

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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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2005-0014: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981,

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 10, 2005, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of July, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0014

End of the Special Notices Section

NOTICES OF PROPOSED RULES

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 July 2, 2005, 12:00 a.m., and July 15, 2005, 11:59 p.m. are included in this, the August 1, 2005, 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 each rule that is 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 August 31, 2005. 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 November 29, 2005, 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 (2001); 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.

The Proposed Rules Begin on the Following Page.

Health, Community and Family Health
Services, Children with Special Health
Care Needs
R398-1
Newborn Screening

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28074

FILED: 07/06/2005, 11:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to expand the number of disorders for which newborns are screened in Utah.

SUMMARY OF THE RULE OR CHANGE: The amendments clarify use, retention, and release of residual blood spots and broaden the number of disorders for which the blood will be screened.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-10-6

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The change is budget neutral. Increased fees will cover increased cost to the state for testing. The state may save Medicaid costs in an uncertain amount for children who would need more expensive medical care if the disorders were not identified through testing.

❖ LOCAL GOVERNMENTS: The increase cost of \$18,802 will initially be borne by the county operated hospitals that will then collect the kit fee from third party payers (including Medicaid) and patients.

❖ OTHER PERSONS: The cost will be \$1,700,000 annually. The average annual anticipated savings, based on expected incidence and mortality and morbidity outcome, is \$15,000,000. Of that \$15,000,000, \$1,732,659 is savings in treatment costs and \$13,421,303 savings in mortality costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost will be an increase of \$34 per newborn screened.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The 2005 Legislature approved an increase in fees to permit this expansion of newborn screening. Fiscal impact was carefully reviewed at that time by the Legislature. This rule implements the expansion. Costs to business through insurance reimbursement for this screening is expected to be minimal compared to the benefit from these tests. David N. Sundwall, MD, Executive Director

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MEDICAL DR

SALT LAKE CITY UT 84113, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Fay Keune at the above address, by phone at 801-584-8256, by FAX at 801-536-0966, or by Internet E-mail at fkeune@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R398. Health, Community and Family Health Services, Children with Special Health Care Needs.

R398-1. Newborn Screening.

R398-1-1. Purpose and Authority.

(1) The purpose of this rule is to facilitate early detection, prompt referral, early treatment, and prevention of disability and mental retardation in infants with certain metabolic~~disorders~~, endocrine, and hematologic disorders.

(2) Authority for the Newborn Screening program and promulgation of rules to implement the program are found in Sections 26-1-30(2)(a), (b), (c), (d), and (g) and 26-10-6.

R398-1-2. Definitions.

(1) "Abnormal test result" means a result that is outside of the normal range for a given test.

(2) "Appropriate specimen" means a blood specimen submitted on the Utah Newborn Screening Kit form ~~which~~ that conforms with the criteria in R398-1-8.

(3) "Blood spot" means a clinical specimen(s) collected by carefully applying a few drops of blood, freshly drawn by heel stick with a lancet from infants, onto the filter paper (specially manufactured absorbent specimen collection paper) of the Newborn Screening Kit. ~~(3) "Congenital Hypothyroidism" means a disorder in which the newborn is unable to secrete or produce thyroxine normally.]~~

(4) "Department" means the Utah Department of Health.

(5) "Follow up" means the tracking of all newborns with an abnormal result, ~~inconclusive result,~~ inadequate or unsatisfactory specimen or a [QNS]quantity not sufficient specimen through to a normal result or confirmed diagnosis and referral.

~~(6) "Galactosemia" means a recessively inherited genetic disorder in which the individual is completely or partially incapable of normal metabolism of galactose due to a deficiency of the galactose 1-phosphate uridytransferase enzyme.~~

~~(7)(6) "Inadequate specimen" means a specimen determined by the Newborn Screening Laboratory to be unacceptable for testing.~~

~~(8) "Inconclusive result" means a specimen that has no growth on the Guthrie inhibition test for phenylketonuria.~~

~~(9)(7) "Institution" means a hospital, alternate birthing facility, or midwife service in Utah which provides maternity or nursery services or both.~~

~~(14)8~~ "Medical home/practitioner" means a person licensed by the Department of Commerce, Division of Occupational and Professional Licensing to practice medicine, naturopathy, or chiropractic or to be a nurse practitioner, as well as the licensed or unlicensed midwife who takes responsibility for delivery or the ongoing health care of a newborn.

(9) "Metabolic diseases" means those diseases due to an inborn error of metabolism, for which the Department of Health shall screen all infants.

~~(14)10~~ "Newborn Screening Kit" means the department's demographic form with attached Food and Drug Administration (FDA)-approved filter paper medical collection device.

~~(12)~~ "Phenylketonuria" means a recessively inherited genetic disorder in which the individual is completely or partially incapable of normal metabolism of phenylalanine due to a deficiency of the phenylalanine hydroxylase enzyme.

~~(13)~~ "Practitioner" means a person licensed by the Department of Commerce, Division of Occupational and Professional Licensing to practice medicine, naturopathy, or chiropractic or to be a nurse practitioner, as well as the licensed or unlicensed midwife who takes responsibility for delivery or the health care of a newborn.]

~~(14)11~~ "Quantity not sufficient (QNS specimen)" means a specimen that has been partially tested but requires more blood to complete the full testing.]

~~(15)~~ "Hemoglobinopathy" means a recessively inherited genetic defect of the structure of hemoglobin found in red blood cells.]

(12) "Unsatisfactory specimen" means an inadequate specimen.

R398-1-3. Implementation.

(1) Each newborn in the state of Utah shall submit to the Newborn Screening testing, except as provided in Section R398-1-11.

(2) The Department of Health, after consulting with the Genetic Advisory Committee, will determine the Newborn Screening battery of tests based on demonstrated effectiveness and available funding.

R398-1-4. Responsibility for Collection of the First Specimen.

(1) If the newborn is born in an institution, the institution must collect and submit an appropriate specimen, unless transferred to another institution prior to 48 hours of age.

(2) If the newborn is born outside of an institution, the practitioner or other person primarily responsible for providing assistance to the mother at the birth must arrange for the collection and submission of an appropriate specimen.

(3) If there is no other person in attendance of the birth, the parent or legal guardian must arrange for the collection and submission of an appropriate specimen.

(4) If the newborn is transferred to another institution prior to 48 hours of age, the receiving health institution must collect and submit an appropriate specimen.

R398-1-5. Timing of Collection of First Specimen.

The first specimen shall be collected between 48 hours and five days of age. Except:

(1) If the newborn is discharged from an institution before 48 hours of age, an appropriate specimen must be collected within four hours of discharge.

(2) If the newborn is to receive a blood transfusion or dialysis, the appropriate specimen must be collected immediately before the procedure, except in emergency situations where time does not allow for collection of the specimen. If the newborn receives a blood transfusion or dialysis prior to collecting the appropriate specimen the following must be done:

(a) Repeat the collection and submission of an appropriate specimen 7-10 days after last transfusion or dialysis for ~~phenylketonuria and congenital hypothyroidism~~ a second screening specimen;

(b) Repeat the collection and submission of an appropriate specimen 120 days after last transfusion or dialysis for ~~galactosemia~~ a first screening specimen.

R398-1-6. Parent Education.

The person who has responsibility under Section R398-1-4 shall inform the parent or legal guardian of the required collection and submission and the disorders screened. That person shall give the second half of the Newborn Screening Kit to the parent or legal guardian with instructions on how to arrange for collection and submission of the second specimen.

R398-1-7. The Second Specimen.

A second specimen shall be collected between 7 and 28 days of age.

(1) The parent or legal guardian shall arrange for the collection and submission of the appropriate specimen through an institution, medical home/practitioner, or local health department.

(2) If the newborn's first specimen was obtained prior to 48 hours of age, the second specimen shall be collected by fourteen days of age.

(3) If the newborn is hospitalized beyond the seventh day of life, the institution shall arrange for the collection and submission of the appropriate specimen.

R398-1-8. Criteria for Appropriate Specimen.

(1) The institution or medical home/practitioner collecting the appropriate specimen must:

(a) Use only a Newborn Screening Kit purchased from the ~~(d)]~~Department. The fee for the kit is set by the Legislature in accordance with Section 26-1-6;

(b) Correctly store the Newborn Screening Kit;

(c) Not use the Newborn Screening Kit beyond the date of expiration;

(d) Not alter the Newborn Screening Kit in any way;

(e) Complete all information on the Newborn Screening Kit. If the infant is being adopted, the following may be omitted: infant's last name, birth mother's name, address, and telephone number. Infant must have an identifying name, and a contact person must be listed;

(f) Apply sufficient blood to the filter paper;

(g) Not contaminate the filter paper with any foreign substance;

(h) Not tear, perforate, scratch, or wrinkle the filter paper;

(i) Apply blood evenly to one side of the filter paper and be sure it soaks through to the other side;

(j) Apply blood to the filter paper in a manner that does not cause caking;

(k) Collect the blood in such a way as to not cause serum or tissue fluids to separate from the blood;

(l) Dry the specimen properly;
 (m) Not remove the filter paper from the Newborn Screening Kit.

(2) Submit the completed Newborn Screening Kit to the Utah Department of Health, Newborn Screening Laboratory, 46 North Medical Drive, Salt Lake City, Utah 84113.

(a) The Newborn Screening Kit shall be placed in an envelope large enough to accommodate it without folding the kit.

(b) If mailed, the Newborn Screening Kit shall be placed in the U.S. Postal system within 24 hours of the time the appropriate specimen was collected.

(c) If hand-delivered, the Newborn Screening Kit shall be delivered within 48 hours of the time the appropriate specimen was collected.

R398-1-9. Abnormal Result.

(1) If the [d]Department finds an abnormal result, the [d]Department shall inform the medical home/practitioner noted on the screening specimen form.

(2) The [d]Department may require the medical home/practitioner to collect and submit additional specimens and conduct additional diagnostic tests.

(3) The medical home/practitioner shall collect and submit specimens within the time frame and in the manner instructed by the Department for the particular diagnostic test.

(4) As instructed by the Department or the medical home/practitioner, the parent or legal guardian of a newborn identified with an abnormal test result shall promptly take the newborn to the Department or medical home/practitioner [~~or the Department~~] to have an appropriate specimen collected.

