eligible conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities.

(2) Conservation organizations may apply for conservation permits by sending an application to the division for each permit requested.

(3) The application must be submitted to the division by ~~June~~September 1 to be considered for the following year's conservation permits. Each application must include:

- (a) the name, address and telephone number of the conservation organization;
- (b) a copy of the conservation organization's mission statement;
- (c) verification of the conservation organization's tax exempt status under Internal Revenue Code, Section 501C-3 as amended;
- (d) the name of the president or other individual responsible for the administrative operations of the conservation organization;
- (e) the type of permit and species for which the permit is requested; and
- (f) any requested variances for an extended season or legal weapon choice for area conservation permits.

(4)(a) Conservation organizations must include the information as provided in Subsection (b) or (c).

(b) The estimated revenue expected to be returned to the division.

(i) The estimated revenue must be based on 90~~percent~~% of the auction or fund raising activity amount being submitted to the division, or the recommended minimum amount listed in the following table, whichever is greater.

(ii) The basis for the estimated ~~return~~revenue to the division must include the conservation organization's experience in similar activities, and details of the marketing plan.

(iii) The remaining ~~ten percent~~10% of the auction or fund raising activity amount may be retained by the conservation organization for administrative expenses. If the conservation organization is paying the permit and Wildlife Habitat Authorization fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization.

TABLE 2  
[TYPE OF PERMIT] RECOMMENDED MINIMUM PERMIT BID AMOUNT

Species	Statewide	
	Statewide [Recommended Bid]	Area
Rocky Mountain Bighorn (Ram)	\$40,000	\$20,000
Desert Bighorn (Ram)	30,000	20,000
Buck Deer	10,000	2,000
Bull Elk	10,000	4,000
Bull Moose	10,000	3,000
Bison (Hunter's Choice)	5,000	5,000
Rocky Mountain Goat (Hunter's Choice)	5,000	3,000
Buck Pronghorn	2,000	1,000
Black Bear	2,000	1,000
Cougar	2,000	500
Turkey	350	250

(c) A specific project proposal that includes:

- (i) a schedule for project completion;
- (ii) the benefits to the affected species;

(iii) justification for the conservation organization retaining more than ten percent of the revenue, showing increased benefit to the species, over remitting the funds to the division. Under this option, the division must receive the cost of the permit.

(iv) Proposals which integrate well with the division's species plans and objectives will be given emphasis in the evaluation.

(5) An application which is incomplete or completed incorrectly may be rejected.

(6) The application of a conservation organization that has not fully reported on the preceding years conservation permits may be rejected.

(7) The division shall recommend the conservation organization to receive each of the conservation permits based on:

- (a) first, the bid amount pledged to the species, adjusted by:
  - (i) the performance of the organization over the previous two years in meeting proposed bids;
  - (ii) if returning the bid amount to the division, the percent of the proposed bid, at least 90%, returned to the division; and
  - (iii) if retaining the bid amount for projects, the increased monetary benefit of the projects, which cannot include any other conservation permit revenue or division funding sources, at least 100% of the bid amount, multiplied by the percent the project integrates with species plans and objectives;

(b) second, if two or more conservation organizations are tied using the criteria in Subsection (a), the closeness of the organization's purpose to the species of the permit; and

(c) third, if two or more conservation organizations are tied using the criteria in Subsection (a) and (b), the geographic closeness of the organization to the location of the permit.

(8) Between the time the division recommends that a conservation permit be awarded to a conservation organization and the time the Wildlife Board approves that recommendation, a conservation organization may withdraw their application for any given permit or exchange their application with another conservation organization without penalty, provided the bid amount upon which the permit application was evaluated is not changed.

(9) The Wildlife Board will make the final assignment of conservation permits at a meeting prior to ~~October~~December 1 annually, based on the:

- (a) ~~application~~division recommendation;
- (b) benefit to the species;
- (c) ~~division recommendation~~historical contribution of the organization to the conservation of wildlife; and
- (d) previous performance of the conservation organization.

~~(7)~~(10) The division and conservation organization receiving the permits shall enter into a contract.

~~(8)~~(11)(a) The conservation organization receiving permits shall certify that the permits are distributed by lawful means.

(b) The conservation organization must notify the division of the proposed permit recipient within 10 days of the recipient selection or the permit may be forfeited.

(c) If a person is selected by a qualified organization to receive a conservation permit and is also successful in obtaining a permit for the same species in the same year through the Bucks, Bulls and Once-In-A-Lifetime Drawing, that person may designate another person to receive the conservation permit, provided the conservation permit has not been issued by the division to the first selected person.

(d) Except as otherwise provided under Subsection (c), a person designated by a conservation organization as a recipient of a conservation permit, may not sell or transfer the rights to that designation to any other person. This does not preclude a person

from bidding or otherwise lawfully acquiring a permit from a conservation organization on behalf of another person who will be identified as the original designated recipient.

(12) By September 1 annually, the conservation organization receiving the permit shall report to the division the distribution of each permit and the status of each project contained in the application.

**R657-41-5. Obtaining Sportsman Permits.**

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

- (a) desert bighorn (ram);
- (b) bison (hunter's choice);
- (c) buck deer;
- (d) bull elk;
- (e) Rocky Mountain goat (hunter's choice)
- (f) bull moose; and
- (g) buck pronghorn.

(2) The following information is provided in the proclamation of the Wildlife Board for taking big game:

- (a) hunt dates;
- (b) open units or hunt areas;
- (c) application procedures;
- (d) fees; and
- (e) deadlines.

**R657-41-6. Using a Conservation or Sportsman Permit.**

(1)(a) A conservation or sportsman permit allows the recipient to take only the species for which the permit is issued.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(2) The recipient of a conservation or sportsman permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

- (3) Bonus points shall not be awarded or utilized:
  - (a) when applying for conservation or sportsman permits; or
  - (b) in obtaining conservation or sportsman permits.

(4) Any person who has obtained a conservation or sportsman permit is subject to all waiting periods as provided in Rules R657-5, R657-6, R657-10 and R657-33.

**KEY: wildlife, wildlife permits**

**[August 19, 1998]1999**

**23-14-18**

**23-14-19**



Public Safety, Driver License  
**R708-30**  
 Motorcycle Rider Training Schools

**NOTICE OF PROPOSED RULE**

(Repeal and reenact)

DAR FILE No.: 21933

FILED: 03/26/1999, 18:48

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule has been repealed and reenacted so we can change the format, clarify and add new language, and rewrite the revocation section so the rule is in compliance with adjudicative proceedings requirements.

SUMMARY OF THE RULE OR CHANGE: In order to make it easier for individuals to read and to find information in the rule, we have simplified the purpose statement, added "Program coordinator" to the definitions section, R708-30-3, and changed section designations from numerals to titles. We have also clarified several sentences and paragraphs by eliminating unnecessary words and phrases. One example of a change is found in Subsection R708-30-5(1) where the new language reads, "Once the school has executed an agreement with the division to provide training for beginner and experienced motorcycle riders, the school may begin to conduct motorcycle rider training" as compared to the old language which reads "Once the school shall have executed an agreement with the State to provide training for beginner and experienced motorcycle riders, and for instructors of such courses, as established/sanctioned by the Motorcycle Safety Foundation and the State of Utah, the school may begin to provide services." Several changes of this type were made in the rule. We have added new requirements to the rule. They are: Subsection R708-30-8(2)(c) that says practice riding procedures must comply with criteria established by the Motorcycle Safety Foundation or (new language) "another nationally recognized motorcycle safety instructor certifying body"; Subsection R708-30-11(2) which says "Each school shall submit to the division a list identifying all motorcycles used for instruction purposes"; Subsection R708-30-12(1)(c) changes the words "meet all State requirements" to "instruct only those students who are at least 16 years of age and have completed an approved driver education course"; and R708-30-12(2) which says "The requirement for a Utah driver license may be waived by the division if the instructor is assigned as active duty military to an installation in Utah." This particular change helps the division ensure instructors are properly qualified to teach in Utah if they are from another state. The revocation section has been re-written to clarify adjudicative proceedings, misstatements or misrepresentation on the application, hearings, etc.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-901(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Dedicated funds are provided to the Driver License Division to administer the Motorcycle Rider Education Program. The changes that were made in this rule do not increase or decrease such funds.

❖LOCAL GOVERNMENTS: Local governments are not involved in the Motorcycle Rider Education Program, and so will see no fiscal impact from the rule.

❖OTHER PERSONS: We do not anticipate any cost increases or decrease to schools, those who instruct motorcycle rider training, or those who take motorcycle rider training due to the rewrite and changes made in the rule because such changes do not involve fiscal matters.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As previously mentioned, there are no compliance costs to the Driver License Division, schools, motorcycle rider instructors, and to those who want to take motorcycle training, because these changes do not involve fiscal matters.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated that there will be no fiscal impact to businesses regarding increases or decreases due to changes made in the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Safety  
Driver License  
Calvin Rampton Building  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 965-4496, or by Internet E-mail at vroos@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: David A. Beach, Director

**R708. Public Safety, Driver License.**

~~[R708-30. Motorcycle Rider Training Schools:~~

~~**R708-30-1. Authority and Purpose:**~~

~~— (1) This rule is authorized by Sections 53-3-903 and 63-46a-3 of the U.C.A. 1953.~~

~~— (2) The purpose of this rule is to establish standards and procedures for schools which enter into an agreement with the Division to provide motorcycle rider training courses in accordance with standards established by the Motorcycle Safety Foundation and the State of Utah.~~

~~**R708-30-2. Definitions:**~~

~~— (1) "Agreement" means a written agreement between the Driver License Division, Department of Public Safety, State of Utah, and a school, institution or individual to provide motorcycle rider training courses for beginner and experienced riders and courses for instructors of such courses.~~

~~— (2) "Commissioner" means the Commissioner of the Department of Public Safety.~~

~~— (3) "Department" means the Department of Public Safety.~~

~~— (4) "Division" means the Driver License Division.~~

~~— (5) "Practice riding" means that portion of instruction during which the student actually rides a motorcycle.~~

~~— (6) "School" means an enterprise owned and operated by an individual, partnership or corporation, public or private, licensed to do business in the State of Utah, for the purpose of providing classroom and practical motorcycle rider training for hire in accordance with rules and regulations promulgated by the Commissioner of Public Safety.~~

~~**R708-30-3. Standards and Procedure:**~~

~~— Section 1:~~

~~— (1) An application for an original or renewal agreement shall be made on a form furnished by the Division and shall include the following:~~

~~— (a) name of the school;~~

~~— (b) address of the school;~~

~~— (c) names of all proposed instructors; and~~

~~— (d) addresses of all instruction sites.~~

~~— (2) Upon receipt of the application, the Division shall schedule an inspection of the school sites, to include all equipment and instructional materials, review the course curriculum and class schedules and determine eligibility of proposed instructors.~~

~~— (3) Following a determination by Division staff that the applicant has met the criteria, the Division and school may then enter into an agreement which will set the date on which the school shall be authorized to commence motorcycle rider training for the State. Said agreement shall terminate on the last day of each fiscal year. The agreement shall allow the school to provide training and instruction for motorcycle riders, but shall not allow the school to bind or obligate the State in any way to issue a motorcycle endorsement or license.~~

~~— (4) Upon execution of the agreement, the school and all approved instructors will be placed on a list provided to all state driver license examining stations. A certificate of approval will be mailed to the school and will indicate the expiration date of the agreement.~~

~~— (5) The agreement shall expire at the end of each fiscal year. No later than three months prior to expiration of the agreement, the school may submit a renewal application to the Division, which is the same process as applying for an original approval.~~

~~— Section 2:~~

~~— (1) Once the school shall have executed an agreement with the State to provide training for beginner and experienced motorcycle riders, and for instructors of such courses, as established/sanctioned by the Motorcycle Safety Foundation and the State of Utah, the school may begin to provide services. The agreement's provisions are intended to define basic components, including:~~

~~— (a) allowing the Division to conduct random examinations, inspections and audits without prior notice during normal business hours;~~

~~— (b) allowing the Division to conduct on-site inspections annually and at any other time deemed necessary by the Division;~~

~~— (c) requiring that all instructors be certified by the Motorcycle Safety Foundation or another nationally recognized motorcycle~~

safety instructor certifying body and approved by the State to provide motorcycle rider training:

~~Section 3:~~

~~(1) To be approved, a school shall:~~

~~(a) make application to and enter into an agreement with the Division as provided in Section 1 above;~~

~~(b) maintain a place of business with at least one permanent regularly occupied structure within the State;~~

~~(c) ensure the place of business meets all requirements of State law and local ordinances;~~

~~(d) have at least one qualified and approved instructor in its employ;~~

~~(e) provide helmets, motorcycles and range equipment for practice riding;~~

~~(f) have readily available emergency equipment (fire extinguisher, fully stocked, industrial-quality first-aid kit, etc.), written procedures for an accident, including emergency telephone numbers, and a telephone within easy access during any range training;~~

~~(g) furnish the Division with written permission to use any facilities not owned or leased by the school. Specific days of use and intended use of the facilities must be indicated, e.g., days: Thursday, Saturday, Sunday, etc., and uses: classroom instruction and operation of motorcycles on property;~~

~~(h) request and obtain approval from the Division of any proposed changes in instructor or administrative procedures;~~

~~(i) make record of and report to the Division within 48 hours any accident or injuries occurring during any phase of any course of instruction;~~

~~(j) provide rider training at remote sites only upon approval and/or request of the Division; and~~

~~(k) not engage the service of an employee of the Division as an instructor, agent or employee.~~

~~(2) Upon approval, the Division will issue a certificate of approval to the school, and each branch office and/or mobile team. The certificate will be conspicuously displayed at all times in the permanent place of business and will be displayed during any period of instruction at all branch offices and mobile training sites.~~

~~Section 4:~~

~~(1) During inspections, a person designated by the school shall accompany the Division representative while performing on-site inspections. On-site inspections shall, at a minimum, consist of:~~

~~(a) verification of compliance by the instructors of requirements prescribed in Section 8 of this rule;~~

~~(b) examination of school records.~~

~~(i) The school must maintain accurate course attendance and completion records, verification of certification of all current instructors and must be able to furnish them upon request.~~

~~(ii) These records must be kept for at least five years.~~

~~(c) Verification of practice riding procedures to insure compliance with criteria established by the Motorcycle Safety Foundation and the State; and~~

~~(d) Reviewing any other items the Division may deem necessary to assure that requirements of the agreement are met.~~

~~(2) Random checks may be made by any designated Division representative to verify compliance with State minimum course instruction standards. Checks by the Division may consist of:~~

~~(a) a Division representative taking any of the courses administered by the school as if said person were a regular student; and~~

~~(b) The Division administering practical skills tests to a sample of riders who have completed the course of instruction presented by the school to determine if the results of the tests administered by the Division are comparable to the results submitted by the school.~~

~~(3) The Division representative shall prepare a written report of all inspections, checks and audits. A copy will be submitted to the school and a copy retained by the Division.~~

~~Section 5:~~

~~(1) Course curriculum will be conducted in accordance with this rule. The Division may provide supplemental instructions, as necessary. Such instructions may include information on course content, practice riding, instructor procedures and administrative procedures and/or changes.~~

~~(2) Courses shall be conducted:~~

~~(a) at locations approved by the Division;~~

~~(b) in compliance with standards by mobile teams at remote sites as well as by instructors/staff at branches and permanent class locations; and~~

~~(c) using Division approved content, forms, scoring procedures and equipment.~~

~~Section 6:~~

~~(1) The school will provide a certificate or card to verify rider competency and successful completion of the prescribed course of instruction, as approved by the State.~~

~~(2) The Division, upon receipt of certification of course completion of a beginner class from an approved school, may waive the practical skills portion of the application for motorcycle license or endorsement to a current driver license.~~

~~(3) The certification of course completion shall include the following information:~~

~~(a) applicant's name;~~

~~(b) title of the course completed;~~

~~(c) date of course completion; and~~

~~(d) authorized signature from the school.~~

~~(4) Riders must submit the certification of course completion of a beginner class to the Division within six months of the date of course completion to be eligible for waiver of the practical skills test.~~

~~Section 7:~~

~~(1) The Division shall obtain through a commercial insurance agency the required liability insurance coverage for all entities involved in providing motorcycle rider training in the State program.~~

~~(a) The Division will also obtain medical and personal injury insurance coverage for all participating students and employees.~~

~~(b) The Division will obtain loss/property damage coverage for all training motorcycles which have been properly identified to the program coordinator.~~

~~(2) Motorcycles covered by insurance obtained by the Division will be used only in rider training courses approved by the Division and only on Division approved ranges.~~

~~Section 8:~~

~~(1) Instructors approved by the Division to conduct motorcycle rider training shall:~~

~~(a) furnish proof of completed training and certification provided by the Motorcycle Safety Foundation or other similar nationally recognized motorcycle safety instruction certifying organization. (Instructors need to be aware that any training they receive from private or other organizations may require a training fee.);~~

~~(b) instruct only those classes which have been approved by the Division;~~

~~(c) instruct only those students who meet all State requirements;~~

~~(d) hold a valid Utah driver license with motorcycle endorsement;~~

~~(e) have a high school diploma or its equivalent;~~

~~(f) be at least 18 years of age;~~

~~(g) have at least two years of recent motorcycle riding experience;~~

~~(h) possess valid Red Cross "Standard" First-Aid and CPR cards, or the equivalent; and~~

~~(i) manifest safe riding habits whenever riding. Instructors are encouraged to wear all protective gear every time they ride. Protective gear includes helmet and eye protection, over-the-ankle footwear (not cloth, canvas, etc.); long non-flare denim pants or material of equivalent durability; long-sleeved shirt or jacket; and full-fingered gloves, preferably leather.~~

~~(2) The Division shall refuse to certify or will revoke certification of an instructor if the applicant:~~

~~(a) has had his or her driver license suspended or revoked during the preceding two years or within the preceding five years if the suspension or revocation was for an alcohol or drug related offense;~~

~~(b) fails to successfully complete an instructor course or required course updates or fails to teach at least two rider training classes per year, one of which must be as the lead instructor, unless written justification for not meeting the teaching requirements is submitted by the instructor and is approved/accepted by the Division; or~~

~~(c) no longer meets the requirements of this section.~~

~~Section 9:~~

~~(1) The Division shall deny any application for a school or an instructor if the applicant does not qualify for approval under provisions of these rules. Misstatements or misrepresentation may be grounds for denying an approval.~~

~~(2) The Division shall cancel the approval of any school or instructor upon the following grounds:~~

~~(a) failure to comply with or satisfy any of the provisions of these rules, the Division's instructions or the school's agreement;~~

~~(b) falsification of any records or information relating to the school's instruction program;~~

~~(c) commission of any act which compromises the integrity of the school's instruction program or the instructor;~~

~~(d) failure to notify the Division within ten days of any change in instructor personnel or testing locations; or~~

~~(e) notification that an instructor's driver license is suspended, revoked, canceled or disqualified.~~

~~(3) If the Division determines that grounds for cancellation exist because of failure to comply with or satisfy any of these requirements or the agreement with the school, the Division may postpone cancellation and allow the school or instructor thirty (30) days to correct the deficiency.~~

~~(4) When an approval is canceled, the school or instructor may request a hearing. A request for an appeal or hearing shall be submitted in accordance with the provisions of sections 63-46b-3 and 63-46b-12, U.C.A., 1953. The hearing shall consist of a finding of whether the alleged infraction(s) occurred and, based upon said findings, whether the cancellation of approval should be rescinded or affirmed.~~

~~(5) Reinstatement following cancellation of approval shall consist of the school or instructor providing proof of compliance and making application for a new approval.~~

~~Section 10:~~

~~(1) No advertisement shall indicate in any way that a program can issue or guarantee the issuance of a motorcycle license or endorsement, imply that the program can in any way influence the Division in the issuance of a motorcycle license or endorsement or imply that preferential or advantageous treatment from the Department can be obtained.~~

~~(2) No instructor, employee or agent of a school shall be permitted to advertise or solicit business or cause business to be solicited in its behalf or display or distribute any advertising material within 1500 feet of a location rented, leased or owned by the Department.~~

~~**KEY: motorcycle rider training program schools**~~  
~~**March 20, 1996**~~ ~~**53-3-903**~~  
~~**63-46a-3**~~

~~**R708-30. Motorcycle Rider Training Schools.**~~

~~**R708-30-1. Purpose.**~~

~~The purpose of this rule is to assist the Driver License Division in administering the Motorcycle Rider Education Program set forth in Title 53, Chapter 3, Part 9, the Motorcycle Rider Education Act.~~

~~**R708-30-2. Authority.**~~

~~This rule is authorized by Subsection 53-3-903(1)(b).~~

~~**R708-30-3. Definitions.**~~

~~(1) "Agreement" means a written agreement between the Driver License Division, and a school, institution, or individual to provide motorcycle rider training courses for beginner and experienced riders and courses for instructors.~~

~~(2) "Division" means the Driver License Division.~~

~~(3) "Practice riding" means that portion of instruction during which the student actually rides a motorcycle.~~

~~(4) "Program coordinator" means the division representative appointed to oversee and direct the Motorcycle Rider Education Program.~~

~~(5) "School" means an institution owned and operated by an individual, partnership or corporation, public or private, licensed to do business in the State of Utah, for the purpose of providing classroom and practical motorcycle rider training.~~

~~**R708-30-4. Application.**~~

~~(1) An application for an original or renewal agreement shall be made on a form furnished by the division and shall include the following:~~

~~(a) name of the school;~~

~~(b) address of the school;~~

~~(c) names of all proposed instructors; and~~

~~(d) addresses of all instruction sites.~~

(2) Upon receipt of the application, the division shall schedule an inspection of the school sites, equipment, instructional materials, course curriculum, class schedules, and shall determine eligibility of proposed instructors.