(5) [~~A~~]The medical [care provider] home/practitioner who makes the final diagnosis shall complete a diagnostic form and return it to the [d]Department within 30 days of the notification letter from the Department.

R398-1-10. [~~Inconclusive Result, Inadequate or Unsatisfactory Specimen, or QNS Specimen.~~]

(1) If the [d]Department finds an [~~inconclusive result, inadequate or unsatisfactory~~] specimen, or QNS specimen, the [d]Department shall inform the medical home/practitioner noted on the screening specimen form.

(2) The medical home/practitioner shall submit an appropriate specimen in accordance with Section R398-1-8. The specimen shall be collected and submitted within two days of notice, and the form shall be labeled for testing as directed by the [d]Department.

(3) The parent or legal guardian of a newborn identified with an [~~inconclusive result, inadequate or unsatisfactory~~] specimen or QNS specimen shall promptly take the newborn to the medical home/practitioner to have an appropriate specimen collected.

R398-1-11. Testing Refusal.

A parent or legal guardian may refuse to allow the required testing for religious reasons only. The medical home/practitioner or institution shall file in the newborn's record documentation of refusal, reason, education of family about the disorders, and signed waiver by both parents or legal guardian. The practitioner or institution shall submit a copy of the refusal to the Utah Department of Health, Family Health Services, Newborn Screening Program, P.O. Box 144[660]710, Salt Lake City, UT 84114-4[660]710.

R398-1-12. Access to Medical Records.

The [d]Department shall have access to the medical records of a newborn in order to identify medical home/practitioner, reason appropriate specimen was not collected, or to collect missing demographic information.

R398-1-13. Noncompliance by Parent or Legal Guardian.

If the medical home/practitioner or institution has information that leads it to believe that the parent or legal guardian is not complying with this rule, the medical home/practitioner or institution shall report such noncompliance as medical neglect to the [d]Department. [

R398-1-14. ~~Test Changes.~~

~~—The department, after consulting with the Genetic Advisory Committee, may make additions or changes to the Newborn Screening battery of tests.]~~

R398-1-14. Confidentiality and Related Information.

(1) The Department releases test results to the institution of birth for first specimens and to the medical home/practitioner, as noted on the demographic form, for the second specimen.

(2) The Department notifies the medical home/practitioner noted on the demographic form if the test results are abnormal, inconclusive or QNS.

(3) The Department releases information to the medical home/practitioner noted on the demographic form for timely and effective referral for diagnostic services or to ensure appropriate management for individuals with confirmed diagnosis.

(4) Upon request of the parent or guardian, the Department may release results as directed in the release.

(5) All requests for test results or records are governed by Utah Code Title 26, Chapter 3.

(6) The Department may release information in summary, statistical, or other forms that do not identify particular individuals.

(7) A testing laboratory that analyzes newborn screening samples for the Department may not release information or samples without the Department's express written direction.

R398-1-15. Blood Spots.

(1) Blood spots become the property of the Department.

(2) The Department includes in parent education materials information about the Department's policy on the retention and use of residual newborn blood spots.

(3) The Department may use residual blood spots for newborn screening quality assessment activities.

(4) The Department may release blood spots for research upon the following:

(a) The person proposing to conduct the research applies in writing to the Department for approval to perform the research. The application shall include a written protocol for the proposed research, the person's professional qualifications to perform the proposed research, and other information if needed and requested by the Department. When appropriate, the proposal will then be submitted to the Department's IRB for approval.

(b) The Department shall de-identify blood spots it releases unless it obtains informed consent of a parent or guardian to release identifiable samples.

(c) All research must be first approved by the Department's IRB.

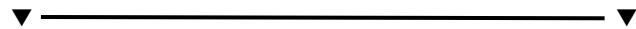
R398-1-16. Retention of Blood Spots.

- (1) The Department retains blood spots for a minimum of 90 days.
- (2) Prior to disposal, the Department shall de-identify and autoclave the blood spots.

R398-1-17. Reporting of Disorders.

If a diagnosis is made for one of the disorders screened by the Department that was not identified by the Department, the medical home/practitioner shall report it to the Department.

KEY: health care, newborn screening
[August 7, 2004]2005
Notice of Continuation September 22, 2004
26-1-6
26-1-30(2)(a), (b), (c), (d), and (g)
26-10-6



Natural Resources, Wildlife Resources
R657-6
Taking Upland Game

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 28081
 FILED: 07/08/2005, 13:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the upland game program as approved by the Wildlife Board.

SUMMARY OF THE RULE OR CHANGE: Under Section R657-6-2, several definitions are deleted since these definitions are being incorporated by reference to 50 CFR 20, 2004 ed. Section R657-6-3 is amended to clarify reporting requirements for the migratory game bird harvest information program. Provisions for wild turkey, which are currently in effect under Rule R657-54, are deleted, including application procedures, waiting periods, bonus points, methods of taking wild turkey, identification of species, and any provisions provided for wild turkey. The following provisions are incorporated by reference to 50 CFR 20, 2004 ed., and therefore are deleted: 1) baiting migratory game birds; 2) transporting another person's birds; 3) gift of migratory game birds; 4) importation limits; and 5) transfer of possession. Other changes are being made for consistency and clarity.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 20, 2004 ed.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This amendment deletes provisions incorporated by reference, provided in Rule R657-54, and clarifies existing requirements. The proposed changes to this rule do not create a cost or savings impact to the state budget or the Division of Wildlife Resources's (DWR) budget.
- ❖ LOCAL GOVERNMENTS: This amendment deletes provisions incorporated by reference, provided in Rule R657-54, and clarifies existing requirements. These proposed changes do not create any direct cost or savings impact to local governments because they are not directly affected by the rule.
- ❖ OTHER PERSONS: This amendment deletes provisions incorporated by reference, provided in Rule R657-54, and clarifies existing requirements. These proposed changes to the rule do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment deletes provisions incorporated by reference, provided in Rule R657-54, and clarifies existing requirements. These proposed changes to the rule do not create additional compliance costs.

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. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Debbie Merrill at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiemerrill@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-6. Taking Upland Game.
R657-6-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, [~~2003~~2004] edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the Upland Game Proclamation [~~and the Turkey Addendum to the Upland Game Proclamation~~] of the Wildlife Board for taking upland game.

R657-6-2. Definitions.

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

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices birds.

(b) [~~"Baited area" means any area on which shelled, shucked or unshucked corn, wheat or other grain, salt or other feed has been placed, exposed, deposited, distributed or scattered, if that shelled, shucked or unshucked corn, wheat or other grain, salt or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take migratory game birds. Any such area will remain a baited area for ten days following the complete removal of all such shelled, shucked or unshucked corn, wheat or other grain, salt or other feed.~~

~~(c) "Baiting" means the direct or indirect placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take migratory game birds.~~

~~(d) "CFR" means the Code of Federal Regulations.~~

~~(e) "Closed season" means the days on which upland game shall not be taken.~~

~~(f) "Commercial hunting area" means private land operated under Rule R657-22, where hatchery or artificially raised or propagated game birds are released for the purpose of hunting during a specified season and where a fee is charged.~~

~~(g)(c) "Falconry" means the sport of taking quarry by means of a trained raptor.~~

~~(h) "Field possession limit" means no person may possess, have in custody, or transport, whichever applies, more than the daily bag limit of migratory game birds, tagged or not tagged, at or between the place where taken and either:~~

~~(i) his or her automobile or principal means of land transportation;~~

~~(ii) his or her personal abode or temporary or transient place of lodging;~~

~~(iii) a migratory bird preservation facility; or~~

~~(iv) a post office or common carrier facility.~~

~~(i) "Immediate family" means the landowner's lessee, or landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.~~

~~(j)(d) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.~~

~~(k)(e) "Migratory game bird" means, for the purposes of this rule, Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.~~

~~(l) "Nontoxic shot" means soft iron, steel, copper plated steel, nickel plated steel, zinc plated steel, bismuth, and any other shot types approved by the U.S. Fish and Wildlife Service. Lead, nickel plated lead, copper plated lead, copper and lead/copper alloy shot have not been approved.~~

~~(m) "Open season" means the days when upland game may lawfully be taken. Each period prescribed as an open season shall include the first and last days thereof.~~

~~(n) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from a temporary or transient place of abode or dwelling, such as a hunting club, cabin, tent, or trailer house used as a hunting club or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.~~

~~(o) "Cooperative Wildlife Management Unit" means a generally contiguous area of private land open for hunting small game, waterfowl, or big game by permit that is registered in accordance with Rules R657-21 and R657-37.~~

~~(p) "Possession limit" means, for purposes of this rule, the number of upland game birds one individual may have in possession at any one time.~~

~~(q)(f) "Transport" means to ship, carry, export, import, receive or deliver for shipment, conveyance, carriage, exportation or importation.~~

~~(r)(g) "Upland game" means pheasant, quail, Chukar Partridge, Hungarian Partridge, Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, cottontail rabbit, snowshoe hare, White-tailed Ptarmigan, and the following migratory game birds: Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.~~

R657-6-3. Migratory Game Bird Harvest Information Program.

(1) A person must obtain a Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds [~~(Band-tailed Pigeon, Mourning Dove, White-winged Dove and Sandhill Crane)~~].

(2)(a) A person may call the telephone number or register online as published in the proclamation of the Wildlife Board for taking upland game [~~or register online at www.wildlife.utah.gov~~] to obtain their HIP registration number. [~~Use of a public pay phone will not allow access to the telephone number published in the proclamation of the Wildlife Board for taking upland game.~~]

(b) A person must write their HIP registration number on their current [~~year's~~] valid hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

(a) hunting license number;

(b) hunting license [~~code key~~] type;

(c) name;

(d) address;

(e) phone number;

(f) birth date; and

(g) information about the previous year's migratory game bird hunts.

(4) Lifetime license holders will receive a sticker every three years from the Division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory game birds will be required, while in the field, to [~~prove that~~] provide their small game or combination license with the HIP registration number recorded, showing they have registered and provided information for the HIP program.

R657-6-6[. Application Procedure, Waiting Period and Bonus Points for Wild Turkey.

~~(1)(a) Applications are available from Division offices, license agents, and the Division's Internet address. Applications must be~~

mailed by the date prescribed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

— (b) Residents and nonresidents may apply.

— (c) The application period for wild turkey is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

— (2)(a) Applications completed incorrectly or received after the date prescribed in the Turkey Addendum to the Upland Game Proclamation may be rejected.

— (b) If an error is found on the application, the applicant may be contacted for correction.

— (3)(a) Late applications, received by the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game, will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

— (i) future preprinted applications;

— (ii) notification by mail of late application and other draw opportunities; and

— (iii) reevaluation of Division and third party errors.

— (b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

— (c) Late applications, received after the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game shall not be processed and shall be returned to the applicant.

— (4)(a) Group applications for wild turkey will not be accepted.

— (b) Applicants may select up to three hunt choices when applying for limited entry turkey permits. Hunt unit choices must be listed in order of preference.

— (5)(a) A person may obtain only one wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit.

— (b) A person may not apply for wild turkey more than once annually.

— (c) A turkey permit allows a person using any legal weapon to take one male turkey within the area and season specified on the permit.

— (6) A small game license or combination license may be purchased before applying or the small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

— (7) Each application must include:

— (a) the nonrefundable handling fee;

— (b) the limited entry turkey permit fee; and

— (c) the small game or combination license fee, if it has not yet been purchased.

— (8) The posting date of the drawing results is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

— (9)(a) Any permits remaining after the drawing are available only by mail in request.

— (b) Requests for remaining permits must include:

— (i) full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, and driver's license number (if available);

— (ii) proof of hunter education certification, if applicable;

— (iii) small game or combination license number or fees; and

— (iv) the permit fee.

— (c) Requests must be submitted to the Salt Lake Division office as published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

— (d) Requests shall be filled on a first come, first served basis beginning on the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.

— (10) Unsuccessful applicants will receive a refund in March.

— (11)(a) Any person who obtained a Rio Grande turkey permit during the preceding two years may not apply for or obtain a Rio Grande or Merriam's turkey permit for the current year, except as provided in Subsections (c) and (d).

— (b) Any person who obtained a Merriam's turkey permit during the preceding year, may not apply for or obtain a Merriam's or Rio Grande turkey permit for the current year, except as provided in Subsections (c) and (d).

— (c) Waiting periods do not apply to the purchase of turkey permits remaining after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in the following two years.

— (d) Waiting periods do not apply to conservation permits or landowner permits.

— (12)(a) A bonus point is awarded for:

— (i) a valid unsuccessful application when applying for a permit in the turkey drawing; or

— (ii) a valid application when applying for a bonus point in the turkey drawing.

— (b)(i) A person may not apply for a bonus point if that person is ineligible to apply for a permit.

— (ii) A person may apply for one turkey bonus point each year, except a person may not apply in the drawing for both a turkey permit and a turkey bonus point in the same year.

— (iii) Group applications will not be accepted when applying for bonus points.

— (c) A bonus point shall not be awarded for an unsuccessful landowner application.

— (d) Each applicant receives a random drawing number for:

— (i) the current valid turkey application; and

— (ii) each bonus point accrued.

— (iii) The applicant will retain the lowest random number for the drawing.

— (e)(i) Fifty percent of the permits for each hunt unit will be reserved for applicants with bonus points.

— (ii) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points.

— (iii) If reserved permits remain, the reserved permits will be designated by random number to eligible applicants with the next greatest number of bonus points.

— (iv) The procedure in Subsection (iii) will continue until all reserved permits have been issued or no applications for that hunt unit remain.

— (v) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the drawing.

— (f) Bonus points are forfeited if a person obtains a wild turkey permit, except as provided in Subsection (f).

— (g) Bonus points are not forfeited if:

- (i) a person is successful in obtaining a Conservation Permit or Sportsman Permit;
- (ii) a person obtains a Landowner Permit; or
- (iii) a person obtains a Poaching Reported Reward Permit.
- (h) Bonus points are not transferable.
- (i) Bonus points are tracked using social security numbers or Division issued hunter identification numbers.
- (13)(a) An applicant may withdraw their application for the wild turkey permit drawing by requesting such in writing by the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.
- (b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake division office.
- (c) Handling fees will not be refunded.
- (14)(a) An applicant may amend their application for the wild turkey permit drawing by requesting such in writing by the initial application deadline.
- (b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.
- (c) The applicant must identify in their statement the requested amendment to their application.
- (d) An amendment may cause rejection if the amendment causes an error on the application.

R657-6-7. Landowner Permits.

- (1)(a) Up to an additional 20 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to private landowners through a drawing.
- (b) Landowners interested in obtaining landowner permits must contact the regional Division office in their area November 15 through December 15 to be eligible for the landowner permit drawing and to obtain an application.
- (c) Landowner permit applications that are not signed by the local Division representative will be rejected.
- (d) Landowner permit applications must be received by the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.
- (2)(a) A landowner who owns at least 640 acres of essential habitat that supports wild Merriam's turkeys or at least 20 acres of essential habitat that supports wild Rio Grande turkey within any of the open limited entry areas for wild turkeys is eligible to participate in the drawing for available landowner turkey permits.
- (b) Land qualifying as essential habitat and owned by more than one landowner may qualify for a landowner permit. However, the landowners who own the qualifying land must determine the landowner who will be participating in the drawing.
- (c) "Essential habitat" means areas where wild turkeys regularly and consistently roost, feed, loaf, nest or winter.
- (3)(a) A landowner who applies for a landowner permit may:
 - (i) be issued the permit; or
 - (ii) designate a member of the landowner's immediate family or landowner's regular full time employee to receive the permit.
- (b) At the time of application, the landowner must identify the designee who will receive the permit.
- (c) The landowner permit may be used only on the open limited entry area in which the landowner's property is located during the open season established for hunting wild turkeys.

- (4) The posting date of the drawing results for landowner permits is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.
- (5)(a) Any landowner permits remaining after the landowner drawing shall be converted to public limited entry permits for that specific unit.
- (b) These permits shall be issued through the limited entry drawing. Therefore, the number of public permits listed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game, may increase.
- (6)(a) A waiting period does not apply to landowners applying for landowner permits.
- (b) A landowner may apply once annually for a landowner permit and a limited entry permit, but may only draw or obtain one permit.

R657-6-8. Purchase of License, or Permit by Mail.

- (1) A person may obtain a license by mail by sending the following information to any Division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, driver's license number (if available), proof of hunter education certification and fees.
- (2) A person may obtain a Band tailed Pigeon, Sage grouse, Sharp-tailed Grouse, or White-tailed Ptarmigan permit by mail by sending the following information to any Division office: full name, complete mailing address, phone number, and hunting license number.
- (3)(a) Personal checks, cashier's checks, or money orders are accepted.
- (b) Personal checks drawn on an out-of-state account are not accepted.
- (4) Checks must be made payable to Utah Division of Wildlife Resources.

R657-6-9]. Firearms and Archery Tackle.

- (1) A person may not use any weapon or device to take upland game except as provided in this section.
- (2)(a) Upland game may be taken with archery equipment, a shotgun no larger than 10 gauge, or a handgun. Loads for shotguns and handguns must be one-half ounce or more of shot size between no. 2 and no. 8, except:
 - (i) migratory game birds may not be taken with a handgun, or a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;
 - (ii) ~~wild turkey may be taken only with a bow and broadhead tipped arrows or a shotgun no larger than 10 gauge and no smaller than 20 gauge, firing shot sizes between BB and no. 6;~~
 - (iii) cottontail rabbit and snowshoe hare may be taken with any firearm not capable of being fired fully automatic;
 - [~~(iv)~~](iii) a person hunting upland game on a temporary game preserve as defined in Rule R657-5 may not use or possess any broadheads unless that person possesses a valid big game archery permit for the area being hunted;
 - [~~(v)~~](iv) only shotguns, firing shot sizes no. 4 or smaller, may be used on temporary game preserves as specified in [~~the Big Game Proclamation; and~~]Rule R657-5; and

~~(vii)~~(v) Sandhill Crane may be taken with any size of nontoxic shot.

(b) Crossbows are not legal archery equipment for taking upland game, except as provided in Rule R657-12.

(3) A person may not use:

(a) a firearm capable of being fired fully automatic; or

(b) any light enhancement device or aiming device that casts a beam of light.

R657-6-~~10~~7. Nontoxic Shot.

(1) Only nontoxic shot may be used to take Sandhill Crane.

(2) Except as provided in Subsection (3), nontoxic shot is not required to take any species of upland game, except Sandhill Crane.

(3) A person may not possess or use lead shot or any other shot that has not been approved by the U.S. Fish and Wildlife Service ~~[for taking migratory game birds while hunting Sandhill Crane or~~ while on federal refuges or the following state waterfowl or wildlife management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadows, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Scott M. Matheson Wetland Preserve, Stewart Lake, and Timpie Springs.

R657-6-~~11~~8. Use of Firearms and Archery Tackle on State Wildlife Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified hunting seasons or as authorized by the Division on the following wildlife management areas: Bear River Trenton Property Parcel, Bud Phelps, Castle Dale, Huntington, James Walter Fitzgerald, Mallard Springs, Manti Meadows, Montes Creek, Nephi, Pahvant, Redmond Marsh, Richfield, Roosevelt, Scott M. Matheson Wetland Preserve, Vernal, and Willard Bay.

(2) The firearm restrictions set forth in this section do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-~~12~~9. Use of Firearms and Archery Tackle on State Waterfowl Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified waterfowl hunting seasons or as authorized by the Division on the following waterfowl management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(2) During the waterfowl hunting seasons, a shotgun is the only firearm that may be held in possession.

(3) The firearm restrictions set forth in this section do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-6-~~13~~10. Shooting Hours.

(1)(a) Except as provided in Subsection (b), shooting hours for upland game are as follows:

(i) Band-tailed Pigeon, Mourning Dove, White-winged Dove, and Sandhill Crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage-grouse, Ruffed Grouse, Blue Grouse, Sharp-tailed Grouse, White-tailed Ptarmigan, Chukar Partridge, Hungarian Partridge, pheasant, quail, ~~[wild turkey]~~cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking upland game.

(2) Pheasant and quail may not be taken prior to 8 a.m. on the opening day of the pheasant and quail seasons.