(3) Once the application has been completed and approved, the division and the school may enter into an agreement allowing the school to conduct motorcycle rider training.

**R708-30-5. Agreement.**

(1) Once the school has executed an agreement with the division to provide training for beginner and experienced motorcycle riders, the school may begin to conduct motorcycle rider training.

(2) The agreement shall allow the school to provide training and instruction for motorcycle riders, but shall not allow the school to bind or obligate the division in any way to issue a motorcycle endorsement or license.

(3) Upon execution of the agreement, the school and all approved instructors will be placed on a list provided to all driver license offices. A certificate of approval will be mailed to the school and will indicate the expiration date of the agreement.

(4) The agreement shall expire on July 1 of each year. No later than three months prior to expiration of the agreement, the school may submit a renewal application to the division.

**R708-30-6. Standards.**

(1) To be approved, a school shall meet the following standards:

(a) make application to and enter into an agreement with the division;

(b) maintain a place of business with at least one permanent occupied structure within the State;

(c) ensure the place of business meets all requirements of State law and local ordinances;

(d) have at least one qualified and approved instructor;

(e) provide helmets, motorcycles and range equipment for practice riding;

(f) have emergency equipment readily available. The emergency equipment shall include an adequate fire extinguisher and a fully stocked, industrial-quality first-aid kit;

(g) have written procedures for responding to accidents, including emergency telephone numbers, and a telephone within easy access during any range training;

(h) furnish the division with written permission to use any facilities not owned or leased by the school. Specific days of use and intended use of the facilities must be indicated, e.g., days: Thursday, Saturday, Sunday, etc.; and uses: classroom instruction and operation of motorcycles on property;

(i) request approval from the division for any proposed changes in instructor or administrative procedures;

(j) make record of and report to the division within 48 hours any accident or injuries occurring during any instruction;

(k) provide rider training at remote sites only upon approval and/or at the request of the division;

(l) not engage the service of an employee of the division as an instructor, agent or employee of the school; and

(m) maintain for five years, and present upon request of the division, verification that all instructors are certified, and attendance and completion records are accurate.

**R708-30-7. Certificate of Approval.**

Upon approval, the division will issue a certificate of approval to the school, each branch office, and/or mobile team. The certificate will be conspicuously displayed at all times in the school's permanent place of business and will be displayed during instruction at branch offices and mobile training sites.

**R708-30-8. Inspections.**

(1) The division may:

(a) conduct random examinations, inspections, and audits without prior notice during normal business hours; and

(b) conduct on-site inspections annually and at any other time deemed necessary by the division.

(2) A person designated by the school shall accompany the division representative while performing on-site inspections. On-site inspections may include:

(a) ensuring that all requirements specified in this rule are met;

(b) examining school records;

(c) ensuring that practice riding procedures comply with criteria established by the Motorcycle Safety Foundation or another nationally recognized motorcycle safety instructor certifying body and the division; and

(d) reviewing any other items the division may deem necessary to ensure that all requirements specified in the agreement are met.

(3) Random checks may be made by any designated division representative to verify compliance with course instruction standards. Checks by the division may include:

(a) having a division representative take a course administered by the school; and

(b) having the division administer practical skills tests to a sample of riders who have completed the course of instruction presented by the school to determine if the results of the tests administered by the division are comparable to the results submitted by the school.

**R708-30-9. Courses.**

(1) Course curriculum will be conducted in accordance with this rule. The division may provide supplemental instruction as necessary. Such instruction may include information on course content, practice riding, instructor and administrative procedures and/or changes.

(2) Courses shall be conducted at locations approved by the division.

(3) Courses shall be conducted using division approved content, forms, scoring procedures and equipment.

(4) Courses conducted by mobile teams at remote sites and branches shall be held to the same standards as required at permanent locations.

**R708-30-10. Certificate of Course Completion.**

(1) The school will provide a certificate of course completion to verify rider competency and successful completion of the prescribed course of instruction.

(2) The certificate of course completion shall include the following:

(a) applicant's name;

(b) title of the course completed;



(c) date of course completion; and

(d) authorized signature from the school.

(3) Upon completion of a beginner class from an approved school, the division may waive the practical skills portion of the application for motorcycle license or endorsement to a current driver license.

(4) Riders must submit to the division the certificate of course completion of a beginner class within six months of the date of course completion to be eligible for waiver of the practical skills test.

**R708-30-11. Insurance Coverage.**

(1) The division shall obtain through a commercial insurance agency the required insurance coverage for all schools involved in providing motorcycle rider training.

(2) Each school shall submit to the division a list identifying all motorcycles used for instruction purposes.

(3) Motorcycles used by the schools for instruction purposes shall be covered by insurance obtained by the division and will be used only in approved rider training courses and only on division approved ranges.

**R708-30-12. Instructors.**

(1) Instructors approved by the division to conduct motorcycle rider training shall:

(a) furnish proof of completed training and certification provided by the Motorcycle Safety Foundation or another nationally recognized motorcycle safety instruction certifying organization;

(b) instruct only those classes which have been approved by the division;

(c) instruct only those students who are at least 16 years of age and have completed an approved driver education course;

(d) except as set forth in paragraph two of this section, have a valid Utah driver license with motorcycle endorsement;

(e) have a high school diploma or its equivalent;

(f) be at least 18 years of age;

(g) have at least two years of recent motorcycle riding experience;

(h) possess valid Red Cross standard first-aid and CPR cards, or their equivalent; and

(i) manifest safe riding habits whenever riding.

(2) The requirement for a Utah drive license may be waived by the division if the instructor is assigned as active duty military to an installation in Utah.

(3) Instructors are encouraged to wear all protective gear every time they ride. Protective gear includes helmet and eye protection, over-the-ankle footwear (not cloth, canvas, etc.), long non-flare denim pants or material of equivalent durability, long-sleeved shirt or jacket, and full-fingered gloves (preferably leather).

(4) The division shall refuse approval or will revoke approval if the applicant/instructor:

(a) no longer meets the requirements of this section;

(b) has had a driver license suspended or revoked during the preceding two years or within the preceding five years if the suspension or revocation was for an alcohol or drug related offense; or

(c) fails to successfully complete an instructor course or required course updates, or fails to teach at least two rider training classes per year, one of which must be as the lead instructor. An

exception to this requirement may be granted if written justification for not meeting the teaching requirements is submitted by the instructor and is approved/accepted by the division.

**R708-30-13. Advertisement.**

(1) No school advertisement may:

(a) indicate in any way that a program can issue or guarantee the issuance of a motorcycle license or endorsement;

(b) imply that a program can in any way influence the division in the issuance of a motorcycle license or endorsement; or

(c) imply that preferential or advantageous treatment from the division can be obtained.

(2) No instructor, employee or agent of a school may be permitted to advertise or solicit business or cause business to be solicited in its behalf, or display or distribute any advertising material within 1500 feet of a location rented, leased, or owned by the division.

**R708-30-14. Revocation.**

(1) In accordance with Subsection 63-46b-4(1), the division designates all adjudicative proceedings associated with this rule as informal adjudicative proceedings.

(2) The division shall deny approval of an application for a school or an instructor if the applicant does not qualify for approval under provisions of this rule.

(3) The division may deny approval or revoke approval of a school or instructor for any of the following reasons:

(a) failure to comply with any provision of this rule or the school's agreement;

(b) falsification of any records or information relating to the school's instruction program;

(c) commission of any act which compromises the integrity of the school's instruction program or the instructor;

(d) failure to notify the division within ten days of any change in instructor personnel or testing locations;

(e) notification that an instructor's driver license is suspended, revoked, canceled or disqualified; or

(f) misstatements or misrepresentation on the application.

(4) If the division determines that reasons for revocation exist because of failure to comply with any provision of this rule or the school's agreement, the division may postpone revocation and allow the school or instructor up to thirty (30) days to correct the deficiency.

(5) A school or instructor who receives notice that the division intends to revoke their approval is entitled to a hearing. The hearing will be conducted by a person appointed by the division director.

(a) The party requesting the hearing must file the request for hearing within ten days from the date notice of the division's intent to revoke is received.

(b) The person conducting the hearing will issue a written decision that complies with Subsection 63-46b-5(1)(i) within ten days following the hearing.

(6) The decision of the person conducting the hearing will be considered final agency action. A party wishing to contest the decision may:

(a) file a request for reconsideration with the division in accordance with Section 63-46b-13; or

(b) seek judicial review in accordance with Section 63-46b-14.

(7) Reinstatement following revocation of approval may take place only after:

(a) a new application for approval is filed;

(b) the division is satisfied that the reason for revocation no longer exists; and

(c) the division is satisfied that approval of the school or instructor is in the best interests of the public and will not jeopardize public safety.

KEY: motorcycle rider training schools 1999

53-3-903

Notice of Continuation February 17, 1999

Public Safety, Law Enforcement and Technical Services, Regulatory Licensing R724-7 Undercover Driver's License

NOTICE OF PROPOSED RULE

(Repeal and reenact) DAR FILE NO.: 21929 FILED: 03/22/1999, 09:03 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The main purpose of this rule change is to tighten the department's control and oversight of the undercover identification program.

SUMMARY OF THE RULE OR CHANGE: The following substantive provisions in the repealed rule are eliminated from the enacted rule: (1) the provision stating that a court order can be used to implement the undercover identification procedure; (2) the provision providing that an undercover driver license will not be issued if the applicant does not have a valid driver license; (3) the provision limiting three undercover driver licenses per applicant; and (4) the provision requiring the undercover driver license to be of the same class as the applicant's valid driver license. The following new substantive provisions appear only in the enacted rule: (1) the authority section; (2) the definitions section; (3) the provision providing for a six-month expiration; (4) the provision providing for revocation; (5) the provision providing for appeal of a decision denying or revoking undercover identification; and (6) the provision establishing protected status for undercover identification records.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-10-104

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: This rule change will have no fiscal impact on the state because even though it strengthens the state's oversight and control over the undercover identification program, it will not appreciably increase agency workload.

LOCAL GOVERNMENTS: This rule change will have no fiscal impact on local government because it will not require local law enforcement agencies to do anything appreciably different than they are currently doing to obtain undercover identification.

OTHER PERSONS: This rule change will have no fiscal impact on other persons (peace officers) because it will not require them to do anything appreciably different than they are currently doing to obtain undercover identification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs associated with this rule change for affected persons because it will not require such persons to do anything appreciably different than they are currently doing to obtain undercover identification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact on businesses because it does not apply to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Safety Law Enforcement and Technical Services, Regulatory Licensing Second Floor, Calvin L. Rampton Complex 4501 South 2700 West Box 148280 Salt Lake City, UT 84114-8280, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at (801) 965-4463, by FAX at (801) 965-4608, or by Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Richard A. Greenwood, Superintendent

R724. Public Safety, Law Enforcement and Technical Services, Regulatory Licensing.

[R724-7. Undercover Driver's License:

R724-7-1. Procedures:

A. A letter must be furnished by the head of the requesting agency, (or his designated representative), requesting a driver's license for a specific purpose, with the name of the person to be licensed. The letter should also state that the requesting agency accepts responsibility for the actions of the person the undercover license is issued to.

~~— B. A Court Order can also be used to implement this procedure.~~

~~— C. When the undercover assignment is completed the license must be returned to the Bureau of Regulatory Licensing. If an undercover license is lost a lost license affidavit shall be completed or a letter indicating the license number and name used.~~

~~— D. A licensee shall not loan his/her license to anyone.~~

~~— E. If the person applying for an undercover license, has a suspended, revoked, canceled or denied driver license, an undercover license will not be issued.~~

~~— F. Undercover driver licenses will not be issued to anyone other than law enforcement personnel.~~

~~— G. When applying for an undercover license a regular driver license application must be filled out in the assumed name accompanied by the letter of request from the requesting agency head.~~

~~— H. If the requesting agency desires to have undercover credentials for individuals other than peace officers, a letter, as required under A. of this rule must also be submitted and a State identification card will be issued.~~

~~— I. The person applying must list their present driver license number.~~

~~— J. An appointment must be made by phone with the Bureau of Regulatory Licensing before appearing at the office.~~

~~— K. No more than three undercover licenses will be issued to an officer, without approval from the Commissioner of the Department of Public Safety.~~

~~— L. An undercover license shall not be used for personal violations, etc., only for use in the undercover assignment.~~

~~— M. The undercover license shall be of the same class or equivalent to the driver license that is held by the officer making application.~~

**KEY: driver licenses, law enforcement**

~~1993~~

~~41-13-4~~

~~Notice of Continuation July 21, 1998]~~

**R724-7. Undercover Identification.**

**R724-7-1. Purpose.**

The purpose of this rule is to establish a program whereby the Department of Public Safety can assist federal, state, county, and local law enforcement agencies in concealing the true identity of undercover peace officers.

**R724-7-2. Authority.**

This rule is authorized by Subsections 53-10-104(1), 53-10-104(9), and 53-10-104(14).

**R724-7-3. Definitions.**

(1) "Chief administrative officer" means the commissioner of public safety, a chief of police or sheriff of any municipality or county of this state, or the agent in charge of operations in this state for any federal law enforcement agency.

(2) "Peace officer" means anyone employed in one of the four peace officer classifications in Section 53-13-102.

(3) "Undercover identification" means identification issued to a peace officer which allows the true identity of the officer to be concealed from criminal suspects and their associates.

(4) "Undercover investigation" means a criminal investigation conducted by a peace officer which is authorized by the officer's agency and where the true identity of the officer must be concealed from criminal suspects and their associates.

**R724-7-4. Type of Assistance Provided.**

The department will assist federal, state, county, and local law enforcement agencies in obtaining identification and personal history information for their peace officers who conduct undercover investigations.

**R724-7-5. Issuance of Undercover Identification.**

(1) The department may issue an undercover identification after receiving a written request from the chief administrative officer of a law enforcement agency. This request must be on official agency letterhead and shall include:

(a) the reason the undercover identification is needed;

(b) the real name and date of birth of the officer needing undercover identification;

(c) the undercover name, date of birth, social security number, and address to be used by the officer; and

(d) the original signature of the chief administrative officer.

(2) Each request may be for one officer only. Multiple requests in the same letter will not be honored.

(3) Processing a request for undercover identification is time consuming for the department. Therefore, for the convenience of all parties, the officer intending to apply for undercover identification must call the department's Bureau of Criminal Identification (BCI) at (801) 965-4484 and make an appointment prior to coming in to apply for undercover identification.

(4) At the time of issuance the officer must:

(a) present to BCI (4501 South 2700 West, Second Floor, Salt Lake City, Utah) the original letter of request from the chief administrative officer;

(b) provide a copy of valid identification issued by the officer's agency indicating that he/she is a peace officer; and

(c) complete the application form provided by the department.

(5) The department may issue an undercover identification if the requirements of this rule are met and the department believes that such issuance is in the best interests of law enforcement.

**R724-7-6. Expiration of Undercover Identification.**

(1) Undercover identification issued pursuant to this rule:

(a) shall automatically expire six months after it is issued;

(b) must be returned to the department by the officer's agency within 30 days in the case of an officer who is reassigned to a position no longer requiring the use of undercover identification; and

(c) must immediately be returned to the department by the officer's agency in the case of an officer who terminates employment with the agency.

(2) No officer may be issued undercover identification if any undercover identification previously issued to another officer of the same agency is not accounted for to the satisfaction of the department.

(3) A chief administrative officer may request that an undercover identification issued to an officer of his/her agency be extended beyond the six month expiration referred to in this section if:

(a) a written request for extension signed by the chief administrative officer is received by the department prior to the expiration date; and

(b) the written request demonstrates to the satisfaction of the department extenuating circumstances justifying the extension.

**R724-7-7. Revocation of Undercover Identification.**

The department may revoke an undercover identification:

(1) if the undercover identification was used for a purpose not related to an active undercover investigation;

(2) if the officer has been charged with a crime or is under investigation for any wrong doing that would compromise the undercover identification program or not be in the best interests of law enforcement; or

(3) for any violation of this rule.

**R724-7-8. Surrender of Undercover Identification.**

A peace officer whose undercover identification has expired or which has been revoked shall immediately surrender his/her undercover identification to the department.

**R724-7-9. Appeal.**

(1) In accordance with Subsection 63-46b-4(1) the department hereby designates all adjudicative proceedings associated with this rule as informal adjudicative proceedings.

(2) An officer (appellant) whose request for undercover identification has been denied or whose undercover identification has been revoked, may appeal such denial or revocation to the department's administrative law judge (ALJ). The appeal must be filed on a form provided by the department. The appeal shall be considered a request for agency action in accordance with Subsection 63-46b-3(1)(b).

(a) The appeal must be filed within thirty days after the appellant receives notice of the denial or revocation.

(b) The appellant will not receive a hearing on the appeal. The ALJ will review the appeal and issue a written decision on it in compliance with Subsection 63-46b-5(1)(i) within ten days after receiving it.

(3) An appellant who is dissatisfied with the ALJ's decision may file a request for reconsideration with the ALJ within ten days after receipt of the decision. If the ALJ does not issue an order within twenty days after receiving the request for reconsideration, the request for reconsideration shall be considered denied, and the appellant may seek judicial review in accordance with Section 63-46b-15.

**R724-7-10. Records Protected.**

All records pertaining to the issuance of an undercover identification shall be protected under Subsection 63-2-304 (9).