(3) A person may not discharge a firearm on state owned lands adjacent to the Great Salt Lake, state waterfowl management areas or on federal refuges between official sunset through one-half hour before official sunrise.

R657-6-~~14~~11. State Parks.

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of Parks and Recreation in Rule R651-614-4.

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

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

R657-6-~~15~~12. Falconry.

(1)(a) Falconers must obtain an annual small game or combination license and a valid falconry certificate of registration or license to hunt upland game and must also obtain:

(b) a Band-tailed Pigeon permit before taking Band-tailed Pigeon;

(c) a Sage-grouse permit before taking Sage-grouse;

(d) a Sharp-tailed Grouse permit before taking Sharp-tailed Grouse;

(e) a White-tailed Ptarmigan permit before taking White-tailed Ptarmigan; or

(f) a Sandhill Crane permit before taking Sandhill Crane.

(2) Areas open and bag and possession limits for falconry are provided in the proclamation of the Wildlife Board for taking upland game.

~~R657-6-16. Live Decoys and Electronic Calls.~~

~~—A person may not take a wild turkey by the use or aid of live decoys, records or tapes of turkey calls or sounds, or electronically amplified imitations of turkey calls.~~

~~R657-6-17.~~R657-6-13. Baiting.

(1) A person may not hunt upland game by the aid of baiting, or on or over any baited area where a person knows or reasonably should know that the area is or has been baited. This section does not prohibit:

(a) the taking of any migratory game bird on or over the following lands or areas that are not otherwise baited areas:

(i) standing crops or flooded standing crops (including aquatics), standing, flooded or manipulated natural vegetation, flooded harvested croplands, or lands or areas where seeds or grains

have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

(ii) from a blind or other place of concealment camouflaged with natural vegetation;

(iii) from a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(iv) standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys or retrieving downed birds.

(b) The taking of any [~~migratory upland game bird~~], except [~~waterfowl, coots and cranes~~] Sandhill Crane, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown or solely as the result of a normal agricultural operation.

~~R657-6-18. Turkeys.~~

~~—A person may not take or attempt to take any turkey sitting or roosting in a tree.~~

~~R657-6-19~~R657-6-14. Use of Motorized Vehicles.

Motorized vehicle travel on all state wildlife management areas is restricted to county roads and improved roads that are posted open.

R657-6-[20]15. Possession of Live Protected Wildlife.

A person may not possess live, protected wildlife. Protected wildlife that is wounded must be immediately killed and shall be included in the hunter's bag limit.

R657-6-[24]16. Tagging Requirements.

(1) The carcass of any Sandhill Crane, sage grouse, or Sharp-tailed Grouse[~~, or turkey~~] must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue Sandhill Crane, sage grouse, or Sharp-tailed Grouse [~~or turkey~~] after any of the notches have been removed from the tag or the tag has been detached from the permit.

R657-6-[22]17. Identification of Species and Sex.

[~~(1)~~] One fully feathered wing must remain attached to each upland game bird and migratory game bird taken [~~, except wild turkey,~~] while it is being transported to allow species identification. [~~(2) The head must remain attached to the carcass of wild turkey while being transported to permit species and sex identification.~~]

~~—(2) The head must remain attached to the carcass of wild turkey while being transported to permit species and sex identification.~~

~~R657-6-23~~R657-6-18. Waste of Upland Game.

A person shall not kill or cripple any upland game without making a reasonable effort to retrieve the animal.

R657-6-[24]19. Utah Pheasant Project.

(1) Boy Scouts, Girl Scouts, or youth enrolled in 4-H or FFA may collect and rear pheasants from eggs in nests destroyed by normal hay mowing operations. The 4-H club leader, FFA adviser or Scout Master shall first apply for and obtain a certificate of registration for this activity.

(2) Landowners or operators of mowing equipment may collect the eggs and possess them for no more than 24 hours for pick up by a person with a certificate of registration.

(3) Pheasants must be released by 16 weeks of age.

(4) These pheasants remain the property of the state of Utah.

R657-6-[25]20. Use of Dogs.

(1) Dogs may be used to locate and retrieve upland game during open hunting seasons.

(2) Dogs are not allowed on state wildlife management or waterfowl management areas, except during open hunting seasons or as posted by the Division.

(3) State wildlife management and waterfowl management areas are listed under Sections R657-6-[14]9 and R657-6-[42]10.

R657-6-[26]21. Closed Areas.

A person may not hunt upland game in any area posted closed by the Division or any of the following areas:

(1) Salt Lake International Airport boundaries as posted.

(2) Incorporated municipalities: Most of the incorporated areas of Alta, a portion of Davis County, Garland City, Layton, Logan, Pleasant View City, South Ogden City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.

(3) Wildlife Management Areas:

(a) Waterfowl management areas and federal refuges are open for hunting upland game only during designated waterfowl hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(b) Fish Springs National Wildlife Refuge is closed to upland game hunting.

(c) Goshen Warm Springs is closed to upland game hunting.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

R657-6-[27]22. Live Decoys and Electronic Calls.

A person may not take migratory game birds by the use or aid of live decoys, [~~records or tapes of migratory~~] recorded or electronically amplified bird calls or sounds, or recorded or electronically amplified imitations of bird calls or sounds.

~~R657-6-23~~R657-6-28. Baiting Migratory Game Birds.

~~—Migratory game birds may not be taken by the aid of baiting, or on or over any baited area. However, nothing in this paragraph shall prohibit:~~

~~—(1) the taking of Band-tailed Pigeon, Mourning Dove, White-winged Dove, and Sandhill Crane on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or~~

~~—(2) the taking of Band-tailed Pigeon, Mourning Dove, White-winged Dove and Sandhill Crane on or over any lands where feed has been distributed or scattered solely as the result of bona fide agricultural operations or procedures, or as a result of manipulation~~

~~of a crop or other feed on the land where grown for wildlife management purposes.~~

~~R657-6-29. Transporting Another Person's Birds.~~

~~— (1) No person may receive, transport, or have in custody any migratory game birds belonging to another person unless such birds have a tag attached that states the total number and species of birds, the date such birds were killed, and the address, signature, and license number of the hunter.~~

~~— (2) No person shall import migratory game birds belonging to another person.~~

~~R657-6-30. Gift of Migratory Game Birds.~~

~~— No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.~~

~~R657-6-31]. Shipping or Exporting.~~

~~(1) No person may transport upland game by the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds contained therein clearly and conspicuously marked on the outside of the container.~~

~~(2) A shipping permit issued by the Division must accompany each package containing upland game within or from the state.~~

~~(3) A person may export upland game or their parts from Utah only if:~~

~~(a) the person who harvested the upland game accompanies it and possess a valid license or permit corresponding to the tag, if applicable; or~~

~~(b) the person exporting the upland game or its parts, if it is not the person who harvested the upland game, has obtained a shipping permit from the Division.~~

~~[R657-6-32. Importation Limits.~~

~~— No person shall import during any one calendar week beginning on Sunday more than 25 doves, singularly or in the aggregate, or ten Band-tailed Pigeons from any foreign country, except Mexico. Importation of doves and Band-tailed Pigeons from Mexico may not exceed the maximum number permitted by Mexican authorities to be taken in any one day.~~

~~R657-6-33. Transfer of Possession.~~

~~— (1) A person may not put or leave any migratory game bird at any place other than at his personal abode or in the custody of another person for picking, cleaning, processing, shipping, transporting, or storing, including temporary storage, or for the purpose of having taxidermy services performed unless there is attached to the birds a disposal receipt, donation receipt, or transportation slip signed by the hunter stating his address, the total number and species of birds, and the date such birds were killed.~~

~~— (2) A migratory bird preservation facility may not receive or have in custody any migratory game bird without the documents required in Subsection (1).~~

~~R657-6-34.]R657-6-24. Spotlighting.~~

~~(1) 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 use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found in prima facie evidence of attempting to locate protected wildlife.~~

~~(2) The provisions of this section do not apply to:~~

~~(a) 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; or~~

~~(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.~~

~~[R657-6-35. Wild Turkey Poaching Reported Reward Permits.~~

~~— (1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a wild turkey under Section 23-20-4, within any limited entry area may receive a permit from the Division to hunt wild turkey in the following year on the same limited entry area where the violation occurred, except as provided in Subsection (2).~~

~~— (2)(a) In the event that issuance of a Poaching Reported Reward Permit would exceed 5 percent of the total number of limited entry permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the Division may issue a permit as outlined in Subsection (b).~~

~~— (b) A permit for a wild turkey, on an alternative limited entry area that has been allocated more than 20 permits, may be issued.~~

~~— (3)(a) The Division may issue only one Poaching Reported Reward Permit for any one wild turkey illegally taken.~~

~~— (b) No more than one Poaching Reported Reward Permit shall be issued to any one person per successful prosecution.~~

~~— (c) No more than one Poaching Reported Reward Permit shall be issued to any one person in any one calendar year.~~

~~— (4)(a) Poaching Reported Reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.~~

~~— (b) If information is received from more than one person, the director of the Division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.~~

~~— (c) The person providing the most pertinent information shall qualify for the Poaching Reported Reward Permit.~~

~~— (5) Any person who receives a Poaching Reported Reward Permit must be eligible to hunt and obtain wild turkey permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.~~

~~— (6) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication for the poaching incident.~~

~~R657-6-36. Invalid Permits.~~

~~— (1) A license or permit received by a person shall be deemed invalid if payment for that license or permit is not received, or a check is returned unpaid from the bank, or the credit card is invalid or refused.~~

~~— (2) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.~~

~~R657-6-37~~R657-6-25. Season Dates, Bag and Possession Limits, and Areas Open.****

~~[(1)]~~Season dates, bag and possession limits, areas open, and number of permits for taking upland game are provided in the proclamation of the Wildlife Board for taking upland game.

~~[(2)]~~Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the Turkey Addendum of the proclamation of the Wildlife Board for taking upland game.

~~R657-6-38. Youth Hunting.~~

~~(1)(a)~~ Up to 15 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to youth hunters.

~~(b)~~ For purposes of this section "youth" means any person 12 to 18 years of age on the posting date of the wild turkey drawing.

~~(2)(a)~~ Youth hunters who wish to participate in the youth limited entry wild turkey permit drawing must submit an application in accordance with Section R657-6-6.

~~(b)~~ Youth who apply for a turkey permit in accordance with Section R657-6-6, will automatically be considered in the youth permit drawing based on their birth date.

~~(3)(a)~~ Bonus points shall be used when applying for youth turkey permits in accordance with Section R657-6-6.

~~(b)~~ Waiting periods will be incurred in accordance with Section R657-6-6.]

KEY: wildlife, birds, rabbits, game laws

~~September 1, 2004~~**2005**

Notice of Continuation June 16, 2002

23-14-18

23-14-19



Natural Resources, Wildlife Resources

R657-21-2

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28088

FILED: 07/13/2005, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Cooperative Wildlife Management Unit (CWMU) program.

SUMMARY OF THE RULE OR CHANGE: Subsection R657-21-2(2)(d) is being amended to delete "wild turkey" from the definition of small game. Rule R657-37 is being amended to provide a CWMU program for turkey consistent with big game. (DAR NOTE: The proposed amendment to R657-37 is under DAR No. 28087 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendment to this rule deletes "wild turkey" from the definition of small game. The Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings 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: The amendment to this rule deletes "wild turkey" from the definition of small game. DWR determines that this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment to this rule deletes "wild turkey" from the definition of small game. DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment to this rule deletes "wild turkey" from the definition of small game. DWR determines that there is not a fiscal impact on businesses associated with this amendment. Michael R. Styler, Executive Director

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiemerrill@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-21. Cooperative Wildlife Management Units for Small Game and Waterfowl.

R657-21-2. Definitions.

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

(2) In addition:

(a) "BLM" means Bureau of Land Management.

(b) "CWMU" means Cooperative Wildlife Management Unit.

(c) "General public" means all persons except landowner association members, landowner association operators and their spouse or dependent children.

(d) "Small game" means, for purposes of this rule only, band-tailed pigeon, cottontail rabbit, grouse, mourning dove, partridge, pheasant, ptarmigan, quail, and snowshoe hare, ~~and wild turkey~~.

KEY: wildlife, small game, wildlife law
~~August 15, 2000~~ 2005
 Notice of Continuation May 22, 2000
 23-23-3



Natural Resources, Wildlife Resources **R657-37** Cooperative Wildlife Management Units for Big Game

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 28087
 FILED: 07/13/2005, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to H.B. 168, 2005 General Legislative Session, allowing cooperative wildlife management units for turkey, and in accordance with Wildlife Board meetings conducted for taking public input and implementing the Cooperative Wildlife Management Unit (CWMU) program for turkey. (DAR NOTE: H.B. 168 is found at UT L 2005 Ch 112, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: Provisions throughout this rule are amended to provide a CWMU program for turkey consistent with big game. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amendments to this rule provide a CWMU program for turkey consistent with big game. The Division of Wildlife Resources (DWR) determines that there may be a minimal cost to administer the program. However, additional turkey permits may also be sold, but the number of additional permits is unknown. Otherwise, DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget.

❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings 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:** The amendments to this rule provide a CWMU program for turkey consistent with big game. CWMU landowners or operators eligible to receive turkey permit

vouchers will be able to market turkey hunts, creating a minimal cost impact, which is offset by selling the turkey permit vouchers to interested hunters. Otherwise, DWR determines that these amendments do not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to this rule provide a CWMU program for turkey consistent with big game. A person will be required to purchase a turkey hunting permit if interested in hunting turkey on a CWMU. Otherwise, the DWR determines that there are no additional compliance costs associated with these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule provide a CWMU program for turkey consistent with big game. Businesses may be positively impacted due to hunters traveling into the state or around the state and frequenting local businesses in the areas where CWMUs are located. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiemerrill@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources. R657-37. Cooperative Wildlife Management Units for Big Game or Turkey.

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 or turkey.

(2) Cooperative Wildlife Management units are established to:

(a) increase wildlife resources;

(b) provide income to landowners;

(c) provide the general public access to private and public lands for hunting big game or turkey 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) "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.

(d) "Landowner association member" means a landowner or an organization of owners of private land who sign the CWMU application form.

(e) "Landowner association operator" means a person designated by a landowner association member to operate the CWMU.

(f) "Voucher" means a document issued by the division to a landowner association member or landowner association operator, allowing a landowner association member or landowner association operator, to designate who may purchase a CWMU big game or turkey hunting permit from a division office.

R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.

(1)(a) The minimum allowable acreage for a CWMU is 10,000 contiguous acres, except as provided in Subsection (2).

(b) The land comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, shall not be included as part of any big game or turkey CWMU.

(2)(a) The Wildlife Board may renew a CWMU that is less than 10,000 acres provided the CWMU legally possessed a CWMU Certificate of Registration during the previous year, allowing for acreage less than 10,000 contiguous acres or allowing noncontiguous land parcels; or

(b) the Wildlife Board may approve a new CWMU for deer[~~or~~] pronghorn or turkey that is at least 5,000 contiguous acres provided:

(i) the property is capable of independently maintaining the presence of the respective [~~big game~~]species and harboring them during the period of [~~big game~~]hunting;

(ii) the property is capable of accommodating the anticipated number of hunters and providing a reasonable hunting opportunity;

(iii) the property exhibits enforceable boundaries clearly identifiable to both the public and private hunters; and

(iv) the CWMU contributes to meeting division wildlife management objectives; or

(c) the Wildlife Board may renew a CWMU that is less than 5,000 acres provided the CWMU legally possessed a CWMU Certificate of Registration during the previous year, allowing for acreage less than 5,000 contiguous acres or allowing noncontiguous land parcels.

(3)(a) Cooperative Wildlife Management Units organized for hunting big game or turkey, shall consist of private land to the extent practicable.

(b) 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) the public land is necessary to establish an enforceable boundary clearly identifiable to both the general public and public and private permit holders; or

(iii) the public land is necessary to achieve statewide and unit management objectives.

(c) If any public land is included within a CWMU, the landowner association member must meet applicable federal and state land use requirements on the public land.

(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 CWMU pursuant to Subsection R657-37-4(3)(a)(iv).

R657-37-4. Cooperative Wildlife Management Unit Management Plan.

(1) The landowner association member must manage the CWMU in compliance with a CWMU Management Plan consistent with statewide and unit management objectives for the respective big game or turkey management unit and approved by the Wildlife Board.

(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) The CWMU Management Plan must be amended when the management plan, land ownership, or CWMU acreage changes.

(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~~]species management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game or turkey management 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~~)](iii) a clear explanation of the purpose for including public land within the CWMU boundaries, if public land is included;

[(~~v~~)](iv) an explanation of how the public is compensated by the CWMU when public land is included;

[(~~vi~~)](v) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;

[(~~vii~~)](vi) County Recorder Plat Maps or equivalent 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;

[(~~viii~~)](vii) two original 1:100,000 USGS maps, which must be filed in the appropriate regional division office and the Salt Lake office, depicting all interior and exterior boundaries of the proposed CWMU; and

[(~~ix~~)](viii) strategies and methods that avoid adverse impacts to adjacent landowners resulting from the operation of the CWMU, including the provisions provided in Section R657-37-7(6).

(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) [(~~a~~)] An application for a CWMU Certificate of Registration must be completed and returned to the regional division office where the proposed CWMU is located no later than August 1.

~~[(b) An application for a new CWMU Certificate of Registration must be completed when:~~

~~— (i) a CWMU Certificate of Registration has not been issued for sixty-six percent or more of the private land included within a CWMU;~~

~~— (ii) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or~~

~~— (iii) sixty-six percent or more of the private land within the CWMU is under new ownership.~~

~~—](2) The application must be accompanied by:~~

~~(a) the CWMU Management Plan as described in R657-37-4(3), including all maps;~~

~~(b)(i) 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; or~~

~~(ii) a copy of a legal contract or agreement identifying:~~

~~(A) the private land;~~

~~(B) the duration of the contract or agreement; and~~

~~(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;~~

~~(c) the name of the designated landowner association operator; and~~

~~(d) the nonrefundable handling fee.~~

~~(3) The division may reject any application that is incomplete or completed incorrectly.~~

~~(4) The division shall forward the complete and correct application and required documentation to the Regional Advisory Councils and Wildlife Board for consideration.~~

~~(5) Upon receiving the application and recommendation from the division, the Wildlife Board may:~~

~~(a) authorize the issuance of a certificate of registration, for one year, allowing the landowner association member to operate a CWMU; or~~

~~(b) deny the application and provide the landowner association member with reasons for the decision.~~

~~(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 as provided in Subsection (b) or through the renewal process described in R657-37-6 for any variation in:~~

~~(i) the CWMU Management Plan; or~~

~~(ii) any other matter related to the management and operation of the CWMU not originally included in the certificate of registration.~~

~~(b) 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 regional division office where the CWMU is located.~~

~~(i) Upon review by the region and Wildlife Section and upon approval by the director, an amendment to the original certificate of registration shall be issued in writing.~~

~~(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 authorize the issuance of a certificate of registration for a CWMU.~~

(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.

R657-37-6. Renewal of a Certificate of Registration.

(1)(a) A CWMU Certificate of Registration must be renewed annually and may be approved by the division, except as provided in Subsections (b) and (c).

(b) If any changes occur in the activities or information authorized in the current certificate of registration or CWMU Management Plan, the renewal must be considered for approval by the Wildlife Board.

(c)(i) A CWMU Certificate of Registration shall not be renewed if:

~~(A) [a CWMU Certificate of Registration has not been issued for sixty-six]thirty-four percent or more of the private [land included within a CWMU;]lands included in the renewal application were not included in the previous years' certificate of registration; or~~

~~[(B) a previous CWMU Certificate of Registration has not been issued in the past year or longer for sixty-six percent or more of the private land identified in the application; or~~

~~— (C) sixty-six](B) thirty-four percent or more of the private land within the CWMU is under new ownership.~~

(ii) If a CWMU Certificate of Registration is not renewable under this Subsection, an application for a new CWMU Certificate of Registration must be completed as provided in Section R657-37-5.