**KEY: law enforcement, criminal investigation, undercover identification**

**1999**

**53-10-104**

**Notice of Continuation July 21, 1998**



**Public Safety, Law Enforcement and  
Technical Services, Regulatory  
Licensing  
R724-9  
Licensing of Private Investigators**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 21934

FILED: 03/31/1999, 08:32

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to make the rule consistent with changes made to the private investigator statute by the 1998 legislature, which was H.B. 6.

(DAR Note: H.B. 6 is found at 1998 Utah Laws 212, and is effective as of May 4, 1998.)

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies the section regarding the issuance of identification cards to agency applicants, allows for registrants and apprentices to work under contract with private investigator agencies, and deletes the provision stating that identification cards for registrants and apprentices expire on the date of the private investigator agency license under which the registrant or apprentice is employed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-9-103(6)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule change will have no fiscal impact on the state because the changes merely clarify existing agency practices.

❖LOCAL GOVERNMENTS: This rule change will have no fiscal impact on local government because the rule does not apply to local government.

❖OTHER PERSONS: This rule change expands the employment opportunities for registrants and apprentices by allowing them to work for private investigator agencies on a contract basis, rather than just on an employer-employee basis. It is impossible to quantify the amount of any monetary increase to such persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this rule change will not require affected persons to do anything differently than they are currently doing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change increases the flexibility and employment options available to private investigator agencies by allowing them to hire registrants and apprentices on a contract basis rather than just on an employer-employee basis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Public Safety  
Law Enforcement and Technical Services,  
Regulatory Licensing  
Second Floor, Calvin L. Rampton Complex  
4501 South 2700 West  
Box 14280  
Salt Lake City, UT 84114-8230, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jamie Allred at the above address, by phone at (801) 965-4749, by FAX at (801) 965-4608, or by Internet E-mail at psmain.jallred@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Richard A. Greenwood, Deputy Commissioner

**R724. Public Safety, Law Enforcement and Technical Services, Regulatory Licensing.**

**R724-9. Licensing of Private Investigators.**

**R724-9-1. Purpose.**

The purpose of this rule is to define the licensing and regulation standards of private investigators as set forth in Title 53, Chapter 9, the "Private Investigator Regulation Act."

**R724-9-2. Authority.**

This rule is authorized by Subsection 53-9-103(6).

**R724-9-3. Definitions.**

A. Terms used in this rule are defined in Section 53-9-102.

B. In addition:

1. "Act constituting dishonesty or fraud" as used in Subsection 53-9-108(1)(a)(iv), means conviction of any crime as itemized in R724-4-3(M).

2. "Act involving illegally using, carrying, or possessing a dangerous weapon" as used in Subsection 53-9-108(1)(a)(ii), means conviction of any firearms violation involving a crime of violence.

3. "Act of personal violence or force on any person or threatening to commit any act of personal violence or force against another person" as used in Subsection 53-9-108(1)(a)(iii), means conviction of any crime in Subsection 76-10-501(2)(b).

4. "Division" means the Division of Law Enforcement and Technical Services of the Department of Public Safety.

5. "Moral turpitude" as used in Subsection 53-9-108(1)(a)(v), means conviction of any crime in R724-4-3(M).

**R724-9-4. Application.**

A. Applicants must use the application form provided by the division.

B. Applicants will be classified into three categories as set forth in Section 53-9-107: agencies, registrants, and apprentices.

1. If approved for licensure, an agency applicant will receive one private investigation agency license and one [~~registrant license~~] identification card.

2. Registrants and apprentices must be employed or contracted by a licensed agency.

C. Applicants must meet the qualifications set forth in Section 53-9-108 and will be required to provide all of the information and fees as set forth in Sections 53-9-109 through 111. Previous work experience must be verifiable for it to apply to the work experience requirement.

**R724-9-5. Fees.**

A. The information regarding license and registration fees as established by Section 53-9-111, shall apply to this rule.

B. In addition[~~;~~], in accordance with Section 53-9-111, a fee of \$24 shall be charged for fingerprint processing and background investigation for each applicant. This fee is non-refundable.

~~1. In accordance with Section 53-9-111, a fee of \$24 shall be charged for fingerprint processing and background investigation for each applicant. This fee is non-refundable.~~

~~2. In the case of an applicant whose registration will expire in less than two years due to the earlier expiration date of the agency license under which the applicant is employed, the \$100 application fee shall be prorated on a monthly basis.]~~

**R724-9-6. Issuance and Expiration of Identification Cards.**

A. Information regarding the issuance and expiration of identification cards is set forth in Section 53-9-112.

B. In addition:

1. The board shall not issue licenses or registrations, but rather shall review applications and then make recommendations to the commissioner for approval or disapproval.

2. Upon approval by the commissioner, the division shall issue to the applicant an identification card that will expire two years from the issue date.]

~~3. However, in the case of a registrant or apprentice, the identification card will expire on the expiration date of the agency license under which the registrant or apprentice is employed.]~~

**R724-9-7. Records Access.**

A. Information supplied to the division by an applicant, including the completed application form, shall be considered "private" information in accordance with Subsection 63-2-302(2)(d).

B. Information gathered by the division in the course of investigating an application or complaint shall be considered "protected" information in accordance with Subsections 53-9-118(2)(e) and 63-2-304(8). However, if such information is used as the basis for denial of a license or registration or discipline of a licensee or registrant, such information shall be considered "private" information in accordance with Subsection 63-2-302(2)(d) and the applicant shall have access to it.

**R724-9-8. Adjudicative Proceedings.**

A. The adjudicative proceedings set forth in this section shall be conducted informally as authorized by Section 63-46b-4 and as set forth in Section 63-46b-5.

B. Denials of initial and renewal licenses or registrations are appealable as set forth in Section 53-9-113.

C. The board may take disciplinary action against a licensee or registrant for violation of Subsection 53-9-118(1).

1. Except for summary suspension in emergency cases, disciplinary action will be taken only after the issuance of a notice of intent to discipline and an opportunity for hearing. A letter of caution is not considered to be disciplinary action and is not appealable.

2. The notice of intent to discipline will be issued by the commissioner, and will notify the licensee or registrant of the charge(s) and the right to a hearing before the board within 60 days.

3. Following the hearing, the board may take any of the actions set forth in Subsection 53-9-118(6).

D. Appeals to the Commissioner on denials of initial and renewal licenses or registrations are provided for in Subsection 53-9-113(4). Appeals to the commissioner on disciplinary action are provided for in Subsection 53-9-118(8). Such appeals to the commissioner shall not result in de novo hearings before the commissioner, but rather shall result in a review of the board's findings by the department's administrative law judge, who shall review the board's findings and issue a recommendation to the commissioner for the commissioner's approval and decision. The decision of the commissioner is appealable to the district court in accordance with Subsection 53-9-113(5) and Subsection 53-9-118(9) pursuant to Section 63-46b-15.

**KEY:** [~~investigators license, licensing-~~]private investigators, license

[November 14, 1995]1999

53-9-103(6)



School and Institutional Trust Lands,  
Administration  
**R850-40-1600**  
Easement Assignments

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 21932  
FILED: 03/26/1999, 15:35  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to this rule will allow the director to negotiate easement fees under specified circumstances.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule will allow the director to negotiate a non-standard fee in instances where the cost for assignment of easements becomes burdensome and excessive, or the assignment facilitates an agency objective.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53C-1-302 and 53C-4-203, and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: May reduce revenues in rare instances. Not anticipated to exceed \$10,000 per year.

❖LOCAL GOVERNMENTS: Local governments rarely transfer easements and, consequently, will likely not be affected by this rule change. Any potential impact will be to decrease their payment obligations.

❖OTHER PERSONS: Slight positive impact to energy-related industries.

COMPLIANCE COSTS FOR AFFECTED PERSONS: May result in savings to existing easement holders.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule provides efficient regulation of the assignment and conveyance of certain real property rights from one private entity to another while preserving the value of trust land assets for beneficiaries.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

School and Institutional Trust Lands  
Administration  
Suite 500  
675 East 500 South  
Salt Lake City, UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at (801) 538-5100, by FAX at (801) 355-0922, or by Internet E-mail at tlmain.kcarter@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Kevin S. Carter, Assistant Director/ Surface

**R850. School and Institutional Trust Lands, Administration.  
R850-40. Easements.  
R850-40-1600. Easement Assignments.**

1. An easement may be assigned to any person, firm, association, or corporation qualified under R850-3-200, provided that:

(a) the assignment is approved by the agency;

(b) if the easement term is perpetual, the easement shall be amended so that the term is 30 years beginning as of the original effective date. However, if the remaining number of years on an easement so amended is less than 15 years, the ending date of the easement shall be set so that there will be 15 years remaining in the easement; and

(c) the assignor agrees to pay:

(i) the difference between what was originally paid for the easement and what the agency would charge for the easement at the time the application for assignment is submitted[-], or

(ii) an alternate fee established by, and at the discretion of, the director. In allowing for any alternate fee the director may consider the following factors:

(A) the fee established under 1(c)(i) would exceed \$10,000, or would otherwise create an undue financial burden upon the applicant, or

(B) the assignment facilitates an agency objective.

2. An assignment shall take effect the date of the approval of the assignment. On the effective date of any assignment, the assignee is bound by the terms of the easement to the same extent as if the assignee were the original grantee, any conditions in the assignment to the contrary notwithstanding.

3. An assignment must be a sufficient legal instrument, properly executed and acknowledged, and should clearly set forth the easement number, land involved, and the name and address of the assignee and, for the purpose of this rule shall include any agreement which transfers control of the easement to a third party.

4. An assignment shall be executed according to agency procedures.

5. An assignment is not effective until approval is given by the agency. Any assignment made without such approval is void.

**KEY: natural resources, management, surveys, administrative procedure**

~~July 2, 1996~~ May 18, 1999

Notice of Continuation June 30, 1997

53C-1-302

53C-2-201(1)(a)

53C-4-203



## Tax Commission, Property Tax **R884-24P-27**

### Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 21930

FILED: 03/23/1999, 12:46

RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-704 provides the justification and provisions of the proposed amendment. Subsection 59-2-704(2) states that the commission shall each year, order each county to adjust or factor its assessment rates using the most current studies so that the assessment rate in each county is in accordance with that prescribed in Section 59-2-103. Section 59-2-103 explains that, "all tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value..." This amendment also incorporates and implements recent commission appeal decision and policy direction.

SUMMARY OF THE RULE OR CHANGE: This amendment indicates when a sample size smaller than 10, or 10 percent of the class or subclass population may be used to evaluate assessment performance and initiate corrective action; provides direction on conducting an alternate performance evaluation if the sample size is not large enough to produce reliable statistical analysis; and provides procedures to ensure compliance and facilitate implementation of ordered corrective action related to county assessment practices.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-704.5

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no anticipated cost or savings to the state budget. This administrative rule deals with maintaining assessment equity for all locally assessed real property. It does not change the tax dollars due, it simply defines policy and procedure to ensure assessment equity. This rule will have no effect on the Uniform School Fund.

❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government budgets. This administrative rule deals with maintaining assessment equity for all locally assessed real property. It does not change the tax dollars due, it simply defines policy, procedure, and responsibilities to ensure assessment equity. While factor orders do require additional county administrative, computer and appraisal resources to implement, previous orders have typically been met with resources available at the time. Under very limited circumstances a county may receive a factor order which includes a recommendation that the county commit more resources to the assessment function to meet standards.

❖OTHER PERSONS: There will be some undermined cost or savings to real property owners who live in an area subject to a factor order. While this is not different from past years and does not affect the tax dollars collected by any taxing entity, factor orders potentially cause cost or savings to individual taxpayers by the valuation shifts required to produce equity in assessments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The sales ratio study is a statutory requirement for state and local governments to ensure assessment equity. The study itself and all administrative activities related to the study are essentially transparent to the taxpayer. There is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT

THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts. The amendment provides a procedure to evaluate assessment performance if there are less than ten sales in a study.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Tax Commission  
Property Tax  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 5/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 5/18/1999

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.****R884-24P. Property Tax.****R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5.**

## A. Definitions.

1. "Coefficient of dispersion (COD)" means the average deviation of a group of assessment ratios taken around the median and expressed as a percent of that measure.

2. "Coefficient of variation (COV)" means the standard deviation expressed as a percentage of the mean.

3. "Division" means the Property Tax Division of the State Tax Commission.

4. "Nonparametric" means data samples that are not normally distributed.

~~4.~~5. "Parametric" means data samples that are normally distributed.

~~5.~~6. "Urban counties" means counties classified as first or second class counties pursuant to Section 17-16-13.

B. The Tax Commission adopts the following standards of assessment performance regarding assessment level and uniformity:

1. ~~[Adjustment shall be ordered] Upon completion by the Division of the annual Assessment/Sales Taxation Study, the Division shall issue a corrective action order~~ for a property class or subclass if the measure of central tendency is not within 10 percent of the legal level of assessment or the 95 percent confidence interval of the measure of central tendency does not contain the legal level of assessment.

a) The measure of central tendency shall be the mean for parametric samples and the median for nonparametric samples.

b) The adjustment shall be calculated by dividing the legal level of assessment by the measure of central tendency when uniformity meets the standards in B.2., or by the 95 percent confidence interval limit nearest the legal level of assessment when the standards in B.2. are not met.

2. Corrective action for the property being appraised under the cyclical appraisal plan for a given year shall be ordered by the Division if the measure of dispersion is outside the following limits for the coefficient of dispersion (COD), or for the coefficient of variation (COV) when data are normally distributed:

a) In urban counties, the limit for the COD is 15 percent or less for primary residential and commercial property, and 20 percent or less for vacant land and secondary residential property.

b) In rural counties, the limit for the COD is 20 percent or less for primary residential and commercial property, and 25 percent or less for vacant land and secondary residential property.

c) The limit for the COV is 1.25 times the COD.

d) Corrective action may contain language requiring a county to create or follow its cyclical appraisal plan.

e) If the sample size does not meet the requirements of B.3., or if there is reason to question the reliability of statistical data achieved under B.3., an alternate performance evaluation shall be conducted, which may result in corrective action. The alternate performance evaluation shall include review and analysis of the following:

(1) the county's procedures for use and collection of market data, including sales, income, rental, expense, vacancy rates, and capitalization rates;

(2) the county-wide land, residential, and commercial valuation guidelines and their associated procedures for maintaining current market values;

(3) the accuracy and uniformity of the county's individual property data through a field audit of randomly selected properties;

(4) the county's level of personnel training, ratio of appraisers to parcels, level of funding, and other workload and resource considerations.

3. To achieve statistical accuracy in determining assessment level under B.1. and uniformity under B.2. for any property class or subclass, the acceptable sample size shall consist of 10 or more ratios.

a) To meet the minimum sample size, the study period may be extended.

b) ~~[A smaller sample size may be used if that sample size is at least 10 percent of the class or subclass population.] A smaller sample size may be used if:~~

(1) that sample size is at least 10 percent of the class or subclass population; or

(2) both the Division and the county agree that the sample may produce statistics that infer corrective action appropriate to the class or subclass of property.

c) ~~[All input to the sample used to measure performance shall be completed by September first of each study cycle.] If the Division determines that the sample size does not produce reliable statistical data, an alternate performance evaluation may be conducted, which may result in corrective action. The alternate performance evaluation shall include review and analysis of the following:~~

(1) the county's procedures for collection and use of market data, including sales, income, rental, expense, vacancy rates, and capitalization rates;

(2) the county-wide land, residential, and commercial valuation guidelines and their associated procedures for maintaining current market values;

(3) the accuracy and uniformity of the county's individual property data through a field audit of randomly selected properties; and

(4) the county's level of personnel training, ratio of appraisers to parcels, level of funding, and other workload and resource considerations.

4. All input to the sample used to measure performance shall be completed by September first of each study cycle.

5. Corrective action may contain language requiring a county to create or follow its cyclical appraisal plan.

C. The Tax Commission adopts the following procedures to insure compliance and facilitate implementation of ordered corrective action:



1. The Division shall retain authority to correct errors and with agreement of the affected county, issue amended orders without Tax Commission approval. The Division may not agree to any stipulation subsequent to an appeal without Tax Commission approval.

2. A county receiving a corrective action order resulting from this rule may file and appeal with the Tax Commission pursuant to Tax Commission rule R8651-1A-11.

3. A corrective action order will become the final Tax Commission order if the county does not appeal in a timely manner, or does not prevail in the appeals process.

4. The Division may assist local jurisdictions to ensure implementation of any corrective action orders by the May 22 deadline.

5. The Division shall complete audits to determine compliance with corrective action orders as soon after the assessment roll closes on May 22 as practical. The Division shall discuss results of the compliance audit with the county by July 1 of each assessment cycle. The compliance audit will then be given to the Tax Commission for any necessary action. Except for mathematical errors, compliance audits are not subject to appeal.

6. The county shall be informed of any adjustment required as a result of the compliance audit. Any required adjustment shall appear on the notice required under Section 59-2-919 (4) and Tax Commission rule R884-24P-24 for the current year. This notice shall not be mailed to taxpayers until required adjustments are implemented.

**KEY: taxation, personal property, property tax, appraisal**  
**[January 12,]1999** **59-2-704**  
**Notice of Continuation May 8, 1997**



**Tax Commission, Property Tax**  
**R884-24P-32**  
**Leasehold Improvements Pursuant to**  
**Utah Code Ann. Section 59-2-303**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 21931  
FILED: 03/23/1999, 12:46  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-303 states that the county assessor shall assess property to "...the owner, claimant of record, or occupant in possession or control."

SUMMARY OF THE RULE OR CHANGE: This amendment provides that the value of leasehold improvements shall be included

in the value of the underlying real property and assessed to the owner of the underlying real property. The intent of this amendment is also to reduce and eliminate the double-assessment of leasehold improvements and to increase administrative consistency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-303

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no anticipated cost or savings to the state budget. This section deals with locally assessed real property. It does not change the tax dollars due, it simply assesses the property to the party ultimately responsible to pay the tax. This section will have no effect on the Uniform School Fund.

❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government budgets. This section deals with locally assessed real property. It does not change the tax dollars due, it simply assesses the property to the party ultimately responsible to pay the tax. It will cause a slight shift in the assessor's office workload. It will slightly decrease the work of the personal property staff and slightly increase the work of the real property staff.

❖OTHER PERSONS: There will be some undetermined cost to real property owners who rent and lease property where leasehold improvements exist. It is anticipated that the majority of this cost will relate to the re-negotiation of leases. Real property owners will now be responsible to pay the taxes on leasehold improvements that have typically been picked up by the lessee, and it is anticipated that some leases will have to be re-negotiated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an undetermined cost savings to lessees in control of leasehold improvements. Since leasehold improvements will now be the responsibility of the real property owner, lessees will no longer have to track and report leasehold improvements through the personal property affidavit process. This should somewhat reduce accounting and reporting costs. There will also be a cost savings to lessees to dispute and litigate the double assessment issue. Many lessees have argued over time that much of the value assessed to leasehold improvements is in fact double-assessment, and that the value of the leasehold improvements has already been included in the real property assessment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Owners of some real estate will see slightly higher tax assessments because of the leasehold being valued with the real estate and some businesses that are currently leasing space will have reduced assessments for the same reason.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Tax Commission  
Property Tax  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.****R884-24P. Property Tax.****R884-24P-32. Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303.**

~~[A. Leasehold improvements under the control of the lessee shall be taxed as personal property of the lessee:~~

~~— B. If not taxed as personal property of the lessee, the value of leasehold improvements shall be included in the value of the real property.]~~A. The value of leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property.

B. The provisions of this rule shall not apply of the underlying real property os owned by an entity exempt form tax under Section 59-2-1101.

C. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, 2000.