~~(2)[(a) An application for renewal of a certificate of registration must be completed and returned to the regional division office where the CWMU is established no later than September 1, 2003, for renewal of a CWMU certificate of registration for 2004.~~

~~—(b)] An application for renewal of a certificate of registration[after 2003,] must be completed and returned to the regional division office where the CWMU is established no later than August 1.~~

(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 as described in Section R657-37-4(3), if the plan has expired or is being amended; and

(b) all maps as described in Section R657-37-4(3) if the CWMU boundaries have changed; or

(c)(i) 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; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(d) the name of the designated landowner association operator; and

(e) the nonrefundable handling fee.

(5) The division may reject any application that is incomplete or completed incorrectly.

(6) The division 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.

(7) The division shall:

(a) approve the renewal Certificate of Registration and forward the permit recommendations to the Regional Advisory Councils and Wildlife Board; or

(b) deny the renewal Certificate of Registration and state the reasons for denial in writing to the applicant; and

(i) forward the application, reason for denial and recommendation to the Regional Advisory Councils and Wildlife Board; and

(iii) provide the applicant with information for seeking Wildlife Board review of the denial.

(8) Upon receiving the ~~division's~~ division's recommendation as provided in Subsection (b)(i), the Wildlife Board may 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.

(9) A CWMU Certificate of Registration for renewal is authorized annually and shall expire on January 31, providing the certificate of registration 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 other landowner association members or landowner association operators 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(2)(b).

(b) Reciprocal hunting agreements may be approved only to:

(i) raise funds to address joint habitat improvement projects;

(ii) address emergency situations limiting hunting opportunity on a CWMU; or

(iii) raise funds to aid in essential management practices for the benefit of CWMU species, including obtaining age or species population data as recommended by regional division personnel and approved by the division's wildlife section chief.

(c) 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 and written authorization from the division must be in the person's possession while hunting.

(3)(a) A landowner association member or landowner association operator must 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 or turkey.

(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)(a) Each landowner association member or landowner association operator must:

(i) clearly post all boundaries with signs that are 8 1/2 by 11 inches on a bright yellow background with black lettering, and that contain the language provided in Subsection (b); and

(ii) clearly display signs on the CWMU at all corners, fishing streams crossing property lines, road, gates, and rights-of-way entering the land.

(b) A CWMU is created under an agreement between private landowners and the division, and approved by the Wildlife Board. Only persons with a valid CWMU permit for the CWMU may hunt moose, deer, elk~~[-øø]~~, pronghorn or turkey within the boundaries of the CWMU. The general public may use accessible public land portions of the CWMU for all legal purposes, except hunting for moose, deer, elk~~[-øø]~~, pronghorn, or turkey.

(5) A landowner association member or landowner association operator must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the CWMU to each permit holder.

(6)(a) A CWMU and the division shall cooperatively address the needs of landowners who are negatively impacted by big game animals or turkeys associated with the CWMU.

(b) The CWMU and the division shall cooperatively seek methods to prevent or mitigate agricultural depredation caused by big game animals or turkeys associated with the CWMU.

R657-37-8. Cooperative Wildlife Management Unit Agents.

(1) A landowner association member may appoint CWMU agents to monitor access and protect the private property of the CWMU.

(2) Each CWMU agent must wear or have in possession a form of identification prescribed by the Wildlife Board which indicates the agent is a CWMU agent.

(3) A CWMU agent may refuse entry into the private land portions of a CWMU to any person, except owners of land within the unit and their employees, who:

(a) does not have in their possession a CWMU permit;

(b) endangers or has endangered human safety;

(c) damages or has damaged private property within a CWMU; or

(d) fails or has failed to comply with reasonable rules of a landowner association.

(4) A CWMU agent may not refuse entry to the general public onto any public land within the boundaries of a CWMU that is otherwise accessible to the public for purposes other than hunting big game or turkey for which the CWMU is authorized.

(5) In performing the functions described in this section, a CWMU agent must comply with the relevant laws of this state.

R657-37-9. Permit Allocation.

(1) The division shall issue CWMU permits for hunting big game or turkey to permittees:

- (a) qualifying through a drawing conducted for the general public as defined in Subsection R657-37-2(2)(c); or
- (b) named by the landowner association member or landowner association operator.

(2) A landowner association member or landowner association operator shall be issued vouchers that may be used to purchase hunting permits from division offices.

(3) The division and the landowner association member must, in accordance with ~~[the tables provided in]~~ Subsection (4), ~~[jointly]~~ determine:

- (a) the total number of permits to be issued for the 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]~~ Big game permits may be allocated 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.

(c) Permits shall not be issued for spike bull elk.

(d) Turkey permits shall be allocated in a ratio of fifty percent to the CWMU and fifty percent to the general public, with the public receiving the extra permit when there is an odd number of total permits.

TABLE 1

MOOSE AND PRONGHORN			
Cooperative Wildlife Management Unit's Option	Bucks/Bulls	Share	Antlerless
1	60%	0%	
2	60%	40%	

Public's Share			
Option	Bucks/Bulls	Share	Antlerless
1	40%	0%	
2	40%	60%	

TABLE 2

ELK AND DEER			
Cooperative Wildlife Management Unit's Option	Bucks/Bulls	Share	Antlerless
1	90%	0%	
2	85%	25%	
3	80%	40%	
4	75%	50%	

Public's Share		
Option	Bucks/Bulls	Antlerless
1	10%	100%
2	15%	75%
3	20%	60%
4	25%	50%

(5) Antlerless permits must be allocated to the 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) A landowner association member or landowner association operator must provide access free of charge to any person who has received a CWMU permit through the general public big game or turkey 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 make the determination based on the biological needs of the big game ~~[herds]~~ or turkey populations, including available forage, depredation, and other mitigating factors.

(8) A CWMU permit entitles the holder to hunt the species and sex of big game or turkey 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 association member to any eligible person as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, and Rule R657-42.

(11)(a) A complete list of the current CWMUs, ~~[big game hunts, and the date, time,]~~ and number of big game or turkey permits available for public drawing shall be published in the ~~[proclamation]~~ respective proclamations of the Wildlife Board for taking big game or turkey.

(b) The division reserves the exclusive right to list approved CWMUs in the ~~[proclamation]~~ proclamations of the Wildlife Board for taking big game or turkey. 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.

R657-37-10. Permit Cost.

The fee for permits allocated to any 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 or turkey; and
- (c) once-in-a-lifetime permit fee for moose.

R657-37-12. Season Lengths.

(1) A landowner association member or landowner association operator may arrange for permittees to hunt on the CWMU during the following dates:

- (a) an archery buck deer season may be established beginning with the opening of the general archery deer season through August 31 and during the sixty-one consecutive day buck deer season;

(b) an archery bull elk season may be established beginning with the opening of the general archery elk season through October 31 and during a bull elk season variance;

(c) general season bull elk, pronghorn, and moose seasons may be established September 1 through October 31, or the closing date of the general season for the respective species, whichever is later;

(d)(i) general buck deer seasons may be established for no longer than sixty-one consecutive days from September 1 through November 10;

(ii) a landowner association member or landowner association operator electing to establish buck deer hunting in November must:

(A) meet the CWMU management plan objectives;

(B) not exceed average hunter density exhibited on the surrounding deer wildlife management units;

(C) provide positive hunter satisfaction; and

(D) maintain a harvest success rate at least equal to the surrounding deer wildlife management units;

(E) designate the CWMU's sixty-one consecutive day season in the annual application, or if the sixty-one day consecutive season is not designated the season shall begin September 1;

(F) allow public hunters the option to hunt in November;

(e) muzzleloader bull elk seasons may be established September 1 through the end of the general muzzleloader elk season and during a bull elk season variance;

(f) antlerless elk seasons may be established August 15 through January 31; ~~and~~

(g) antlerless deer seasons may be established August 15 through December 31; and

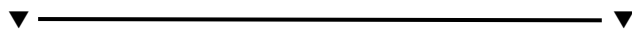
(h) turkey seasons may be established the second Saturday in April through May 31.[-]

(2) The Wildlife Board may authorize ~~[buck]~~bull elk hunting season variances only if the CWMU landowner association member or landowner association operator clearly demonstrates that November hunting is necessary on the CWMU.

KEY: wildlife, cooperative wildlife management unit
[January 15,] 2005

Notice of Continuation May 14, 2003

23-23-3



Natural Resources, Wildlife Resources **R657-42**

Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28083

FILED: 07/08/2005, 13:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to H.B. 177 and H.B. 181, 2005 General Legislative Session, and Wildlife Board meetings conducted for taking public input. (DAR NOTE: H.B. 177 is found at UT L 2005 Ch 115, and was effective 02/07/2005,

and H.B. 181 is found at UT L 2005 Ch 117, and was effective 02/07/2005.)

SUMMARY OF THE RULE OR CHANGE: Subsection R657-42-5(5) is being amended to allow the director of the Division of Wildlife Resources (DWR) to determine whether a person participated in a wildlife-related activity for purposes of issuing a refund under Section 23-19-38, which was amended with H.B. 177. Section R657-42-10 is being amended to provide the provisions for issuing a duplicate license, permit, tag, or certificate of registration in accordance with Section 23-19-10, which was amended with H.B. 181.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-19-1 and 23-19-38

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment allows the director of DWR to determine whether a person participated in a wildlife-related activity for purposes of issuing a refund and provides the provisions for issuing a duplicate license, permit, tag, or certificate of registration. DWR determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget.

❖ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings 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: This amendment allows the director of the Division of Wildlife to determine whether a person participated in a wildlife-related activity for purposes of issuing a refund and provides the provisions for issuing a duplicate license, permit, tag, or certificate of registration. This amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment allows the director of DWR to determine whether a person participated in a wildlife-related activity for purposes of issuing a refund and provides the provisions for issuing a duplicate license, permit, tag, or certificate of registration. DWR determines that there are no compliance costs associated with this amendment.

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. Michael R. Styler, Executive Director

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY UT 84116-3154, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiemerrill@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.

R657-42-5. Refunds.

(1) The refund of a license, certificate of registration or permit shall be made in accordance with:

- (a) Section 23-19-38 and Rule R657-50;
- (b) Section 23-19-38.2 and Subsection (3); or
- (c) Section 23-19-38 and Subsection (4).

(2)(a) An application for a refund may be obtained from any division office.

(b) All refunds must be processed through the Salt Lake Division office.

(3) A person may receive a refund in accordance with Subsection (3) for a wildlife document if that person was deployed or mobilized on or after September 11, 2001, in the interest of national defense or national emergency and is thereby completely precluded from participating in the hunting or fishing activity authorized by the wildlife document, provided:

(a) the refund request is made to the division within one year of the end of the hunting or fishing season authorized by the wildlife document;

(b) the person surrenders the wildlife document to the division, or signs an affidavit stating the wildlife document is no longer in the person's possession; and

(c) the person verifies that the deployment or mobilization completely precluded them from participating in the activity authorized by the wildlife document, except as provided in Subsection (5); and

(d) the person provides military orders, or a letter from an employment supervisor on official public health or public safety organization letterhead stating:

(i) the branch of the United States Armed Forces, or name of the public health organization or public safety organization from which they were deployed or mobilized; and

(ii) the nature and length of their duty while deployed or mobilized.

(4) The division may issue a refund for a wildlife document if the person to whom it was issued dies prior to participating in the hunting or fishing activity authorized by the wildlife document, provided:

(a) The person legally entitled to administer the decedent's estate provides the division with:

- (i) picture identification;

(ii) letters testamentary, letters of administration, or such other evidence establishing the person is legally entitled to administer the affairs of the decedent's estate;

(iii) a photocopy of the decedent's certified death certificate; and

(iv) the wildlife document for which a refund is requested.

(5) The director may determine that a person ~~[deployed or mobilized, or a decedent]~~ did not have the opportunity to participate in ~~[the]~~an activity authorized by the wildlife document.

(6) The division may reinstate a bonus point or preference point, whichever is applicable, and waive waiting periods, if applicable, when issuing a refund in accordance with Subsection (3).

R657-42-10. Duplicates.

(1) ~~[Whenever any]~~If an unexpired wildlife document 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 wildlife document, whichever is less.]~~ or online license agent, for a duplicate fee as provided in the fee schedule.

(2) The division may waive the fee for a duplicate unexpired wildlife document provided the person did not receive the original wildlife document.

(3) To obtain the duplicate wildlife document, the applicant ~~[must]~~may be required to complete an affidavit testifying to such loss, destruction or theft~~[pursuant to Section 23-19-10]~~.

KEY: wildlife, permits

[January 15,] 2005

Notice of Continuation May 14, 2003

23-19-1

23-19-38

23-19-38.2

Regents (Board Of), Administration

R765-605-4

Policy

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28084

FILED: 07/12/2005, 14:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides policy and procedures for administering the "Utah Centennial Opportunity Program for Education". In 2004, the rule was amended to incorporate eligibility requirements for the new Cesar Chavez Scholarship Program as outlined in Section 53B-13a-106. Wording was added to the "Students Eligible to Participate" Section R765-605-4.4.4 that could be interpreted as allowing for an alternative method to the federal need analysis process for determining scholarship eligibility. In order to clarify Subsection R765-605-4.4.4.5, while Cesar Chavez Scholarship recipients must have family income less than 200% of the federal poverty guideline, official federal

need analysis must be used to determine the family contribution. A state rule that allows for an alternative method to determine financial need for a unique class of students may not be in harmony with federal welfare and immigration law. Therefore, the method of determining eligibility for the Cesar Chavez Scholarship is to include use of the federal need analysis process and have a family income less than 200% of the federal poverty guideline.

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies the method of determining financial need by using the federal need analysis system in combination with requiring Cesar Chavez Scholarship recipients to have a family income of less than 200% of the federal poverty guideline that is issued each year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-8-102, 53-8-106; Title 53B Chapter 13a; and State Board of Regents Policy R512, Determination of Resident Status

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment neither increases nor decreases costs to state budgets. This amendment simply clarifies how scholarship recipients may have eligibility determined.

❖ **LOCAL GOVERNMENTS:** The change to this rule has no fiscal impact on local government since the rule only applies to financial aid for college students. Local governments are not affected by this rule change nor by the rule itself as the rule only applies to the administration of student financial aid funds at public and private institutions of higher education.

❖ **OTHER PERSONS:** The change to this rule has no fiscal impact on any other person. This change identifies the parameters to establish eligibility for specific scholarship funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule for any individual, partnership, corporation, association, governmental entity or public or private organizations. This rule provides for scholarship funds and has no associated compliance costs for individuals or entities outside of higher education.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses since this rule details the administration of scholarship funds appropriated from state revenues. Richard Kendell, Commissioner of Education

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rccrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2005

AUTHORIZED BY: Richard E. Kendell, Commissioner

R765. Regents (Board of), Administration.

R765-605. Utah Centennial Opportunity Program for Education.

R765-605-4. Policy.

4.1. Program Description - UCOPE is a State supplement to increasingly inadequate grant and work assistance from Federal Government student financial aid programs. In UCA 53B-13a-103(1), the Legislature finds "that the general welfare and well-being of the state are directly related to the educational levels and skills of the citizens of the state, and that limited financial aid for students with demonstrated financial need to help finance costs of attendance at Utah postsecondary institutions is a necessary component for ensuring access to postsecondary education and training as the state enters its second century of statehood". Program funds may be used for either grants or work-study awards to students with demonstrated financial need, with no more than 3.0% of funds allocated to an eligible institution permitted to be used for administrative costs. These are the only purposes for which program funds may be used.

4.2. Award Year - The award year for UCOPE is the twelve-month period designated by an eligible institution, coinciding approximately with the state fiscal year beginning July 1 and ending June 30. An institution may choose to have its Summer enrollment period as either the first or the final enrollment period of the award year for UCOPE purposes.

4.3. Institutions Eligible to Participate - Eligible institutions include the ten institutions of the Utah System of Higher Education, and Utah private nonprofit postsecondary institutions which are accredited by a regional accrediting organization recognized by the Board. These are the only institutions eligible to participate. For purposes of this section, the Board recognizes the Northwest Association of Schools and Colleges. Utah private nonprofit postsecondary institutions accredited by the Northwest Association of Schools and Colleges are Brigham Young University, Westminster College and LDS Business College.

4.4. Students Eligible to Participate - To be eligible for grant or work-study assistance from UCOPE funds, a student must:

4.4.1. Be a resident student of the State of Utah under UCA 53B-8-102 and Board Policy R512 or exempt from paying the nonresident portion of total tuition under Utah Code Section 53B-8-106. For purposes of this section, in addition to the qualification methods set forth in Policy R512, an institution may recognize a student, other than a nonimmigrant alien, as a resident student of the State of Utah if the student graduated from a Utah high school within 12 months of enrolling in the institution.

4.4.2. Be unconditionally admitted and currently enrolled in an eligible institution on at least a half-time basis as defined in Federal regulations applicable to Title IV of the Higher Education Act, in a post-high school program of at least nine months duration, leading to an Associate or Bachelor's degree, or to a diploma or certificate in an applied technology or other occupational specialty. This does not include unmatriculated students or students enrolled in postbaccalaureate programs or in remedial or developmental programs to prepare for admittance to a degree, diploma, or occupational certificate program.

4.4.3. Be maintaining satisfactory progress, as defined by the institution, toward the degree, diploma, or certificate objective in which enrolled.

4.4.4. Meet all requirements of general eligibility for Federal Higher Education Act Part IV Student Financial Aid Programs, as defined in applicable U. S. Department of Education Regulations and the current edition of the Department of Education Student Aid Handbook.

4.4.5. Have a demonstrated need for financial assistance based on the defined Cost of Attendance for the applicable student category at the institution and the expected family contribution as determined by the Federal need analysis process for Higher Education Act Title IV student financial assistance programs, ~~or~~ and, to qualify for a Cesar Chavez Scholarship, have a family income less than 200% of the federal poverty guideline issued each year by the U.S. Department of Education for the family size.

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KEY: financial aid, higher education

October 19, 2004

Notice of Continuation June 30, 2003

53B-8-102

53B-13a



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive 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 August 31, 2005. At its option, the agency may hold public hearings.

From the end of the waiting period through November 29, 2005, 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 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Environmental Quality, Air Quality

R307-101-2

Definitions

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27755
Filed: 07/12/2005, 09:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Section R307-101-2 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Air Quality Board revised Section R307-101-2 to clarify the definition of EPA Method 9. Other corrections were made to the adoption date of the PM10 maintenance plan and the definition of maintenance areas for sulfur dioxide. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 2. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Because these amendments are clarifying the definitions and not creating any new requirements, no change in costs is expected to the state budget.
- ❖ **LOCAL GOVERNMENTS:** Because these amendments are clarifying the definitions and not creating any new requirements, no change in costs is expected for local governments.
- ❖ **OTHER PERSONS:** Because these amendments are clarifying the definitions and not creating any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these amendments are clarifying the definitions and not creating any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, definitions of Section R307-101-2 have been clarified, but the clarifications are not expected to have a fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the executive secretary, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the executive secretary if the executive secretary determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Air Quality Related Values" means, as used in analyses under R307-401-4(1), Public Notice, those special attributes of a Class I area, assigned by a federal Land Manager, that are adversely affected by air quality.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-6.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Baseline Date"

(1) Major source baseline date means:

(a) in the case of particulate matter:

(i) for Davis, Salt Lake, Utah, and Weber Counties, the date that EPA approves the PM10 maintenance plan that was adopted by the Board on ~~June 1~~ July 6, 2005;

(ii) for all other areas of the state, January 6, 1975;

(b) in the case of sulfur dioxide:

(i) for Salt Lake County, the date that EPA approves the Sulfur Dioxide maintenance plan that was adopted by the Board on January 5, 2005;

(ii) for all other areas of the state, January 6, 1975; and

(c) in the case of nitrogen dioxide, February 8, 1988.

(2) Minor source baseline date means the earliest date after the trigger date on which the first complete application under 40 CFR 52.21 or R307-405 is submitted by a major source or major

modification subject to the requirements of 40 CFR 52.21 or R307-405. The minor source baseline is the date after which emissions from all new or modified sources consume or expand increment, including emissions from major and minor sources as well as any or all general commercial, residential, industrial, and other growth. The trigger date is:

(a) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(b) In the case of nitrogen dioxide, February 8, 1988.