**KEY: taxation, personal property, property tax, appraisal**

~~[January 12, ]~~1999

59-2-303

Notice of Continuation May 8, 1997

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**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public 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.

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 (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 31, 1999. At its option, the agency may hold public hearings.

From the end of the waiting period through June 29, 1999, the agency may notify the Division 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 this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

Insurance, Administration  
**R590-190**  
 Unfair Property, Liability and Title  
 Claims Settlement Practices Rule

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 21767  
 FILED: 04/01/1999, 17:11  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to comments received during hearing and comment period, additional changes are now being proposed.

SUMMARY OF THE RULE OR CHANGE: In Section R590-190-3, capitalize the first letter of the first word of each subsection. In Section R590-190-5, Subsections R590-190-5(1) and R590-190-5(2) are being combined to avoid duplication. Subsection R590-190-5(3) is being changed to clarify the wording and correct grammar. Subsection R590-190-6(2) is being moved to Section R590-190-10. The new Subsection R590-190-10(2) is being changed to clarify when a response to a claimant is provided. Section R590-190-9 clarifies the commissioner's authority to define the types of acts described in this section. Subsection R590-190-9(4) is being changed to clarify that the guidelines are created by the insurer. Subsection R590-190-10(2) provides additional clarification of when notice needs to be given. Subsection R590-190-10(4) has been changed to make the intent clearer. Subsection R590-190-10(6) was moved from Section R590-190-6 because it applied more to the actual practice of requiring response times to the Department. Subsection R590-190-11(2) clarifies that third party loss settlements are excluded from this part of the rule. Subsection R590-190-11(5) now requires the insurer to include deductible reimbursement to first party claimants without the claimant's request to do so. Subsection R590-190-11(7) will require the insurer to itemize deductions and provide it to the claimant. Subsection R590-190-11(11) provides a code citation for clarification. Subsection R590-190-11(13) is being deleted because it is a duplication of Subsection R590-190-12(6). Section R590-190-12 clarifies the commissioner's authority to define the types of acts described in this section. Subsection R590-190-12(6) no longer requires insurers to provide the name of the salvage dealer that will purchase the salvage.

**(DAR Note:** The original proposed new rule upon which this change in proposed rule is based was published in the January 15, 1999, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-308, 31A-21-312, and 31A-26-303

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These changes will not increase fees to the department or require the department to hire additional help.

❖LOCAL GOVERNMENTS: This rule does not affect local government. They are not involved in its regulation or receive money as a result of it.

❖OTHER PERSONS: The change in Subsection R590-190-11(5) requiring insurers to return their insured's deductible when the insured's claim is subrogated, may increase the insurer's costs if in the past they have only returned deductibles when requested by their insured. The change in Subsection R590-190-11(7) may cost insurers additional time if they are not already itemizing the reduction in a claim due to betterment or depreciation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The individual costs referred to in the "Other persons" section is dependant upon current practices in each insurance company and would be impossible for the Department to know. Their effects would probably be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The majority of the changes made to this rule have come from representatives of the Utah insurance industry and will create a minimal, if any, fiscal impact on them.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance  
 Administration  
 3110 State Office Building  
 Salt Lake City, UT 84114, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at [jdmain.jwhitby@state.ut.us](mailto:jdmain.jwhitby@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-190. Unfair Property, Liability and Title Claims Settlement Practices Rule.**

**R590-190-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Further authority to provide for timely payment of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely response to the Insurance Department is provided in Section 31A-2-204.

**R590-190-2. Purpose.**

This rule sets forth minimum standards for the investigation and disposition of property, liability, and title claims arising under contracts or certificates issued to residents of the State of Utah. It is not intended to cover bail bonds. These standards include fair and rapid settlement of claims, protection for claimants under insurance policies from unfair claims adjustment practices and promotion of professional competence of those engaged in claim adjusting. This rule defines procedures and practices which constitute unfair claim practices. This rule is regulatory in nature and is not intended to create any private right of action.

**R590-190-3. Definitions.**

For the purpose of this rule the commissioner adopts the definitions as set forth in 31A-1-301, and the following:

(1) "[e]Claim file" means any record either in its original form or as recorded by any process which can accurately and reliably reproduce the original material regarding the claim, its investigation, adjustment and settlement[?].

(2) "[e]Claimant" means either a first party claimant, a third party claimant, or both and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant[?].

(3) "[e]Claim representative" means any individual, corporation; association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim, whether or not licensed within the State of Utah to do so.

(4) "[d]Days" means calendar days[?].

(5) "[d]Documentation" includes, but is not limited to, any pertinent communications, transactions, notes, work papers, claim forms, bills, and explanation of benefits forms relative to the claim[?].

(6) "[f]First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to a benefit or a payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant[?].

(7) "[g]General business practice" means a pattern of conduct[?].

(8) "[i]Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract[?].

(9) "[n]Notice of claim or loss" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprizes the insurer of the facts pertinent to a claim[?].

(10) "[p]Proof of loss" shall mean reasonable documentation by the insured as to the facts of the loss and the amount of the claim in accordance with policy provisions and insurer practices[?].

(11) "[s]Specific disclosure" shall mean notice to the insured by means of policy provisions in boldface type or a separate written notice mailed or delivered to the insured[?].

(12) "[t]Third party claimant" means any person asserting a claim against any person under a policy or certificate of an insurer.

**R590-190-4 File and Record Documentation.**

Each insurer's claim files for policies or certificates are subject to examination by the commissioner of insurance or by the commissioner's duly appointed designees. To aid in such examination:

(1) the insurer shall maintain claim data that is accessible and retrievable for examination; and

(2) detailed documentation shall be contained in each claim file to permit reconstruction of the insurer's activities relative to the claim.

**R590-190-5. Misrepresentation of Policy Provisions.**

(1) ~~The [insurer] insurer and its representatives~~ shall fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented, including loss of use and household services.

(2) ~~[Insurer's representative shall disclose first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.~~

~~(3) [Insurer]The insurer is [are] prohibited from denying a claim for failure to exhibit the property [without proof of demand and unfounded refusal by a claimant to do so]unless there is documentation of a breach of the policy provision in the claim file.~~

**R590-190-6. Failure to Acknowledge Pertinent Communications.**

Within 15-days every insurer shall:

(1) upon receiving notification of a claim, acknowledge the receipt of such notice unless payment is made within such period of time, or unless the insurer has a reason acceptable to the Insurance Department as to why such acknowledgment cannot be made within the time specified. Notice given to an agent of an insurer is notice to the insurer;

(2) ~~[upon receipt of an inquiry from the Insurance Department respecting a claim shall furnish the department with a substantive response to the inquiry;~~

~~(3) provide a substantive response to a claimant [when it appears]whenever a response [is expected]has been requested; and~~

~~(4) (3) upon receiving notification of a claim, provide all necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements.~~

**R590-190-7. Notice of Claim or Loss.**

(1) Notice of Claim or Loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312.

(2) Notice of Claim or Loss may be given by an insured to any appointed agent, authorized adjuster, or other authorized claim representative of an insurer unless the insurer clearly directs otherwise by means of Specific Disclosure as defined herein.

(3) The general practice of the insurer when accepting a notice of loss or notice of claim shall be consistent for all policyholders in accordance with the terms of the policy.

**R590-190-8. Proof of Loss.**

Proof of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule and the requirements of Section 31A-21-312.

**R590-190-9. Unfair Methods, Deceptive Acts and Practices Defined.**

~~[The following are hereby defined as unfair methods of competition and unfair or deceptive acts and practices in the business of insurance, and the commission of which are violations of this rule]The commissioner, pursuant to Section 31A-26-303(4), hereby finds the following acts, or the failure to perform required acts, to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims:~~

(1) denying or threatening the denial of the payment of claims or rescinding, canceling or threatening the rescission or cancellation of coverage under a policy for any reason which is not clearly described in the policy as a reason for such denial, cancellation or rescission;

(2) failing to provide the insured or beneficiary with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such misrepresentation is the basis for the denial;

(3) compensation by an insurer of its employees, agents or contractors of any amounts which are based on savings to the insurer as a result of denying the payment of claims;

(4) failing to deliver a copy of ~~[standards]the insurers guidelines~~ for prompt investigation of claims to the Insurance Department when requested to do so;

(5) refusing to pay claims without conducting a reasonable investigation;

(6) offering first party claimants substantially less than the reasonable value of the claim. Such value may be established by one or more independent sources;

(7) making claim payments to insureds or beneficiaries not accompanied by a statement or explanation of benefits setting forth the coverage under which the payments are being made and how the payment amount was calculated;

(8) failing to pay claims within 30-days of properly executed proof of loss when liability is reasonably clear under one coverage in order to influence settlements under other portions of the insurance policy coverage or under other policies of insurance;

(9) refusing payment of a claim solely on the basis of an insured's request to do so unless:

(a) the insured claims sovereign, eleemosynary, diplomatic, military service, or other immunity from suit or liability with respect to such claim; or

(b) the insured is granted the right under the policy of insurance to consent to settlement of claims.

(10) advising a claimant not to obtain the services of an attorney or suggesting the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim;

(11) misleading a claimant as to the applicable statute of limitations;

(12) requiring an insured to sign a release that extends beyond the occurrence or cause of action that gave rise to the claims payment;

(13) deducting from a loss or claim payment made under one policy those premiums owed by the insured on another policy, unless the insured consents;

(14) failing to settle a first party claim on the basis that responsibility for payment of the claim should be assumed by others, except as may otherwise be provided by policy provisions;

(15) issuing checks or drafts in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer or its insured from total liability;

(16) refusing to provide a written basis for the denial of a claim upon demand of the insured;

(17) denying a claim for medical treatment after preauthorization has been given, except in cases where the insurer obtains and provides to the claimant documentation of the pre-existence of the condition for which the preauthorization has been given or if the claimant is not eligible for coverage;

(18) refusing to pay reasonably incurred expenses to an insured when such expenses resulted from a delay, as prohibited by these rules, in claims settlement or claims payment;

(19) when an automobile insurer represents both a tortfeasor and a claimant:

(a) failing to advise a claimant under any coverage that the same insurance company represents both the tortfeasor and the claimant as soon as such information becomes known to the insurer; and

(b) allocating medical payments to the tortfeasor's liability coverage before exhausting a claimant's personal injury protection coverage.

(20) failing to pay interest at the legal rate, as provided in Title 15, Utah Code, upon amounts that are overdue under these rules. This does not apply to insurers who fail to pay Personal Injury Protection expenses when due. These expenses shall bear interest as provided in 31A-22-309(5)(c).

**R590-190-10. Minimum Standards for Prompt, Fair and Equitable Settlements.**

(1) The insurer shall provide to the claimant a statement of the time and manner in which any claim must be made and the type of proof of loss required by the insurer.

(2) Within 30-days after receipt by the insurer of a properly executed proof of loss, the insurer shall complete its investigation of the claim and the first party claimant shall be advised of the acceptance or denial of the claim by the insurer unless the investigation cannot be reasonably completed within that time. If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within 30-days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, within 45-days after sending the initial notification and within every 45-days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for the investigation, unless the first party claimant is represented by legal counsel or public adjuster. Any basis for the denial of a claim shall be noted in the insurers claim file and must be communicated promptly and in writing to the first party claimant. Insurers are prohibited from denying a claim on the grounds of a specific provision, condition, or exclusion unless reference to such provision, condition or exclusion is included in

the denial. [~~Any basis for the denial of a claim shall be noted in the insurer's claim file and must be communicated promptly and in writing to the first party claimant unless the first party claimant is represented by legal counsel or a public adjuster.~~]

(3) Unless otherwise provided by law, an insurer shall promptly pay every valid insurance claim. A claim shall be overdue if not paid within 30-days after the insurer is furnished written proof of the fact of a covered loss and of the amount of the loss. Payment shall mean actual delivery or mailing of the amount owed. If such written proof is not furnished to the insurer as to the entire claim, any partial amount supported by written proof or investigation is overdue if not paid within 30-days. Payments are not deemed overdue when the insurer has reasonable evidence to establish that the insurer is not responsible for the payment, notwithstanding that written proof has been furnished to the insurer.

(4) [~~Insurers are prohibited from negotiating a claim settlement directly with a claimant who is not legally represented, if the claimant's rights may be affected by a statute of limitations, unless the insurer has given the claimant written notice of such limitation. Notice shall be given to first party claimants at least 30-days and to third party claimants at least 60-days before the date on which such time limit may expire unless the claimant has retained legal representation. If negotiations are continuing for settlement of a claim with a claimant, who is not represented by legal counsel or public adjuster, notice of expiration of the statute of limitation or contract time limit shall be given to the claimant at least 60 days before the date on which such time limit may expire.~~]

(5) Insurer are prohibited from making statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.

(6) Upon receipt of an inquiry from the insurance department regarding a claim, every licensee shall furnish a substantive response to the insurance department within the time period specified in the inquiry.

#### **R590-190-11. Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance.**

(1) When the insurance policy provides for the adjustments and settlement of automobile total losses for first party claimants on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(a) the insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file;

(b) the insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by using:

(i) the cost [a] of two or more comparable automobiles in the local market area when a comparable automobile is available or was available within the last 90-days to consumers in the local market area;

(ii) the cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90-days to consumers when comparable automobiles are not available in the local market area pursuant to Subsection R590-190-11.(1)(b)(i);

(iii) one of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area; or

(iv) any source of determining statistically valid fair market values that meet all of the following criteria:

(A) the source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area;

(B) the source's database shall produce values for at least 85% of the makes and models for the last 15 model years, taking into account the values of all major options for such vehicles; and

(C) the source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters, such as time and area, to assure statistical validity.

(v) if the insurer is notified within 30-days of the receipt of the claim draft that the first party claimant cannot purchase a comparable vehicle for such market value, the company shall reopen its claim file and the following procedure(s) shall apply:

(A) the company may locate a comparable vehicle by the same manufacturer, same year, similar body style and similar options and price range for the insured for the market value determined by the company at the time of settlement. Any such vehicle must be available through licensed dealers or private sellers;

(B) the company shall either pay the difference between market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured;

(C) the company may elect to offer a replacement in accordance with the provisions set forth in Subsection R590-190-11.(1)(a); or

(D) the company may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of the loss. The company is not required to take action under this subsection if its documentation to the first party claimant, at the time of settlement, included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style and similar options in as good or better condition as the total loss vehicle which could be purchased for the market value determined by the company before applicable deductions.

(c) when a first party claimant automobile total loss is settled on a basis which deviates from the methods described in Subsections R590-190-11.(1)(a) and (b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deductions for salvage, must be measurable, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.

(2) Total loss settlements with a third party claimant shall be on the basis of the market value or actual cost of a comparable automobile at the time of loss. Settlement procedures shall be in accordance with Subsection R590-190-11.(1)(b) and (c), except (b)(v) may not apply.

(3) Where liability and damages are reasonably clear, insurers are prohibited from recommending that third party claimants make a claim under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.

(4) Insurers are prohibited from requiring a claimant to travel an unreasonable distance to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

(5) Insurers shall ~~[- upon the claimant's request,]~~ include the first party claimant's deductible, if any, in subrogation demands initiated by the insurer. Subrogation recoveries may be shared on a proportionate basis with the first party claimant when an agreement is reached for less than the full amount of the loss, unless the deductible amount has been otherwise recovered. The recovery shall be applied first to reimburse the first party claimant for the amount or share of the deductible when the full amount or share of the deductible has been recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. If subrogation is initiated but discontinued, the insured shall be advised.

(6) If an insurer prepares or approves an estimate of the cost of automobile repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. If the insurer prepares an estimate, it shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops.

(7) When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions. The insurer shall provide a written explanation of these deductions to the claimant upon request.

(8) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

(9) Where coverage exists, loss of use payment shall be made to a claimant for the reasonably incurred cost of transportation, or for the reasonably incurred rental cost of a substitute vehicle, including collision damage waiver, unless the claimant has physical damage coverage available, during the period the automobile is necessarily withdrawn from service to obtain parts or effect repair, or, in the event the automobile is a total loss and the claim has been timely made, during the period from the date of loss until a reasonable settlement offer has been made by the insurer. The insurer is prohibited from refusing to pay for loss of use for the period that the insurer is examining the claim or making other determinations as to the payability of the loss, unless such delay reveals that the insurer is not liable to pay the claim. Loss of use payments shall be an amount in addition to the payment for the value of the automobile.

(10) Subject to Subsections R590-190-11.(1) and (2), an insurer shall fairly, equitably and in good faith attempt to compensate a claimant for all losses incurred under collision or comprehensive coverages. Such compensation shall be based at least, but not exclusively, upon the following standards:

(a) an offer of settlement may not be made exclusively on the basis of useful life of the part or vehicle damaged;

(b) an estimate of the amount of compensation for the claimant shall include the actual wear and tear, or lack thereof, of the damaged part or vehicle;

(c) actual cash value, which shall take into account the cost of replacement of the vehicle and/or the part for which compensation is claimed;

(d) an actual estimate of the true useful life remaining in the part or vehicle shall be taken into account in establishing the amount of compensation of a claim; and

(e) actual cash value, which shall include taxes and other fees which shall be incurred by a claimant in replacing the part or vehicle or in compensating the claimant for the loss incurred.

(11) Insurers are prohibited from demanding reimbursement of personal injury protection payments from a first-party insured of payments received by that party from a settlement or judgement against a third party, except as provided in Subsection 31A-22-309(3).

(12) The insurer shall provide reasonable written notice to a claimant prior to termination of payment for automobile storage charges and documentation of the denial as required by Section R590-190-4. Such insurer shall provide reasonable time for the claimant to remove the vehicle from storage prior to the termination of payment. [

~~—(13) If the insurer makes a deduction for the salvage value of a total loss retained by the claimant, the insurer shall furnish the name and address of the salvage dealer who will purchase the salvage for the amount deducted if requested by the claimant.]~~

#### **R590-190-12. Unfair Claims Settlement Practices Applicable to Automobile Insurance.**

[The following acts or practices are defined as unfair claims settlement practices pertaining to automobile insurance] The commissioner, pursuant to Section 31A-26-303(4), hereby finds the following acts, or the failure to perform required acts, to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims:

(1) using as a basis for cash settlement with a claimant an amount which is less than the amount which the insurer would be charged if repairs were made, unless such amount is agreed to by the claimant or provided for by the insurance policy;

(2) refusing to settle a claim based solely upon the issuance of, or failure to, issue a traffic citation by a police agency;

(3) failing to disclose all coverages for which an application for benefits is required by the insurer;

(4) failing in good faith to disclose all coverages, including loss of use, household services, and any other coverages available to the claimant;

(5) requiring a claimant to use only the insurer's claim service in order to perfect a claim;

(6) failing to furnish the claimant, when requested, with the name and address of the salvage dealer who ~~[will purchase the~~



salvage]has provided a salvage quote for the amount deducted by the insurer in a total loss settlement;

(7) refusing to disclose policy limits when requested to do so by a claimant or claimant's attorney;

(8) using a release on the back of a check or draft which requires a claimant to release the company from obligation on further claims in order to process a current claim when the company knows or reasonably should know that there will be future liability on the part of the insurer;

(9) refusing to use a separate release of a claim document rather than one on the back of a check or draft when requested to do so by a claimant;

(10) intentionally offering less money to a first party claimant than the claim is reasonably worth, a practice referred to as "low-balling;"

(11) refusing to offer to pay claims based upon the Doctrine of Comparative Negligence without a reasonable basis for doing so; and

(12) imputing the negligence of a permissive user of a vehicle to the owner of the vehicle in a bailment situation.

**R590-190-13. Standards for Prompt, Fair and Equitable Settlements Applicable to Fire and Extended Coverage Type Policies with Replacement Cost Coverage.**

(1) Replacement Cost Value:

When the policy provides for the adjustment and settlement of first party losses based on replacement cost, the following shall apply:

(a) when a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacements not otherwise excluded by the policy, shall be included in the loss. The insured is only responsible for the applicable deductible; and

(b) when a loss requires replacement or repair of items and the repaired or replaced items do not match in color, texture, or size, the insurer shall repair or replace items so as to conform to a reasonably uniform appearance. This applies to interior and exterior losses. The insured is only responsible for the applicable deductible.

(2) Actual Cash Value:

(a) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash value as the replacement cost of property at the time of the loss less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of relevant documentation from the claim file detailing any and all deductions for depreciation.

(b) In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value, as set forth above, is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

**R590-190-14. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given

effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance law  
1999**

**31A-2-201  
31A-26-301  
31A-26-303  
31A-21-312  
31A-2-308**



**Insurance, Administration  
R590-191  
Unfair Life Insurance Claims  
Settlement Practices Rule**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 21781  
FILED: 04/01/1999, 17:11  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of comments received during the hearing and comment period, additional changes have been made.

SUMMARY OF THE RULE OR CHANGE: In Subsection R590-191-4(6), grammatical change only. In Section R590-191-5, the change to the first paragraph is being changed to indicate the commissioner's authority in the code to find certain acts to be misleading, deceptive, etc. There are also capitalization corrections and Subsection R590-191-5(12) is being deleted because it does not clearly relate to life insurance. In Section R590-191-6, grammatical corrections and an additional sentence added stating that insurers shall keep records of their open and closed files for three years, or if a domiciled company it would be "since the date of the previous examination, whichever is longer."

**(DAR Note:** The original proposed new rule upon which this change in proposed rule is based was published in the February 1, 1999, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-204, 31A-2-308, 31A-21-312, 31A-26-301, and 31A-26-303

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These changes will not create any impact on the Insurance Department nor will the department collect fees from the insurance industry as a result.

❖LOCAL GOVERNMENTS: This rule does not impact local governments since it deals with the way insurers handle their internal claim handling procedures.

❖OTHER PERSONS: The only part of this rule that may have impact on anyone is file retention requirement in Subsection R590-191-6(1). Most insurers already keep their claim

records for three years. The 50 domestic insurers that might have to keep their files longer would only need to keep them one to two additional years. The code requires that the department audit them at least every five years. Most are done more often than that.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There may be a minimal cost to a few of our domestic life insurers who are not already keeping their claims records from one department examination to the next. Compliance would mean the purchase of required filing cabinets to keep them the additional one to two years that may be required.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The department expects that the changes to this rule will create very little, if any, cost to our insurers and consumers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Insurance  
Administration  
3110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at (801) 538-3803, by FAX at (801) 538-3829, or by Internet E-mail at idmain.jwhitby@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 05/17/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 05/18/1999

AUTHORIZED BY: Jilene Whitby, Information Specialist

### **R590. Insurance, Administration.**

#### **R590-191. Unfair Life Insurance Claims Settlement Practices Rule.**

##### **R590-191-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Further authority to provide for timely payment of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely response to the Insurance Department is provided by Section 31A-2-204.

##### **R590-191-2. Purpose.**

This rule sets forth minimum standards for the investigation and disposition of life insurance claims arising under policies or certificates issued to residents of the State of Utah. These standards include fair and rapid settlement of claims, protecting claimants

under insurance policies from unfair claims settlement practices and promoting the professional competence of those engaged in processing claims. The various provisions of this rule are intended to define procedures and practices which constitute unfair claim settlement practices. This rule is regulatory in nature and is not intended to create a private right of action.

##### **R590-191-3. Definitions.**

For the purpose of this rule the Commissioner adopts the definitions as set forth in Section 31A-1-301, and the following:

(1) "Beneficiary" means the party entitled to receive the proceeds or benefits occurring under the policy.

(2) "Claim File" means any record either in its original form or as recorded by any process which can accurately and reliably reproduce the original material regarding the claim, its investigation, adjustment and settlement.

(3) "Claim Representative" means any individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.

(4) "Claimant" means a person making a claim under a policy, including an insured, policyholder, beneficiary, or the claimant's legal representative, including a member of the claimant's immediate family.

(5) "Days" means calendar days.

(6) "Documentation" includes, but is not limited to, all written and electronic communication records, transactions, notes, work papers, claim forms, and explanation of benefits forms relative to the claim.

(7) "Investigation" means all activities of an insurer related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.

(8) "Notice of Loss" means any notification, whether in writing or other means acceptable under the terms of an insurance policy to an insurer or its representative, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

(9) "Proof of Loss" means written proofs, such as claim forms, medical authorizations or other reasonable evidence of the claim that is ordinarily required of all claimants submitting claims.

##### **R590-191-4. Minimum Standards for Prompt, Fair and Equitable Claim Handling Processes and Communications.**

(1) Notice of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312.

(2) Notice of loss may be given to the insurer or its representative unless the insurer clearly directs otherwise in accordance with policy provisions or in a separate written notice mailed or delivered to the claimant.

(3) Subject to policy provisions, a requirement of any notice of loss may be waived by an authorized representative of the insurer.

(4) Insurance policies may not require notice of loss to be given in a manner which is inconsistent with the actual practice of the insurer. For example, if the practice of the insurer is to accept notice of loss by telephone, the policy shall reflect that practice, and not require that the claimant furnish "immediate written notice" of loss.

(5) Within 15 days of receipt of notice of loss from a claimant, the insurer shall provide necessary claim forms, instructions, and reasonable assistance so the claimant can properly comply with company requirements for filing a claim.

(6) Proof of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312. Proof of loss requirements may not be unreasonable and should consider all of the ~~[circumstance]~~circumstances surrounding a given claim.

(7) Within 15 days of receipt of proof of loss from a claimant, the insurer shall:

(a) provide written acknowledgment of the receipt of the proof of loss;

(b) request any necessary additional information from claimant; and

(c) commence any necessary investigation of the claim, including requesting additional information from other parties having documentation or information relating to the claim; or

(d) provide the claim settlement and a written explanation of benefits to the claimant if no additional information or investigation is necessary.

(8) Within 15 days of receipt of any communications relating to a claim which reasonably suggests that a response is expected, the insurer shall substantively respond to such communication.

(9) Within 30 days of receipt of proof of loss from the claimant, the insurer shall complete the investigation of a claim, unless such investigation cannot reasonably be completed within such time. It shall be the burden of the insurer to establish, by adequate records, that the investigation could not be completed within 30 days of its receipt of proof of loss. If the investigation cannot be completed within 30 days, the insurer shall communicate to the claimant a written explanation as to the reasons for the delay and shall continue to so communicate at least every 30 days until the claim is either settled or denied.

(10) Within 15 days of completion of the investigation, the insurer shall either:

(a) provide the claim settlement and a written explanation of benefits to the claimant; or

(b) provide, in writing, a denial of the claim and an explanation to the claimant as to the reasons for the denial.

(11) Closing a claim file without settlement is considered a denial and must be so communicated in writing to the claimant and according to the provisions of the policy.

(12) If recalculation/revision of a claim becomes necessary subsequent to either denial or settlement, the insurer shall again comply with the initial claim handling process requirements as described in this section.

(13) Upon receipt of an inquiry from the Insurance Department regarding a claim, every licensee shall furnish a substantive response to the Insurance Department within the time period specified in the inquiry.

#### **R590-191-5. Unfair Claims Settlement Practices.**

~~[The following are hereby defined as unfair claims settlement practices, the commission of which are violations of this rule]~~The commissioner, pursuant to 31A-26-303(4), hereby finds the following acts or failure to perform required acts to be misleading,

~~deceptive, unfairly discriminatory, or overreaching in the settlement of claims:~~

(1) ~~[Concealing]~~concealing from or failing to fully disclose to a claimant any benefits, limitations, exclusions, coverages, or other relevant provisions of an insurance policy or insurance contract under which a claim is presented[-];

(2) ~~[Denying]~~denying or threatening the denial of a claim for any reason which is not clearly described in the policy[-];

(3) ~~[Refusing]~~refusing to settle claims without conducting a reasonable and complete investigation[-];

(4) ~~[Refusing]~~refusing to provide a written basis for the denial of a claim upon demand of the claimant[-];

(5) ~~[Failing]~~failing to provide the claimant with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such misrepresentation is the basis for the denial[-];

(6) ~~[Compensation by an insurer of its]~~compensating employees, agents or contractors of any amounts which are based on savings to the insurer as a result of reducing or denying claims[-];

(7) ~~[Making]~~making a claim settlement to the claimant not accompanied by a statement or explanation of benefits setting forth the coverage under which the settlement is being made and how the settlement amount was calculated[-];

(8) ~~[Failing]~~failing to settle a claim following receipt of proof of loss when liability is reasonably clear in order to influence other claim settlements under other portions of the insurance policy coverage or under other policies of insurance[-];

(9) ~~[Advising]~~advising a claimant not to obtain the services of an attorney or other advocate or suggesting the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim[-];

(10) ~~[Misleading]~~misleading a claimant as to the applicable statute of limitations[-];

(11) ~~[Issuing]~~issuing a check or draft in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer from total liability[-];

(12) ~~[Refusal to pay reasonably incurred expenses to the claimant when such expenses resulted from a delay, as prohibited by these rules.~~

~~—(13) Failure]~~failing to pay interest at the legal rate, as provided in Title 15 of the Utah Code upon amounts that are overdue under these rules. A claim shall be considered overdue if not settled within 15 days of completion of the investigation[-]; and

~~[(14)]~~(13) [Failing] failing to deliver a copy of the insurer's guidelines for prompt investigation of claims to the Insurance Department when requested to do so.

#### **R590-191-6. File and Record Documentation.**

Each insurer's claim files for policies or certificates are subject to examination by the ~~[Commissioner of Insurance]~~commissioner of insurance or by the ~~[Commissioner's]~~commissioner's duly appointed designees. To aid in such examination:

(1) The insurer shall maintain accessible and retrievable claim file data for examination. The insurer shall be able to provide the policy number, certificate number if any, duplicate of the policy as issued, date of loss, date notice of loss was received, date proof of

loss was received, date any investigation commenced, date the investigation was completed, date of settlement or denial of the claim or date the claim was closed without settlement, documentation as to how the claim was settled and how any payments were calculated, and any other documentation relied upon for claim settlement by the insurer. This data shall be available for all open and closed files for at least the most recent three year period, or, for a Utah domiciled insurer, since the date of the previous examination by the department, whichever is longer.

(2) Detailed documentation shall be contained in each claim file in order to permit reconstruction of the insurer's activities relative to each claim.

(3) Each document within the claim file shall be noted as to date received, date processed or date mailed.

(4) The claim file records must be maintained either in hard copy files, or some other format that has the capability of duplication to hard copy.

**R590-191-7. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance law  
1999**

31A-2-201  
31A-2-204  
31A-2-308  
31A-21-312  
31A-26-301  
31A-26-303



**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

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## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-54**

### Speech-Language Pathology Services

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21935  
FILED: 03/31/1999, 13:38  
RECEIVED BY: NL

#### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-2.1 creates the Division, which shall be responsible for implementing, organizing, and maintaining the Medicaid program. Section 26-1-5 notes that the Department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Review by Division and Bureaus recommends continuation of this rule. No other comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it regulates the providing of speech-language services to meet the basic needs of eligible Medicaid clients.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health  
Health Care Financing,  
Coverage and Reimbursement Policy

Cannon Health Building  
288 North 1460 West  
Box 143102  
Salt Lake City, UT 84114-3102, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Don Hawley at the above address, by phone at (801) 538-6483, by FAX at (801) 538-6099, or Internet E-mail at dhawley@email.state.ut.us.

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 03/31/1999



## Health, Laboratory Services **R438-13**

### Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 21928  
FILED: 03/18/1999, 12:00  
RECEIVED BY: NL

#### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-26-2 provides specific rulemaking authority.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No unsolicited

comments received. One solicited comment from a research institution supported continuation of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes requirements for institutions seeking certification to obtain animals from establishments maintained for impounding animals seized by lawful authority.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

Health  
Laboratory Services  
Room 309, Fraiser Laboratory  
46 North Medical Drive  
Salt Lake City, UT 84113-1105, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David Mendenhall at the above address, by phone at (801) 584-8470, by FAX at (801) 584-8501, or Internet E-mail at dmendenh@doh.state.ut.us.

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 03/18/1999



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

#### Records Committee

No. 21751 (NEW): R35-1. State Records Committee Appeal Hearing Procedures.  
Published: January 15, 1999  
Effective: March 18, 1999

### Agriculture and Food

#### Plant Industry

No. 21808 (AMD): R68-15. Quarantine Pertaining to Japanese Beetle, (*Popillia Japonica*).  
Published: February 15, 1999  
Effective: March 18, 1999

### Commerce

#### Occupational and Professional Licensing

No. 21822 (AMD): R156-50. Private Probation Provider Licensing Act Rules.  
Published: February 15, 1999  
Effective: March 18, 1999

No. 21855 (AMD): R156-63. Security Personnel Licensing Act Rules.  
Published: March 1, 1999  
Effective: April 1, 1999

No. 21812 (NEW): R156-74. Certified Shorthand Reporters Licensing Act Rules.  
Published: February 15, 1999  
Effective: March 18, 1999

No. 21813 (REP): R156-78. Rules of the Certified Shorthand Reporters Licensing Board.  
Published: February 15, 1999  
Effective: March 18, 1999

### Corrections

#### Administration

No. 21829 (AMD): R251-105. Applicant Qualifications for Employment with Department of Corrections.  
Published: February 15, 1999  
Effective: March 29, 1999

### Education

#### Administration

No. 21823 (NEW): R277-413. Accreditation of Secondary Schools, Alternative or Special Purpose Schools.  
Published: February 15, 1999  
Effective: March 22, 1999

No. 21824 (AMD): R277-519. Educator In-service Procedures and Credit.  
Published: February 15, 1999  
Effective: March 22, 1999

No. 21825 (AMD): R277-702. Procedures for the Utah General Educational Development Certificate.  
Published: February 15, 1999  
Effective: March 22, 1999

No. 21826 (AMD): R277-733. Adult Basic Skills and Adult High School Programs.  
Published: February 15, 1999  
Effective: March 22, 1999

### Environmental Quality

#### Air Quality

No. 21504 (CPR): R307-170. Continuous Emission Monitoring Program.  
Published: March 1, 1999  
Effective: April 1, 1999

### Health

#### Health Systems Improvement, Primary Care and Rural Health

No. 21802 (AMD): R434-10. Physicians and Physician Assistants Grant and Scholarship Program.  
Published: February 15, 1999  
Effective: March 26, 1999

### Human Services

#### Administration, Administrative Services, Licensing

No. 21821 (AMD): R501-14. Criminal Background Screening.  
Published: February 15, 1999  
Effective: March 22, 1999

## NOTICES OF RULE EFFECTIVE DATES

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### Recovery Services

No. 21811 (AMD): R527-430. Administrative Notice of Lien-Levy Procedures.  
Published: February 15, 1999  
Effective: March 18, 1999

### Insurance

#### Administration

No. 21766 (AMD): R590-96. Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities.  
Published: January 15, 1999  
Effective: March 16, 1999

No. 21723 (REP): R590-135. Accounting Records Rule.  
Published: December 15, 1998  
Effective: March 18, 1999

No. 21790 (AMD): R590-165. Health Benefit Plans.  
Published: February 1, 1999  
Effective: March 16, 1999

No. 21725 (CPR): R590-170. Fiduciary and Trust Account Obligations.  
Published: February 1, 1999  
Effective: March 18, 1999

No. 21765 (NEW): R590-194. Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism.  
Published: January 15, 1999  
Effective: March 23, 1999

**End of the Notices of Rule Effective Dates Section**

### Natural Resources

#### Wildlife Resources

No. 21827 (AMD): R657-27. License Agent Procedures.  
Published: February 15, 1999  
Effective: March 18, 1999

### Public Safety

#### Driver License

No. 21579 (CPR): R708-2. Commercial Driver Training Schools.  
Published: February 15, 1999  
Effective: March 18, 1999

### Regents (Board of)

#### Salt Lake Community College

No. 21820 (NEW): R784-1. Government Records Access and Management Act Rules.  
Published: February 15, 1999  
Effective: March 18, 1999



# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 1999, including notices of effective date received through April 1, 1999, the effective dates of which are no later than April 15, 1999. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	21887	NSC	03/05/99	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	21888	NSC	03/05/99	Not Printed
R25-8	Meal Allowance	21889	NSC	03/05/99	Not Printed
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	21751	NEW	03/18/99	99-2/2
<b>AGRICULTURE AND FOOD</b>					
<u>Administration</u>					
R51-5	Grazing Advisory Boards	21884	5YR	02/22/99	99-6/27
<u>Plant Industry</u>					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21701	AMD	01/15/99	98-24/8
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21808	AMD	03/18/99	99-4/7

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>COMMERCE</b>					
<u>Occupational and Professional Licensing</u>					
R156-5a	Podiatric Physician Licensing Act Rules	21907	5YR	03/02/99	99-7/54
R156-24a	Physical Therapist Practice Act Rules	21716	AMD	see CPR	98-24/11
R156-24a	Physical Therapist Practice Act Rules	21716	CPR	03/09/99	99-3/56
R156-28	Veterinary Practice Act Rules	21753	AMD	02/18/99	99-2/3
R156-37c	Utah Controlled Substance Precursor Act Rules	21908	5YR	03/02/99	99-7/54
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	21905	5YR	03/01/99	99-6/27
R156-50	Private Probation Provider Licensing Act Rules	21822	AMD	03/18/99	99-4/9
R156-63	Security Personnel Licensing Act Rules	21855	AMD	04/01/99	99-5/7
R156-74	Certified Shorthand Reporters Licensing Act Rules	21812	NEW	03/18/99	99-4/12
R156-78	Rules of the Certified Shorthand Reporters Licensing Board	21813	REP	03/18/99	99-4/13
<b>CORRECTIONS</b>					
<u>Administration</u>					
R251-103	Undercover Roles of Offenders	21858	5YR	02/12/99	99-5/57
R251-105	Applicant Qualifications for Employment with Department of Corrections	21828	5YR	02/01/99	99-4/65
R251-105	Applicant Qualifications for Employment with Department of Corrections	21829	AMD	03/29/99	99-4/15
<b>EDUCATION</b>					
<u>Administration</u>					
R277-102	Adjudicative Proceedings	21893	5YR	02/26/99	99-6/28
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	21823	NEW	03/22/99	99-4/16
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	21894	5YR	02/26/99	99-6/28
R277-437	Student Enrollment Options	21677	NEW	01/05/99	98-23/4
R277-455	Standards and Procedures for Building Plan Review	21895	5YR	02/26/99	99-6/29
R277-470	Distribution of Funds for Charter Schools	21773	NSC	01/27/99	Not Printed
R277-519	Educator In-service Procedures and Credit	21824	AMD	03/22/99	99-4/19
R277-601	Standards for Utah School Buses and Operations	21896	5YR	02/26/99	99-6/29
R277-702	Procedures for the Utah General Educational Development Certificate	21825	AMD	03/22/99	99-4/20
R277-712	Advanced Placement Programs	21897	5YR	02/26/99	99-6/30
R277-733	Adult Basic Skills and Adult High School Programs	21826	AMD	03/22/99	99-4/22
R277-734	Standards and Procedures for Adult Education Section 353 Funds	21898	5YR	02/26/99	99-6/30
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	21678	NEW	01/05/99	98-23/6

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	21679	NEW	01/05/99	98-23/8
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	21680	NEW	01/05/99	98-23/10
<b>ENVIRONMENTAL QUALITY</b>					
<u>Air Quality</u>					
R307-101-2	Definitions	21588	AMD	01/07/99	98-22/49
R307-150	Periodic Inventories	21590	REP	03/04/99	98-22/55
R307-150	Emission Inventories	21591	NEW	see CPR	98-22/56
R307-150	Emission Inventories	21591	CPR	03/04/99	99-3/57
R307-155	Emission Inventories	21592	REP	03/04/99	99-22/60
R307-155	Hazardous Air Pollutant Inventory	21593	NEW	see CPR	98-22/62
R307-155	Hazardous Air Pollutant Inventory	21593	CPR	03/04/99	99-3/59
R307-158	Emission Statement Inventory	21594	NEW	see CPR	98-22/64
R307-158	Emission Statement Inventory	21594	CPR	03/04/99	99-3/60
R307-170	Continuous Emission Monitoring Program	21504	R&R	see CPR	98-20/5
R307-170	Continuous Emission Monitoring Program	21504	CPR	04/01/99	99-5/51
R307-214	National Emission Standards for Hazardous Air Pollutants	21844	5YR	02/03/99	99-5/57
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	21595	AMD	01/07/99	98-22/66
R307-221	Emission Controls for Existing Municipal Solid Waste Landfills	21850	NSC	02/27/99	Not Printed
R307-302-2	No-Burn Periods for PM10	21570	AMD	01/07/99	98-22/67
R307-415	Permits: Operating Permit Requirements	21900	5YR	03/01/99	99-6/31
R307-415-3	Definitions	21589	AMD	01/07/99	98-22/68
R307-417	Permits: Acid Rain Sources	21735	AMD	03/05/99	99-1/3
R307-417	Permits: Acid Rain Sources	21910	5YR	03/05/99	99-7/55
<u>Drinking Water</u>					
R309-104	Monitoring, Reporting and Public Notification	21553	AMD	01/15/99	98-21/16
R309-113	Drinking Water Source Protection	21554	AMD	01/15/99	98-21/20
<u>Environmental Response and Remediation</u>					
R311-201	Underground Storage Tanks: Certification Program	21854	NSC	02/27/99	Not Printed
<u>Radiation Control</u>					
R313-12-3	Definitions	21684	AMD	03/12/99	98-24/26
R313-15-906	Procedures for Receiving and Opening Packages	21685	AMD	03/12/99	98-24/32
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	21535	AMD	01/15/99	98-21/27
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	21686	AMD	03/12/99	98-24/33

RULES INDEX

---

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R313-21	General Licenses	21805	5YR	01/25/99	99-4/65
R313-28	Use of X-rays in the Healing Arts	21682	AMD	03/12/99	98-24/46
R313-30	Therapeutic Radiation Machines	21806	5YR	01/25/99	99-4/66
R313-38	Radiation Safety Requirements for Wireline Service Operation and Subsurface Tracer Studies	21807	5YR	01/25/99	99-4/66
<u>Solid and Hazardous Waste</u>					
R315-2	General Requirements - Identification and Listing of Hazardous Waste	21459	AMD	see CPR	98-19/10
R315-2	General Requirements - Identification and Listing of Hazardous Waste	21459	CPR	02/15/99	99-1/28
R315-301-2	Definitions	21783	AMD	03/15/99	99-3/10
R315-304	Industrial Solid Waste Landfill Requirements	21439	AMD	see CPR	98-19/50
R315-304	Industrial Solid Waste Landfill Requirements	21439	CPR	01/05/99	98-23/45
R315-304-1	Applicability	21772	NSC	01/05/99	Not Printed
R315-305-5	Requirements for Operation	21785	AMD	03/15/99	99-3/18
R315-315-6	PCB Containing Waste	21786	AMD	03/15/99	99-3/19
R315-317	Other Processes, Variances, and Violations	21787	AMD	03/15/99	99-3/20
R315-320	Waste Tire Transporter and Recycler Requirements	21920	5YR	03/12/99	99-7/55
<u>Water Quality</u>					
R317-10	Certification of Wastewater Works Operators	21449	AMD	see CPR	98-19/70
R317-10	Certification of Wastewater Works Operators	21449	CPR	02/04/99	99-1/35
<b>HEALTH</b>					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	21669	AMD	01/07/99	98-23/12
R382-10	Eligibility	21843	NSC	02/27/99	Not Printed
<u>Health Care Financing</u>					
R410-14	Division of Health Care Financing Administrative Hearing Procedures for Medicaid/UMAP Applicants, Recipients and Providers, and Non-Medicaid/UMAP Nursing Home Residents as per "OBRA" Preadmission Screening and Annual Resident Review (PASARR) Determinations/Resident Rights Requirements	21668	AMD	01/07/99	98-23/14
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-29	Client Review/Education and Restriction Policy	21687	AMD	01/21/99	98-24/50
R414-54	Speech-Language Pathology Services	21935	5YR	03/31/99	99-8/73
R414-58	Children's Organ Transplants	21857	5YR	02/12/99	99-5/58
R414-303	Coverage Groups	21529	AMD	01/05/99	98-21/31
R414-304	Income and Budgeting	21764	AMD	02/25/99	99-2/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-1	Ambulance Rules	21693	AMD	02/26/99	98-24/51
R426-1-8	Maximum Licensed Services Transportation Rates and Charges	21649	AMD	01/07/99	98-23/22
R426-2	Air Medical Service Rules	21688	AMD	01/22/99	98-24/59
R426-3	Utah Mobile Paramedic Rules	21694	AMD	01/22/99	98-24/61
R426-4	Emergency Medical Dispatcher Rules	21695	AMD	01/22/99	98-24/67
R426-6	Emergency Medical Services Grants Program Rules	21657	AMD	03/01/99	98-23/23
<u>Health Data Analysis</u>					
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	21755	AMD	03/01/99	99-2/10
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-100-13	Infection Control	21769	AMD	02/25/99	99-2/13
<u>Health Systems Improvement, Health Facility Licensure</u>					
R432-1	General Health Care Facility Rules	21795	5YR	01/20/99	99-4/67
R432-2	General Licensing Provisions	21775	5YR	01/11/99	99-3/68
R432-3	General Health Care Facility Rules Inspection and Enforcement	21776	5YR	01/11/99	99-3/68
R432-4	General Construction	21815	5YR	01/29/99	99-4/68
R432-5	Nursing Facility Construction	21816	5YR	01/29/99	99-4/68
R432-6	Assisted Living Facility General Construction	21700	AMD	01/29/99	98-24/69
R432-6	Assisted Living Facility General Construction	21817	5YR	01/29/99	99-4/69
R432-149	Intermediate Care Facility	21818	5YR	01/29/99	99-4/69
R432-150	Nursing Care Facility Rules	21752	R&R	02/25/99	99-2/15
R432-250	Residential Health Care Facilities	21528	REP	01/20/99	98-21/42
R432-270	Assisted Living Facilities	21722	R&R	01/29/99	98-24/70
R432-300	Residential Health Care Facility - Limited Capacity - Type N	21561	R&R	01/11/99	98-22/73
R432-650	End Stage Renal Disease Facility Rules	21562	AMD	01/11/99	98-22/82
R432-750	Hospice Rule	21734	AMD	02/25/99	99-1/3
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-10	Physicians and Physician Assistants Grant and Scholarship Program	21802	AMD	03/26/99	99-4/36
R434-20	Special Population Health Care Provider Financial Assistance Program	21666	NEW	01/07/99	98-23/26
<u>Laboratory Services</u>					
R438-13	Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah	21928	5YR	03/18/99	99-8/73

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>HUMAN SERVICES</b>					
<u>Administration</u>					
R495-879	Parental Support for Children in Care	21916	5YR	03/11/99	99-7/56
<u>Administration, Administrative Services, Licensing</u>					
R501-1	General Provisions	21768	NSC	01/27/99	Not Printed
R501-14	Criminal Background Screening	21821	AMD	03/22/99	99-4/47
<u>Aging and Adult Services</u>					
R510-103	Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area	21730	AMD	02/03/99	99-1/14
R510-111	Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)	21885	5YR	02/23/99	99-6/31
R510-111	Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)	21886	NSC	02/27/99	Not Printed
<u>Child and Family Services</u>					
R512-25	Child Protective Services Notification and Due Process	21465	AMD	01/21/99	98-19/78
<u>Recovery Services</u>					
R527-200	Administrative Procedures	21675	AMD	01/04/99	98-23/33
R527-210	Guidelines for Setting Child Support Awards	21809	5YR	01/26/99	99-4/70
R527-210	Guidelines for Setting Child Support Awards	21810	NSC	01/27/99	Not Printed
R527-378	Garnishment of Social Security Benefits	21726	AMD	01/15/99	98-24/90
R527-430	Administrative Notice of Lien-Levy Procedures	21811	AMD	03/18/99	99-4/49
<b>INSURANCE</b>					
<u>Administration</u>					
R590-96	Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities	21766	AMD	03/16/99	99-2/46
R590-135	Accounting Records Rule	21723	REP	03/18/99	98-24/91
R590-160	Administrative Proceedings	21804	5YR	01/22/99	99-4/71
R590-165	Health Benefit Plans	21790	AMD	03/16/99	99-3/23
R590-167	Individual and Small Employer Health Insurance Rule	21791	AMD	03/11/99	99-3/24
R590-170	Fiduciary and Trust Account Obligations	21725	NEW	see CPR	98-24/95
R590-170	Fiduciary and Trust Account Obligations	21725	CPR	03/18/99	99-3/62
R590-175	Basic Health Care Plan Rule	21792	AMD	03/11/99	99-3/29
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	21765	NEW	03/23/99	99-2/52

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>LABOR COMMISSION</b>					
<u>Safety</u>					
R616-3	Elevator Rules	21454	AMD	01/28/99	98-19/84
<b>NATURAL RESOURCES</b>					
<u>Oil, Gas and Mining: Non-Coal</u>					
R647-2	Exploration	21757	AMD	02/26/99	99-2/54
R647-3	Small Mining Operations	21758	AMD	02/26/99	99-2/55
R647-4	Large Mining Operations	21759	AMD	02/26/99	99-2/56
<u>Forestry, Fire and State Lands</u>					
R652-70-2300	Management of Bear Lake Sovereign Lands	21672	AMD	01/14/99	98-23/36
<u>Water Resources</u>					
R653-2	Financial Assistance from the Board of Water Resources	21736	AMD	02/02/99	99-1/15
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	21717	AMD	01/15/99	98-24/96
R657-27	License Agent Procedures	21827	AMD	03/18/99	99-4/51
R657-38	Dedicated Hunter Program	21719	AMD	01/15/99	98-24/107
R657-42	Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	21720	AMD	01/15/99	98-24/109
R657-43	Landowner Permits	21721	AMD	01/15/99	98-24/110
<b>PUBLIC SAFETY</b>					
<u>Administration</u>					
R698-4	Certification of the Law Enforcement Agency of a Private College or University	21779	NEW	03/05/99	99-3/33
<u>Driver License</u>					
R708-2	Commercial Driver Training Schools	21579	R&R	see CPR	98-22/115
R708-2	Commercial Driver Training Schools	21579	CPR	03/18/99	99-4/61
R708-30	Motorcycle Rider Training Schools	21881	5YR	02/17/99	99-6/32
<u>Fire Marshal</u>					
R710-1	Concerns Servicing Portable Fire Extinguishers	21708	AMD	01/15/99	98-24/112
R710-3	Assisted Living Facilities	21709	AMD	01/15/99	98-24/116
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	21710	AMD	01/15/99	98-24/117
R710-6	Liquefied Petroleum Gas Rules	21733	AMD	02/02/99	99-1/17
R710-8	Day Care Rules	21712	AMD	see CPR	98-24/120
R710-8	Day Care Rules	21712	CPR	02/23/99	99-2/88

## RULES INDEX

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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>PUBLIC SERVICE COMMISSION</b>					
<u>Administration</u>					
R746-365	Intercarrier Service Quality	20997	NEW	see CPR	98-9/50
R746-365	Intercarrier Service Quality	20997	CPR	01/13/99	98-18/39
R746-365	Intercarrier Service Quality	21774	NSC	01/15/99	Not Printed
<b>REGENTS (BOARD OF)</b>					
<u>Administration</u>					
R765-607	Utah Higher Education Tuition Assistance Program	21673	NEW	01/04/99	98-23/38
R765-607	Utah Higher Education Tuition Assistance Program	21771	NSC	01/27/99	Not Printed
R765-685	Utah Educational Savings Plan Trust	21674	AMD	01/04/99	98-23/40
<u>Salt Lake Community College</u>					
R784-1	Government Records Access and Management Act Rules	21820	NEW	03/18/99	99-4/57
<b>SCHOOL AND INSTITUTIONAL TRUST LANDS</b>					
<u>Administration</u>					
R850-20-175	Coal Leasing of Lands Acquired in Public Law 105-335 Exchanges	21909	EXP	03/03/99	99-7/52
<b>TAX COMMISSION</b>					
<u>Auditing</u>					
R865-6F-34	Qualified Subchapter S Subsidiaries Pursuant to Utah Code Ann. Section 59-7-701	21760	AMD	03/16/99	99-2/58
R865-6F-35	S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703	21761	AMD	03/16/99	99-2/59
<b>DAR Note:</b> The following three sections will be combined to create one new rule, "R865-7H. Environmental Assurance Fee."					
R865-7H-1	Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program Pursuant to Utah Code Ann. Section 19-6-410.5	21737	NEW	03/16/99	99-1/22
R865-7H-2	Environmental Assurance Fee on Packaged Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	21738	NEW	03/16/99	99-1/24
R865-7H-3	Environmental Assurance Fee on Exports of Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	21739	NEW	03/16/99	99-1/24
<u>Property Tax</u>					
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	AMD	see CPR	98-16/58
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	CPR	01/12/99	98-23/46



CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R884-24P-53	1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	21777	EMR	01/12/99	99-3/64
R884-24P-53	1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	21789	AMD	03/16/99	99-3/46
R884-24P-61	1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Sections 41-1a-202, 59-2-104, 59-2-401, 59-2-402, and 59-2-405	21762	AMD	03/16/99	99-2/60
R884-24P-63	Performance Standards and Training Requirements Pursuant to Utah Code Ann. Section 59-2-406	21676	AMD	03/16/99	98-23/42
<b>TRANSPORTATION</b>					
<u>Motor Carrier</u>					
R909-1	Safety Regulations for Motor Carriers	21756	AMD	03/15/99	99-2/62
<u>Motor Carrier, Ports of Entry</u>					
R912-3	Restriction of Truck Traffic on SR-128. Legal and Permitted Vehicles	21799	NSC	01/27/99	Not Printed
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	21800	NSC	01/27/99	Not Printed
R912-76	Single Tire Configuration	21801	NSC	01/27/99	Not Printed
<b>WORKFORCE SERVICES</b>					
<u>Employment Development</u>					
R986-413	Program Standards	21705	AMD	01/20/99	98-24/122
R986-414	Income	21581	AMD	01/20/99	98-22/133
R986-417	Documentation	21582	AMD	01/20/99	98-22/134
R986-419	Income Limits	21706	AMD	01/20/99	98-24/124
R986-420	Maximum Allotments	21707	AMD	01/20/99	98-24/125
R986-421	Demonstration Programs	21585	AMD	01/20/99	98-22/136
R986-501	Displaced Homemaker Program	21883	5YR	02/19/99	99-6/32
<u>Workforce Information and Payment Services</u>					
R994-405	Ineligibility for Benefits	21745	AMD	02/17/99	99-2/65
R994-405	Ineligibility for Benefits	21746	AMD	02/17/99	99-2/72
R994-405	Ineligibility for Benefits	21748	AMD	02/17/99	99-2/77
R994-405	Ineligibility for Benefits	21749	AMD	02/17/99	99-2/83
R994-405	Ineligibility for Benefits	21747	NSC	02/20/99	Not Printed
R994-600	Dislocated Workers	21770	AMD	03/05/99	99-3/51

**RULES INDEX - BY KEYWORD (SUBJECT)**

**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or
5YR = Five-Year Review	repealed text not printed in <i>Bulletin</i>
EXD = Expired	

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>ACCELERATED LEARNING</u></b>					
Education, Administration	21897	R277-712	5YR	02/26/99	99-6/30
<b><u>ACCREDITATION</u></b>					
Education, Administration	21823	R277-413	NEW	03/22/99	99-4/16
<b><u>ACID RAIN</u></b>					
Environmental Quality, Air Quality	21735	R307-417	AMD	03/05/99	99-1/3
	21910	R307-417	5YR	03/05/99	99-7/55
<b><u>ADMINISTRATIVE LAW</u></b>					
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
<b><u>ADMINISTRATIVE PROCEDURES</u></b>					
Education, Administration	21893	R277-102	5YR	02/26/99	99-6/28
Environmental Quality, Drinking Water	21553	R309-104	AMD	01/15/99	98-21/16
Natural Resources; Forestry, Fire and State Lands	21672	R652-70-2300	AMD	01/14/99	98-23/36
School and Institutional Trust Lands, Administration	21909	R850-20-175	EXP	03/03/99	99-7/52
<b><u>ADMINISTRATIVE RESPONSIBILITY</u></b>					
Environmental Quality, Radiation Control	21807	R313-38	5YR	01/25/99	99-4/66
<b><u>ADULT EDUCATION</u></b>					
Education, Administration	21825	R277-702	AMD	03/22/99	99-4/20
	21826	R277-733	AMD	03/22/99	99-4/22
	21898	R277-734	5YR	02/26/99	99-6/30
Workforce Services, Employment Development	21883	R986-501	5YR	02/19/99	99-6/32
<b><u>AGING</u></b>					
Human Services, Aging and Adult Services	21885	R510-111	5YR	02/23/99	99-6/31
	21886	R510-111	NSC	02/27/99	Not Printed
<b><u>AGRICULTURE ASSOCIATIONS</u></b>					
Agriculture and Food, Administration	21884	R51-5	5YR	02/22/99	99-6/27
<b><u>AIR POLLUTION</u></b>					
Environmental Quality, Air Quality	21588	R307-101-2	AMD	01/07/99	98-22/49
	21591	R307-150	NEW	see CPR	98-22/56
	21591	R307-150	CPR	03/04/99	99-3/57
	21592	R307-155	REP	03/04/99	98-22/60

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	21593	R307-155	NEW	see CPR	98-22/62
	21593	R307-155	CPR	03/04/99	99-3/59
	21594	R307-158	NEW	see CPR	98-22/64
	21594	R307-158	CPR	03/04/99	99-3/60
	21504	R307-170	R&R	see CPR	98-20/5
	21504	R307-170	CPR	04/01/99	99-5/51
	21844	R307-214	5YR	02/03/99	99-5/57
	21595	R307-221	AMD	01/07/99	98-22/66
	21850	R307-221	NSC	02/27/99	Not Printed
	21570	R307-302-2	AMD	01/07/99	98-22/67
	21900	R307-415	5YR	03/01/99	99-6/31
	21589	R307-415-3	AMD	01/07/99	98-22/68
<b><u>AIR QUALITY</u></b>					
Environmental Quality, Air Quality	21735	R307-417	AMD	03/05/99	99-1/3
	21910	R307-417	5YR	03/05/99	99-7/55
<b><u>AIR TRAVEL</u></b>					
Administrative Services, Finance	21888	R25-7	NSC	03/05/99	Not Printed
<b><u>ALLOWANCE</u></b>					
Administrative Services, Finance	21889	R25-8	NSC	03/05/99	Not Printed
<b><u>ALTERNATIVE DISPUTE RESOLUTION</u></b>					
Commerce, Occupational and Professional Licensing	21905	R156-39a	5YR	03/01/99	99-6/27
<b><u>ANIMALS</u></b>					
Health, Laboratory Services	21928	R438-13	5YR	03/18/99	99-8/73
<b><u>APPLIED TECHNOLOGY EDUCATION</u></b>					
Workforce Services, Employment Development	21883	R986-501	5YR	02/19/99	99-6/32
<b><u>APPRAISAL</u></b>					
Tax Commission, Property Tax	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
<b><u>ARBITRATION</u></b>					
Commerce, Occupational and Professional Licensing	21905	R156-39a	5YR	03/01/99	99-6/27
<b><u>ASSISTED LIVING FACILITIES</u></b>					
Public Safety, Fire Marshal	21709	R710-3	AMD	01/15/99	98-24/116
<b><u>AUTHORITY</u></b>					
Environmental Quality, Air Quality	21590	R307-150	REP	03/04/99	98-22/55
<b><u>BEAM LIMITATION</u></b>					
Environmental Quality, Radiation Control	21682	R313-28	AMD	03/12/99	98-24/46
<b><u>BENEFITS</u></b>					
Workforce Services, Employment Development	21582	R986-417	AMD	01/20/99	98-22/134

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>BIG GAME SEASONS</u></b>					
Natural Resources, Wildlife Resources	21717	R657-5	AMD	01/15/99	98-24/96
	21721	R657-43	AMD	01/15/99	98-24/110
<b><u>BOARDS</u></b>					
Administrative Services, Finance	21887	R25-5	NSC	03/05/99	Not Printed
<b><u>BUDGETING</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21764	R414-304	AMD	02/25/99	99-2/4
<b><u>BUSES</u></b>					
Education, Administration	21896	R277-601	5YR	02/26/99	99-6/29
<b><u>CERTIFICATION</u></b>					
Labor Commission, Safety	21454	R616-3	AMD	01/28/99	98-19/84
<b><u>CHARTER SCHOOLS</u></b>					
Education, Administration	21773	R277-470	NSC	01/27/99	Not Printed
<b><u>CHILD ABUSE</u></b>					
Human Services, Child and Family Services	21465	R512-25	AMD	01/21/99	98-19/78
<b><u>CHILD CARE FACILITIES</u></b>					
Health, Health Systems Improvement, Child Care Licensing	21769	R430-100-13	AMD	02/25/99	99-2/13
<b><u>CHILDREN'S HEALTH BENEFITS</u></b>					
Health, Children's Health Insurance Program	21669	R382-10	AMD	01/07/99	98-23/12
	21843	R382-10	NSC	02/27/99	Not Printed
<b><u>CHILD SUPPORT</u></b>					
Human Services, Administration	21916	R495-879	5YR	03/11/99	99-7/56
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
	21809	R527-210	5YR	01/26/99	99-4/70
	21810	R527-210	NSC	01/27/99	Not Printed
	21726	R527-378	AMD	01/15/99	98-24/90
	21811	R527-430	AMD	03/18/99	99-4/49
<b><u>CHILD WELFARE</u></b>					
Human Services, Child and Family Services	21465	R512-25	AMD	01/21/99	98-19/78
<b><u>COAL</u></b>					
School and Institutional Trust Lands, Administration	21909	R850-20-175	EXP	03/03/99	99-7/52
<b><u>COLLEGES</u></b>					
Public Safety, Administration	21779	R698-4	NEW	03/05/99	99-3/33
<b><u>COMPLAINTS</u></b>					
Education, Applied Technology Education (Board for), Rehabilitation	21679	R280-201	NEW	01/05/99	98-23/8
<b><u>CONTAMINATION</u></b>					
Environmental Quality, Radiation Control	21685	R313-15-906	AMD	03/12/99	98-24/32
<b><u>CONTINUOUS MONITORING</u></b>					
Environmental Quality, Air Quality	21504	R307-170	R&R	see CPR	98-20/5
	21504	R307-170	CPR	04/01/99	99-5/51

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>CONTROLLED SUBSTANCES</u></b>					
Commerce, Occupational and Professional Licensing	21908	R156-37c	5YR	03/02/99	99-7/54
<b><u>CORRECTIONS</u></b>					
Corrections, Administration	21858	R251-103	5YR	02/12/99	99-5/57
	21828	R251-105	5YR	02/01/99	99-4/65
	21829	R251-105	AMD	03/29/99	99-4/15
<b><u>COURT REPORTING</u></b>					
Commerce, Occupational and Professional Licensing	21812	R156-74	NEW	03/18/99	99-4/12
	21813	R156-78	REP	03/18/99	99-4/13
<b><u>COVERAGE GROUPS</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21529	R414-303	AMD	01/05/99	98-21/31
<b><u>CUSTODY</u></b>					
Education, Administration	21678	R277-735	NEW	01/05/99	98-23/6
<b><u>CUSTODY OF CHILDREN</u></b>					
Human Services, Administration	21916	R495-879	5YR	03/11/99	99-7/56
<b><u>DAY CARE</u></b>					
Public Safety, Fire Marshal	21712	R710-8	AMD	see CPR	98-24/120
	21712	R710-8	CPR	02/23/99	99-2/88
<b><u>DEFINITIONS</u></b>					
Environmental Quality, Air Quality	21588	R307-101-2	AMD	01/07/99	98-22/49
Environmental Quality, Radiation Control	21684	R313-12-3	AMD	03/12/99	98-24/26
<b><u>DEMONSTRATION</u></b>					
Workforce Services, Employment Development	21585	R986-421	AMD	01/20/99	98-22/136
<b><u>DENTAL</u></b>					
Environmental Quality, Radiation Control	21682	R313-28	AMD	03/12/99	98-24/46
<b><u>DISABLED PERSONS</u></b>					
Education, Applied Technology Education (Board for), Rehabilitation	21679	R280-201	NEW	01/05/99	98-23/8
	21680	R280-202	NEW	01/05/99	98-23/10
<b><u>DISPLACED HOMEMAKERS</u></b>					
Workforce Services, Employment Development	21883	R986-501	5YR	02/19/99	99-6/32
<b><u>DRINKING WATER</u></b>					
Environmental Quality, Drinking Water	21553	R309-104	AMD	01/15/99	98-21/16
	21554	R309-113	AMD	01/15/99	98-21/20
<b><u>DRIVER EDUCATION</u></b>					
Public Safety, Driver License	21579	R708-2	R&R	see CPR	98-22/115
	21579	R708-2	CPR	03/18/99	99-4/61
<b><u>EDUCATION</u></b>					
Education, Administration	21773	R277-470	NSC	01/27/99	Not Printed
<b><u>EDUCATIONAL FACILITIES</u></b>					
Education, Administration	21895	R277-455	5YR	02/26/99	99-6/29

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>EDUCATIONAL SAVINGS TRUST</u></b>					
Regents (Board of), Administration	21674	R765-685	AMD	01/04/99	98-23/40
<b><u>EDUCATIONAL TESTING</u></b>					
Education, Administration	21825	R277-702	AMD	03/22/99	99-4/20
	21897	R277-712	5YR	02/26/99	99-6/30
<b><u>EDUCATION FINANCE</u></b>					
Education, Administration	21894	R277-425	5YR	02/26/99	99-6/28
<b><u>ELDERLY</u></b>					
Human Services, Aging and Adult Services	21730	R510-103	AMD	02/03/99	99-1/14
<b><u>ELEVATORS</u></b>					
Labor Commission, Safety	21454	R616-3	AMD	01/28/99	98-19/84
<b><u>EMERGENCY MEDICAL SERVICES</u></b>					
Health, Health Systems Improvement, Emergency Medical Services	21693	R426-1	AMD	02/26/99	98-24/51
	21649	R426-1-8	AMD	01/07/99	98-23/22
	21688	R426-2	AMD	01/22/99	98-24/59
	21694	R426-3	AMD	01/22/99	98-24/61
	21695	R426-4	AMD	01/22/99	98-24/67
	21657	R426-6	AMD	03/01/99	98-23/23
<b><u>EMISSION FEE</u></b>					
Environmental Quality, Air Quality	21900	R307-415	5YR	03/01/99	99-6/31
	21589	R307-415-3	AMD	01/07/99	98-22/68
<b><u>EMPLOYEE'S RIGHTS</u></b>					
Workforce Services, Workforce Information and Payment Services	21745	R994-405	AMD	02/17/99	99-2/65
	21746	R994-405	AMD	02/17/99	99-2/72
	21748	R994-405	AMD	02/17/99	99-2/77
	21749	R994-405	AMD	02/17/99	99-2/83
	21747	R994-405	NSC	02/20/99	Not Printed
<b><u>EMPLOYEE TERMINATION</u></b>					
Workforce Services, Workforce Information and Payment Services	21745	R994-405	AMD	02/17/99	99-2/65
	21746	R994-405	AMD	02/17/99	99-2/72
	21748	R994-405	AMD	02/17/99	99-2/77
	21749	R994-405	AMD	02/17/99	99-2/83
	21747	R994-405	NSC	02/20/99	Not Printed
<b><u>EMPLOYMENT</u></b>					
Corrections, Administration	21828	R251-105	5YR	02/01/99	99-4/65
	21829	R251-105	AMD	03/29/99	99-4/15
Workforce Services, Workforce Information and Payment Services	21745	R994-405	AMD	02/17/99	99-2/65
	21746	R994-405	AMD	02/17/99	99-2/72
	21748	R994-405	AMD	02/17/99	99-2/77
	21749	R994-405	AMD	02/17/99	99-2/83

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	21747	R994-405	NSC	02/20/99	Not Printed
	21770	R994-600	AMD	03/05/99	99-3/51
<b><u>ENROLLMENT OPTIONS</u></b>					
Education, Administration	21677	R277-437	NEW	01/05/99	98-23/4
<b><u>ENVIRONMENT</u></b>					
<b>DAR Note:</b> The following three sections will be combined to create one new rule, "R865-7H. Environmental Assurance Fee."					
Tax Commission, Auditing	21737	R865-7H-1	NEW	03/16/99	99-1/22
	21738	R865-7H-2	NEW	03/16/99	99-1/24
	21739	R865-7H-3	NEW	03/16/99	99-1/24
<b><u>ENVIRONMENTAL HEALTH</u></b>					
Environmental Quality, Drinking Water	21554	R309-113	AMD	01/15/99	98-21/20
<b><u>ENVIRONMENTAL PROTECTION</u></b>					
Environmental Quality, Air Quality	21900	R307-415	5YR	03/01/99	99-6/31
	21589	R307-415-3	AMD	01/07/99	98-22/68
Environmental Quality, Drinking Water	21553	R309-104	AMD	01/15/99	98-21/16
<b><u>ETHICS</u></b>					
Natural Resources, Wildlife Resources	21719	R657-38	AMD	01/15/99	98-24/107
<b><u>EXEMPTIONS</u></b>					
Environmental Quality, Radiation Control	21684	R313-12-3	AMD	03/12/99	98-24/26
	21686	R313-19	AMD	03/12/99	98-24/33
<b><u>EXTINGUISHERS</u></b>					
Public Safety, Fire Marshal	21708	R710-1	AMD	01/15/99	98-24/112
<b><u>FINANCE</u></b>					
Administrative Services, Finance	21889	R25-8	NSC	03/05/99	Not Printed
<b><u>FIRE PREVENTION</u></b>					
Public Safety, Fire Marshal	21712	R710-8	AMD	see CPR	98-24/120
	21712	R710-8	CPR	02/23/99	99-2/88
<b><u>FINANCIAL AID</u></b>					
Regents (Board of), Administration	21673	R765-607	NEW	01/04/99	98-23/38
	21771	R765-607	NSC	01/27/99	Not Printed
<b><u>FINANCIAL DISCLOSURE</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21764	R414-304	AMD	02/25/99	99-2/4
<b><u>FIREPLACE</u></b>					
Environmental Quality, Air Quality	21570	R307-302-2	AMD	01/07/99	98-22/67
<b><u>FIRE PREVENTION</u></b>					
Public Safety, Fire Marshal	21708	R710-1	AMD	01/15/99	98-24/112
	21710	R710-4	AMD	01/15/99	98-24/117
<b><u>FOOD STAMPS</u></b>					
Workforce Services, Employment Development	21705	R986-413	AMD	01/20/99	98-24/122
	21582	R986-417	AMD	01/20/99	98-22/134
	21706	R986-419	AMD	01/20/99	98-24/124
	21707	R986-420	AMD	01/20/99	98-24/125

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>FRANCHISE</u></b>					
Tax Commission, Auditing	21760	R865-6F-34	AMD	03/16/99	99-2/58
	21761	R865-6F-35	AMD	03/16/99	99-2/59
<b><u>GAME LAWS</u></b>					
Natural Resources, Wildlife Resources	21717	R657-5	AMD	01/15/99	98-24/96
<b><u>GENERAL LICENSES</u></b>					
Environmental Quality, Radiation Control	21805	R313-21	5YR	01/25/99	99-4/65
<b><u>GIFTED CHILDREN</u></b>					
Education, Administration	21897	R277-712	5YR	02/26/99	99-6/30
<b><u>GOVERNMENT DOCUMENTS</u></b>					
Administrative Services, Records Committee	21751	R35-1	NEW	03/18/99	99-2/2
<b><u>GRAMA (Government Records Access and Management Act)</u></b>					
Regents (Board of), Salt Lake Community College	21820	R784-1	NEW	03/18/99	99-4/57
<b><u>GRANTS</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	21802	R434-10	AMD	03/26/99	99-4/36
	21666	R434-20	NEW	01/07/99	98-23/26
<b><u>GRAZING</u></b>					
Agriculture and Food, Administration	21884	R51-5	5YR	02/22/99	99-6/27
<b><u>HAZARDOUS AIR POLLUTANT</u></b>					
Environmental Quality, Air Quality	21593	R307-155	NEW	see CPR	98-22/62
	21593	R307-155	CPR	03/04/99	99-3/59
	21844	R307-214	5YR	02/03/99	99-5/57
<b><u>HAZARDOUS SUBSTANCES</u></b>					
Environmental Quality, Environmental Response and Remediation	21854	R311-201	NSC	02/27/99	Not Printed
<b><u>HAZARDOUS WASTE</u></b>					
Environmental Quality, Solid and Hazardous Waste	21459	R315-2	AMD	see CPR	98-19/10
	21459	R315-2	CPR	02/15/99	99-1/28
<b><u>HEALTH</u></b>					
Health, Health Data Analysis	21755	R428-10	AMD	03/01/99	99-2/10
<b><u>HEALTH FACILITIES</u></b>					
Health, Health Systems Improvement, Health Facility Licensure	21795	R432-1	5YR	01/20/99	99-4/67
	21775	R432-2	5YR	01/11/99	99-3/68
	21776	R432-3	5YR	01/11/99	99-3/68
	21815	R432-4	5YR	01/29/99	99-4/68
	21816	R432-5	5YR	01/29/99	99-4/68
	21700	R432-6	AMD	01/29/99	98-24/69
	21817	R432-6	5YR	01/29/99	99-4/69
	21818	R432-149	5YR	01/29/99	99-4/69
	21752	R432-150	R&R	02/25/99	99-2/15
	21528	R432-250	REP	01/20/99	98-21/42
	21722	R432-270	R&R	01/29/99	98-24/70



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
	21561	R432-300	R&R	01/11/99	98-22/73
	21562	R432-650	AMD	01/11/99	98-22/82
	21734	R432-750	AMD	02/25/99	99-1/3
<b><u>HEALTH PLANNING</u></b>					
Health, Health Data Analysis	21755	R428-10	AMD	03/01/99	99-2/10
<b><u>HIGHER EDUCATION</u></b>					
Regents (Board of), Administration	21673	R765-607	NEW	01/04/99	98-23/38
	21771	R765-607	NSC	01/27/99	Not Printed
	21674	R765-685	AMD	01/04/99	98-23/40
<b><u>HOSPITAL POLICY</u></b>					
Health, Health Data Analysis	21755	R428-10	AMD	03/01/99	99-2/10
<b><u>HUMAN SERVICES</u></b>					
Human Services, Administration, Administrative Services, Licensing	21768	R501-1	NSC	01/27/99	Not Printed
	21821	R501-14	AMD	03/22/99	99-4/47
<b><u>HUNTING</u></b>					
Natural Resources, Wildlife Resources	21719	R657-38	AMD	01/15/99	98-24/107
<b><u>INCOME</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21529	R414-303	AMD	01/05/99	98-21/31
	21764	R414-304	AMD	02/25/99	99-2/4
Workforce Services, Employment Development	21581	R986-414	AMD	01/20/99	98-22/133
	21585	R986-421	AMD	01/20/99	98-22/136
<b><u>INMATES</u></b>					
Education, Administration	21678	R277-735	NEW	01/05/99	98-23/6
<b><u>INSPECTIONS</u></b>					
Environmental Quality, Radiation Control	21684	R313-12-3	AMD	03/12/99	98-24/26
	21535	R313-16	AMD	01/15/99	98-21/27
<b><u>INSURANCE</u></b>					
Insurance, Administration	21804	R590-160	5YR	01/22/99	99-4/71
	21790	R590-165	AMD	03/16/99	99-3/23
	21791	R590-167	AMD	03/11/99	99-3/24
	21725	R590-170	NEW	see CPR	98-24/95
	21725	R590-170	CPR	03/18/99	99-3/62
	21792	R590-175	AMD	03/11/99	99-3/29
<b><u>INSURANCE LAW</u></b>					
Insurance, Administration	21766	R590-96	AMD	03/16/99	99-2/46
	21723	R590-135	REP	03/18/99	98-24/91
	21765	R590-194	NEW	03/23/99	99-2/52
<b><u>INTERCONNECTION</u></b>					
Public Service Commission, Administration	20997	R746-365	NEW	see CPR	98-9/50
	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>INVENTORIES</u></b>					
Environmental Quality, Air Quality	21590	R307-150	REP	03/04/99	98-22/55
	21591	R307-150	NEW	see CPR	98-22/56
	21591	R307-150	CPR	03/04/99	99-3/57
	21592	R307-155	REP	03/04/99	98-22/60
	21593	R307-155	NEW	see CPR	98-22/62
	21593	R307-155	CPR	03/04/99	99-3/59
	21594	R307-158	NEW	see CPR	98-22/64
	21594	R307-158	CPR	03/04/99	99-3/60
<b><u>LABORATORIES</u></b>					
Health, Laboratory Services	21928	R438-13	5YR	03/18/99	99-8/73
<b><u>LABORATORY ANIMALS</u></b>					
Health, Laboratory Services	21928	R438-13	5YR	03/18/99	99-8/73
<b><u>LANDOWNER PERMITS</u></b>					
Natural Resources, Wildlife Resources	21721	R657-43	AMD	01/15/99	98-24/110
<b><u>LAW ENFORCEMENT OFFICER CERTIFICATION</u></b>					
Public Safety, Administration	21779	R698-4	NEW	03/05/99	99-3/33
<b><u>LICENSE</u></b>					
Environmental Quality, Radiation Control	21686	R313-19	AMD	03/12/99	98-24/33
<b><u>LICENSING</u></b>					
Commerce, Occupational and Professional Licensing	21907	R156-5a	5YR	03/02/99	99-7/54
	21716	R156-24a	AMD	see CPR	98-24/11
	21716	R156-24a	CPR	03/09/99	99-3/56
	21753	R156-28	AMD	02/18/99	99-2/3
	21908	R156-37c	5YR	03/02/99	99-7/54
	21905	R156-39a	5YR	03/01/99	99-6/27
	21822	R156-50	AMD	03/18/99	99-4/9
	21855	R156-63	AMD	04/01/99	99-5/7
	21812	R156-74	NEW	03/18/99	99-4/12
	21813	R156-78	REP	03/18/99	99-4/13
Environmental Quality, Radiation Control	21807	R313-38	5YR	01/25/99	99-4/66
Human Services, Administration, Administrative Services, Licensing	21768	R501-1	NSC	01/27/99	Not Printed
	21821	R501-14	AMD	03/22/99	99-4/47
Natural Resources, Wildlife Resources	21827	R657-27	AMD	03/18/99	99-4/51
<b><u>LIQUEFIED PETROLEUM GAS</u></b>					
Public Safety, Fire Marshal	21733	R710-6	AMD	02/02/99	99-1/17
<b><u>MACT (Maximum Achievable Control Technology)</u></b>					
Environmental Quality, Air Quality	21844	R307-214	5YR	02/03/99	99-5/57
<b><u>MAMMOGRAPHY</u></b>					
Environmental Quality, Radiation Control	21682	R313-28	AMD	03/12/99	98-24/46
<b><u>MEDIATION</u></b>					
Commerce, Occupational and Professional Licensing	21905	R156-39a	5YR	03/01/99	99-6/27

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>MEDICAID</u></b>					
Health, Health Care Financing	21668	R410-14	AMD	01/07/99	98-23/14
Health, Health Care Financing, Coverage and Reimbursement Policy	21687	R414-29	AMD	01/21/99	98-24/50
	21935	R414-54	5YR	03/31/99	99-8/73
<b><u>MINERALS RECLAMATION</u></b>					
Natural Resources; Oil, Gas and Mining; Non-Coal	21757	R647-2	AMD	02/26/99	99-2/54
	21758	R647-3	AMD	02/26/99	99-2/55
	21759	R647-4	AMD	02/26/99	99-2/56
<b><u>MONITORING</u></b>					
Environmental Quality, Air Quality	21504	R307-170	R&R	see CPR	98-20/5
	21504	R307-170	CPR	04/01/99	99-5/51
<b><u>MOTORCYCLE RIDER TRAINING PROGRAM SCHOOLS</u></b>					
Public Safety, Driver License	21881	R708-30	5YR	02/17/99	99-6/32
<b><u>MOTOR VEHICLE SAFETY</u></b>					
Transportation, Motor Carrier, Ports of Entry	21800	R912-8	NSC	01/27/99	Not Printed
<b><u>MUNICIPAL LANDFILLS</u></b>					
Environmental Quality, Air Quality	21595	R307-221	AMD	01/07/99	98-22/66
	21850	R307-221	NSC	02/27/99	Not Printed
<b><u>NATIONAL SENIOR SERVICE CORPS</u></b>					
Human Services, Aging and Adult Services	21885	R510-111	5YR	02/23/99	99-6/31
	21886	R510-111	NSC	02/27/99	Not Printed
<b><u>NURSING HOMES</u></b>					
Human Services, Aging and Adult Services	21730	R510-103	AMD	02/03/99	99-1/14
<b><u>OPERATING PERMITS</u></b>					
Environmental Quality, Air Quality	21900	R307-415	5YR	03/01/99	99-6/31
	21589	R307-415-3	AMD	01/07/99	98-22/68
	21735	R307-417	AMD	03/05/99	99-1/3
	21910	R307-417	5YR	03/05/99	99-7/55
<b><u>OPERATOR CERTIFICATION</u></b>					
Environmental Quality, Water Quality	21449	R317-10	AMD	see CPR	98-19/70
	21449	R317-10	CPR	02/04/99	99-1/35
<b><u>ORGAN TRANSPLANTS</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	21857	R414-58	5YR	02/12/99	99-5/58
<b><u>OVERPAYMENT</u></b>					
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
<b><u>OZONE</u></b>					
Environmental Quality, Air Quality	21594	R307-158	NEW	see CPR	98-22/64
	21594	R307-158	CPR	03/04/99	99-3/60
<b><u>PAROLEES</u></b>					
Corrections, Administration	21858	R251-103	5YR	02/12/99	99-5/57

RULES INDEX

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PER DIEM ALLOWANCE</u></b>					
Administrative Services, Finance	21887	R25-5	NSC	03/05/99	Not Printed
	21888	R25-7	NSC	03/05/99	Not Printed
<b><u>PERMITS</u></b>					
Natural Resources; Forestry, Fire and State Lands	21672	R652-70-2300	AMD	01/14/99	98-23/36
Natural Resources, Wildlife Resources	21720	R657-42	AMD	01/15/99	98-24/109
Transportation, Motor Carrier, Ports of Entry	21799	R912-3	NSC	01/27/99	Not Printed
<b><u>PERMITTING AUTHORITY</u></b>					
Environmental Quality, Air Quality	21735	R307-417	AMD	03/05/99	99-1/3
	21910	R307-417	5YR	03/05/99	99-7/55
<b><u>PERSONAL PROPERTY</u></b>					
Tax Commission, Property Tax	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
<b><u>PETROLEUM</u></b>					
Environmental Quality, Environmental Response and Remediation	21854	R311-201	NSC	02/27/99	Not Printed
<b><u>PHYSICAL THERAPY</u></b>					
Commerce, Occupational and Professional Licensing	21716	R156-24a	AMD	see CPR	98-24/11
	21716	R156-24a	CPR	03/09/99	99-3/56
<b><u>PHYSICIAN ASSISTANTS</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	21802	R434-10	AMD	03/26/99	99-4/36
<b><u>PHYSICIANS</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	21802	R434-10	AMD	03/26/99	99-4/36
<b><u>PODIATRIC PHYSICIAN</u></b>					
Commerce, Occupational and Professional Licensing	21907	R156-5a	5YR	03/02/99	99-7/54
<b><u>PODIATRISTS</u></b>					
Commerce, Occupational and Professional Licensing	21907	R156-5a	5YR	03/02/99	99-7/54
<b><u>PRECURSOR</u></b>					
Commerce, Occupational and Professional Licensing	21908	R156-37c	5YR	03/02/99	99-7/54
<b><u>PRIMARY TERM</u></b>					
School and Institutional Trust Lands, Administration	21909	R850-20-175	EXP	03/03/99	99-7/52
<b><u>PRISONS</u></b>					
Corrections, Administration	21828	R251-105	5YR	02/01/99	99-4/65
	21829	R251-105	AMD	03/29/99	99-4/15
<b><u>PRIVATE PROBATION PROVIDER</u></b>					
Commerce, Occupational and Professional Licensing	21822	R156-50	AMD	03/18/99	99-4/9

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>PROBATION</u></b>					
Commerce, Occupational and Professional Licensing	21822	R156-50	AMD	03/18/99	99-4/9
<b><u>PROBATIONERS</u></b>					
Corrections, Administration	21858	R251-103	5YR	02/12/99	99-5/57
<b><u>PROFESSIONAL COMPETENCY</u></b>					
Education, Administration	21824	R277-519	AMD	03/22/99	99-4/19
<b><u>PROPERTY TAX</u></b>					
Tax Commission, Property Tax	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
<b><u>PUBLIC BUILDINGS</u></b>					
Public Safety, Fire Marshal	21710	R710-4	AMD	01/15/99	98-24/117
<b><u>PUBLIC EDUCATION</u></b>					
Education, Administration	21677	R277-437	NEW	01/05/99	98-23/4
	21678	R277-735	NEW	01/05/99	98-23/6
<b><u>PUBLIC UTILITIES</u></b>					
Public Service Commission, Administration	20997	R746-365	NEW	see CPR	98-9/50
	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed
<b><u>QUARANTINE</u></b>					
Agriculture and Food, Plant Industry	21701	R68-15	AMD	01/15/99	98-24/8
	21808	R68-15	AMD	03/18/99	99-4/7
<b><u>RADIATION</u></b>					
Environmental Quality, Radiation Control	21806	R313-30	5YR	01/25/99	99-4/66
<b><u>RADIATION SAFETY</u></b>					
Environmental Quality, Radiation Control	21806	R313-30	5YR	01/25/99	99-4/66
<b><u>RADIOACTIVE MATERIAL</u></b>					
Environmental Quality, Radiation Control	21685	R313-15-906	AMD	03/12/99	98-24/32
	21805	R313-21	5YR	01/25/99	99-4/65
	21807	R313-38	5YR	01/25/99	99-4/66
<b><u>RATES</u></b>					
Administrative Services, Finance	21887	R25-5	NSC	03/05/99	Not Printed
	21889	R25-8	NSC	03/05/99	Not Printed
<b><u>RECIPROCITY</u></b>					
Environmental Quality, Radiation Control	21686	R313-19	AMD	03/12/99	98-24/33
<b><u>RECORDS APPEAL HEARINGS</u></b>					
Administrative Services, Records Committee	21751	R35-1	NEW	03/18/99	99-2/2
<b><u>RECREATION</u></b>					
Natural Resources, Wildlife Resources	21719	R657-38	AMD	01/15/99	98-24/107
<b><u>REHABILITATION</u></b>					
Education, Applied Technology Education (Board for), Rehabilitation	21680	R280-202	NEW	01/05/99	98-23/10

RULES INDEX

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>REPORTING</u></b>					
Environmental Quality, Air Quality	21590	R307-150	REP	03/04/99	99-22/55
<b><u>REPORTS</u></b>					
Environmental Quality, Air Quality	21591	R307-150	NEW	see CPR	98-22/56
	21591	R307-150	CPR	03/04/99	99-3/57
<b><u>ROYALTIES</u></b>					
School and Institutional Trust Lands, Administration	21909	R850-20-175	EXP	03/03/99	99-7/52
<b><u>RULES AND PROCEDURES</u></b>					
Education, Administration	21893	R277-102	5YR	02/26/99	99-6/28
Natural Resources, Wildlife Resources	21827	R657-27	AMD	03/18/99	99-4/51
Public Safety, Driver License	21579	R708-2	R&R	see CPR	98-22/115
	21579	R708-2	CPR	03/18/99	99-4/61
<b><u>SAFETY</u></b>					
Environmental Quality, Radiation Control	21685	R313-15-906	AMD	03/12/99	98-24/32
Labor Commission, Safety	21454	R616-3	AMD	01/28/99	98-19/84
<b><u>SAFETY REGULATION</u></b>					
Transportation, Motor Carrier, Ports of Entry	21799	R912-3	NSC	01/27/99	Not Printed
<b><u>SCHOLARSHIPS</u></b>					
Health, Health Systems Improvement, Primary Care and Rural Health	21802	R434-10	AMD	03/26/99	99-4/36
	21666	R434-20	NEW	01/07/99	98-23/26
<b><u>SCHOOLS</u></b>					
Education, Administration	21896	R277-601	5YR	02/26/99	99-6/29
Public Safety, Driver License	21579	R708-2	R&R	see CPR	98-22/115
	21579	R708-2	CPR	03/18/99	99-4/61
<b><u>SCHOOL TRANSPORTATION</u></b>					
Education, Administration	21896	R277-601	5YR	02/26/99	99-6/29
<b><u>SECURITY GUARDS</u></b>					
Commerce, Occupational and Professional Licensing	21855	R156-63	AMD	04/01/99	99-5/7
<b><u>SENIOR CENTERS</u></b>					
Human Services, Aging and Adult Services	21730	R510-103	AMD	02/03/99	99-1/14
<b><u>SHORTHAND REPORTER</u></b>					
Commerce, Occupational and Professional Licensing	21812	R156-74	NEW	03/18/99	99-4/12
	21813	R156-78	REP	03/18/99	99-4/13
<b><u>SLCC (Salt Lake Community College)</u></b>					
Regents (Board of), Salt Lake Community College	21820	R784-1	NEW	03/18/99	99-4/57
<b><u>SOCIAL SECURITY</u></b>					
Human Services, Recovery Services	21726	R527-378	AMD	01/15/99	98-24/90

<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>SOLID WASTE MANAGEMENT</u></b>					
Environmental Quality, Solid and Hazardous Waste	21783	R315-301-2	AMD	03/15/99	99-3/10
	21439	R315-304	AMD	see CPR	98-19/50
	21439	R315-304	CPR	01/05/99	98-23/45
	21772	R315-304-1	NSC	01/05/99	Not Printed
	21785	R315-305-5	AMD	03/15/99	99-3/18
	21786	R315-315-6	AMD	03/15/99	99-3/19
	21787	R315-317	AMD	03/15/99	99-3/20
	21920	R315-320	5YR	03/12/99	99-7/55
<b><u>SOURCE MATERIAL</u></b>					
Environmental Quality, Radiation Control	21805	R313-21	5YR	01/25/99	99-4/65
<b><u>SOVEREIGN LANDS</u></b>					
Natural Resources; Forestry, Fire and State Lands	21672	R652-70-2300	AMD	01/14/99	98-23/36
<b><u>STATE EMPLOYEES</u></b>					
Administrative Services, Finance	21887	R25-5	NSC	03/05/99	Not Printed
	21888	R25-7	NSC	03/05/99	Not Printed
	21889	R25-8	NSC	03/05/99	Not Printed
<b><u>STATE RECORDS COMMITTEE</u></b>					
Administrative Services, Records Committee	21751	R35-1	NEW	03/18/99	99-2/2
<b><u>STOVE</u></b>					
Environmental Quality, Air Quality	21570	R307-302-2	AMD	01/07/99	98-22/67
<b><u>STUDENT COMPETENCY</u></b>					
Education, Administration	21825	R277-702	AMD	03/22/99	99-4/20
<b><u>SURVEYS</u></b>					
Environmental Quality, Radiation Control	21806	R313-30	5YR	01/25/99	99-4/66
	21807	R313-38	5YR	01/25/99	99-4/66
<b><u>TAXATION</u></b>					
Tax Commission, Auditing	21760	R865-6F-34	AMD	03/16/99	99-2/58
	21761	R865-6F-35	AMD	03/16/99	99-2/59
<b>DAR Note:</b> The following three sections will be combined to create one new rule, "R865-7H. Environmental Assurance Fee."					
	21737	R865-7H-1	NEW	03/16/99	99-1/22
	21738	R865-7H-2	NEW	03/16/99	99-1/24
	21739	R865-7H-3	NEW	03/16/99	99-1/24
Tax Commission, Property Tax	21326	R884-24P-52	AMD	see CPR	98-16/58
	21326	R884-24P-52	CPR	01/12/99	98-23/46
	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
<b><u>TEACHER CERTIFICATION</u></b>					
Education, Administration	21824	R277-519	AMD	03/22/99	99-4/19

RULES INDEX

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<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>TELECOMMUNICATIONS</u></b>					
Public Service Commission, Administration	20997	R746-365	NEW	see CPR	98-9/50
	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed
<b><u>TIRES</u></b>					
Transportation, Motor Carrier, Ports of Entry	21801	R912-76	NSC	01/27/99	Not Printed
<b><u>TRAINING PROGRAMS</u></b>					
Workforce Services, Workforce Information and Payment Services	21770	R994-600	AMD	03/05/99	99-3/51
<b><u>TRANSPORTATION</u></b>					
Administrative Services, Finance	21888	R25-7	NSC	03/05/99	Not Printed
Environmental Quality, Radiation Control	21686	R313-19	AMD	03/12/99	98-24/33
<b><u>TRANSPORTATION SAFETY</u></b>					
Transportation, Motor Carrier	21756	R909-1	AMD	03/15/99	99-2/62
<b><u>TRAVEL FUNDS</u></b>					
Human Services, Aging and Adult Services	21885	R510-111	5YR	02/23/99	99-6/31
	21886	R510-111	NSC	02/27/99	Not Printed
<b><u>TRUCKS</u></b>					
Transportation, Motor Carrier	21756	R909-1	AMD	03/15/99	99-2/62
Transportation, Motor Carrier, Ports of Entry	21799	R912-3	NSC	01/27/99	Not Printed
<b><u>UNDERGROUND STORAGE TANKS</u></b>					
Environmental Quality, Environmental Response and Remediation	21854	R311-201	NSC	02/27/99	Not Printed
<b><u>UNEMPLOYED WORKERS</u></b>					
Workforce Services, Workforce Information and Payment Services	21770	R994-600	AMD	03/05/99	99-3/51
<b><u>UNEMPLOYMENT</u></b>					
Workforce Services, Workforce Information and Payment Services	21770	R994-600	AMD	03/05/99	99-3/51
<b><u>UNEMPLOYMENT COMPENSATION</u></b>					
Workforce Services, Workforce Information and Payment Services	21745	R994-405	AMD	02/17/99	99-2/65
	21746	R994-405	AMD	02/17/99	99-2/72
	21748	R994-405	AMD	02/17/99	99-2/77
	21749	R994-405	AMD	02/17/99	99-2/83
<b><u>UNITS</u></b>					
Environmental Quality, Radiation Control	21684	R313-12-3	AMD	03/12/99	98-24/26
<b><u>VETERINARY MEDICINE</u></b>					
Commerce, Occupational and Professional Licensing	21753	R156-28	AMD	02/18/99	99-2/3
<b><u>VOLUNTEER</u></b>					
Human Services, Aging and Adult Services	21885	R510-111	5YR	02/23/99	99-6/31
	21886	R510-111	NSC	02/27/99	Not Printed



<u>KEYWORD</u> AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>WASTE DISPOSAL</u></b>					
Environmental Quality, Radiation Control	21685	R313-15-906	AMD	03/12/99	98-24/32
Environmental Quality, Solid and Hazardous Waste	21783	R315-301-2	AMD	03/15/99	99-3/10
	21439	R315-304	AMD	see CPR	98-19/50
	21439	R315-304	CPR	01/05/99	98-23/45
	21772	R315-304-1	NSC	01/05/99	Not Printed
	21785	R315-305-5	AMD	03/15/99	99-3/18
	21786	R315-315-6	AMD	03/15/99	99-3/19
	21787	R315-317	AMD	03/15/99	99-3/20
	21920	R315-320	5YR	03/12/99	99-7/55
<b><u>WASTEWATER TREATMENT</u></b>					
Environmental Quality, Water Quality	21449	R317-10	AMD	see CPR	98-19/70
	21449	R317-10	CPR	02/04/99	99-1/35
<b><u>WATER FUNDING</u></b>					
Natural Resources, Water Resources	21736	R653-2	AMD	02/02/99	99-1/15
<b><u>WATER POLLUTION</u></b>					
Environmental Quality, Water Quality	21449	R317-10	AMD	see CPR	98-19/70
	21449	R317-10	CPR	02/04/99	99-1/35
<b><u>WELFARE FRAUD</u></b>					
Human Services, Recovery Services	21675	R527-200	AMD	01/04/99	98-23/33
<b><u>WILDLIFE</u></b>					
Natural Resources, Wildlife Resources	21717	R657-5	AMD	01/15/99	98-24/96
	21827	R657-27	AMD	03/18/99	99-4/51
	21719	R657-38	AMD	01/15/99	98-24/107
	21720	R657-42	AMD	01/15/99	98-24/109
	21721	R657-43	AMD	01/15/99	98-24/110
<b><u>WILDLIFE LAW</u></b>					
Natural Resources, Wildlife Resources	21827	R657-27	AMD	03/18/99	99-4/51
<b><u>WOODBURNING</u></b>					
Environmental Quality, Air Quality	21570	R307-302-2	AMD	01/07/99	98-22/67
<b><u>X-RAY</u></b>					
Environmental Quality, Radiation Control	21535	R313-16	AMD	01/15/99	98-21/27
	21682	R313-28	AMD	03/12/99	98-24/46
	21806	R313-30	5YR	01/25/99	99-4/66