"Best Available Control Technology (BACT)" means an emission limitation and/or other controls to include design, equipment, work practice, operation standard or combination thereof, based on the maximum degree or reduction of each pollutant subject to regulation under the Clean Air Act and/or the Utah Air Conservation Act emitted from or which results from any emitting installation, which the Air Quality Board, on a case-by-case basis taking into account energy, environmental and economic impacts and other costs, determines is achievable for such installation through application of production processes and available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall applications of BACT result in emissions of any pollutants which will exceed the emissions allowed by Section 111 or 112 of the Clean Air Act.

"Board" means Air Quality Board. See Section 19-2-102(6)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection;

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value -

ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Clean Air Act" means federal Clean Air Act as amended in 1990.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is calculated by the National Weather Service from daily measurements of temperature lapse rates and wind speeds from ground level to 10,000 feet. The State has been divided into three separate air quality areas for purposes of the clearing index system:

(1) Area 1 includes those valleys below 6500 feet above sea level and west of the Wasatch Mountain Range and extending south through the Wasatch and Aquarius Plateaus to the Arizona border. Included are the Salt Lake, Utah, Skull and Escalante Valleys and valleys of the Sevier River Drainage.

(2) Area 2 includes those valleys below 6500 feet above sea level and east of the Wasatch Mountain Range. Included are Cache Valley, the Uintah Basin, Castle Valley and valleys of the Green, Colorado, and San Juan Rivers.

(3) Area 3 includes all valleys and areas above 6500 feet above sea level.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of

supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air contaminant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," [40 CFR Part 60, Appendix A,] and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR." [effective July 1, 2004.]

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Executive Secretary" means the Executive Secretary of the Board.

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Indirect Source" means a building, structure or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

- (i) Salt Lake County, effective August 18, 1997; and
- (ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

- (i) Salt Lake City, effective March 22, 1999;
- (ii) Ogden City, effective May 8, 2001; and

(iii) Provo City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on March 31, 2004.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on ~~June 4~~ July 6, 2005; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on ~~June 4~~ July 6, 2005; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on ~~June 4~~ July 6, 2005.

(d) The following areas are considered maintenance areas for sulfur dioxide:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005; and

(ii) the eastern portion of Tooele County above 5600 feet.

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KEY: air pollution, definitions

2005

Notice of Continuation June 5, 2003

19-2-104



Environmental Quality, Air Quality **R307-110-10**

Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27768

Filed: 07/12/2005, 09:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to revise the PM10 Maintenance Plans in response to public comments. The Plan is incorporated by reference by Section R307-110-10. (See separate filings on Section R307-110-17 and other rules in this issue.) (DAR NOTE: The change in proposed rule (CPR) for Section R307-110-17 is under DAR No. 27769; the CPR for Section R307-101-2 is under DAR No. 27755; the CPR for Rule R307-165 is under DAR No. 27756; the CPR for Rule R307-201 is under DAR No. 27757; the CPR for Rule R307-207 is under DAR No. 27760; the CPR for Rule R307-302 is under DAR No. 27761; the CPR for Rule R307-305 is under DAR No. 27762; the CPR for Rule R307-306 is under DAR No. 27763; and the CPR for R307-309 is under DAR No. 27765 all in this issue.)

SUMMARY OF THE RULE OR CHANGE: There is no change in Section R307-110-10; the changes are in the Plans incorporated by reference by Section R307-110-10. In response to public comments, clarifications are made throughout the plan, but there are no significant changes in meaning. The original proposal was to add a new PM10 Maintenance Plan into the state implementation plan. On the recommendation of the Environmental Protection Agency (EPA), the Plan is now split into three parts, Subsections IX.A.10, IX.A.11, and IX.A.12, addressing Salt Lake County, Utah County, and Ogden City, respectively. The technical support for the three plans remains the same, as all computer modeling was conducted on a regional scale. In the original proposal, two alternative Motor Vehicle Emission Budgets were proposed for each geographic area; based on public comments, Alternative One for each location is included in the final Plan. Additional charts and discussion are added to explain why it is inappropriate to include monitored data if it is collected during unusual events. The full text of the existing PM10 plan and the revised maintenance plans are available at <http://airquality.utah.gov/SIP/PM10SIP/index.htm>. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 6. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section IX, Control Measures for Area and Point Sources, Part A.10, 11, and 12, PM10 Maintenance Provisions for Salt Lake County, Utah County, and Ogden City, respectively, adopted on July 6, 2005

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Provisions of the plan have been clarified, but there are no changes in costs as a result of the clarifications.
- ❖ LOCAL GOVERNMENTS: The only component of the plan that affects local governments is the limit on woodburning during inversion periods; no changes are made as a result of public comments, and thus there is no change in costs for local governments.
- ❖ OTHER PERSONS: Provisions of the plan have been clarified, but there are no changes in costs for other persons as a result of the clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Provisions of the plan have been clarified, but there are no changes in costs for affected persons as a result of the clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, provisions of the plan have been clarified, but none of the clarifications affects the costs to businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on July 6, 2005, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
September 2, 2005
Notice of Continuation March 27, 2002
19-2-104(3)(e)

▼ ————— ▼

Environmental Quality, Air Quality
R307-110-17
Section IX, Control Measures for Area
and Point Sources, Part H, Emission
Limits

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27769
Filed: 07/12/2005, 10:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-110-17 incorporates by reference emission limits for specific sources of air pollution in Salt Lake and Utah Counties; these limits are required by the PM10 Plan that is incorporated by reference by Section R307-110-10. The purpose of this change is to revise the emission limits in response to public comments. (See separate filing on Section R307-110-10 in this issue.) (DAR NOTE: The change in proposed rule (CPR) for Section R307-110-10 is under DAR No. 27768 in this issue.)

SUMMARY OF THE RULE OR CHANGE: There is no change in Section R307-110-17; all changes are in the emission limits that are incorporated by reference by Section R307-110-17. The emission limits are required by the PM10 State Implementation Plan (SIP) that is incorporated by reference by Section R307-110-10; changes are made in response to public comments. The plan has been in place since 1991, and the emission limits meet the requirement of Section 189(a)(1)(A) of the Clean Air Act that reasonably available control measures (RACM) must be applied to sources within Salt Lake and Utah Counties. The present emission limits represent a new determination of RACM for those areas. Provisions are added in the general requirements controlling fugitive dust, the emission limits for specific sources are re-ordered to separate those located in Salt Lake County from those in Utah County, and changes in the emission limits for some sources clarify the original language. For the refineries and for Kennecott, there are specific changes. The proposed emission limits required refineries to achieve an opacity of 20% as measured by EPA Method 9, or 30% if measured with a continuous opacity monitor; the revised limits require 20% with Method 9. For Kennecott, the emission limits for the concentrator are removed from the Plan because the rotary kiln, to which the limits applied, is no longer in use, and improved processes will reduce emissions. The proposal for Kennecott's tailings impoundments incorporated by reference Kennecott's Operating Permit issued under Rule R307-415 (40 CFR Part 70); the revised emission limits are spelled out in detail but are similar to those in the Operating Permit. Finally, the emission limits for the Kennecott smelter are reduced significantly to reflect the limits included in Kennecott's approval order under Rule R307-401. The full text of the existing emission limits, as well as the Summary of Comments and Responses and the proposed changes in the text of Section IX.H, are available at <http://airquality.utah.gov/SIP/PM10SIP/index.htm>. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 7. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits, adopted July 6, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Provisions of the emission limits have been clarified, but there are no changes in costs to the state budget as a result of the clarification.

❖ LOCAL GOVERNMENTS: There is no change in costs for local governments, because there is no change in the emission limits for sources owned by local governments.

❖ OTHER PERSONS: Some changes in language merely clarify the provisions and thus do not change the costs or benefits for the sources; other changes are to include conditions already in the sources' permits and thus do not change the costs to the sources. However, some changes in the document may change costs to the sources. For the refineries, the proposed emission limits required achieving an opacity of 20% as measured by EPA Method 9, or 30% if measured with a continuous opacity monitor; the revised limits require 20% with Method 9. However, this change will not impose new costs, as this opacity limit and test method have been applicable to refineries for many years. Kennecott has made the decision to remove the regulated equipment at its concentrator, and thus no change in cost is imposed by removing the concentrator from the emission limits document. The proposed emission limits for Kennecott's tailings impoundments were those included in the Operating Permit issued under Rule R307-415 (40 CFR Part 70); the revised limits are those included in the approval order issued under Rule R307-401 and are quite similar. Because the limits already are in the Approval Order for the source, there is no additional cost to the source by including them in the emissions limits. The emission limits for Kennecott's smelter are reduced significantly in the emission limits document, but the new limits reflect Kennecott's current approval order issued under Rule R307-401, and thus there is no change in costs for the company.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some changes in language merely clarify the provisions and thus do not change the costs or benefits for the sources; other changes are to include conditions already in the sources' permits and thus do not change the costs to the sources. However, some changes in the document may change costs to the sources. For the refineries, the proposed emission limits required achieving an opacity of 20% as measured by EPA Method 9, or 30% if measured with a continuous opacity monitor; the revised limits require 20% with Method 9. However, this change will not impose new costs, as this opacity limit and test method have been applicable to refineries for many years. Kennecott has made the decision to remove the regulated equipment at its concentrator, and thus no change in cost is imposed by removing the concentrator from the emission limits document. The proposed emission limits for Kennecott's tailings impoundments were those included in the Operating Permit issued under Rule R307-415 (40 CFR Part 70); the revised limits are those included in the approval order issued under Rule R307-401 and are quite similar. Because the limits

already are in the Approval Order for the source, there is no additional cost to the source by including them in the emissions limits. The emission limits for Kennecott's smelter are reduced significantly in the emission limits document, but the new limits reflect Kennecott's current approval order issued under Rule R307-401, and thus there is no change in costs for the company.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, components of the emission limits have been expanded and clarified, but there are no changes that will cause increased costs for the businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/31/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on July 6, 2005, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, PM10, PM2.5, ozone
September 2, 2005
Notice of Continuation March 27, 2002
19-2-104(3)(e)**

Environmental Quality, Air Quality
R307-165
Emission Testing

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27756
Filed: 07/12/2005, 09:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to make amendments to Rule R307-165 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Air Quality Board revised Rule R307-165 to restore existing requirements of this rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because this revision restores existing requirements, no change in costs is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because this revision restores existing requirements, no change in costs is expected to sources owned by local governments.
- ❖ OTHER PERSONS: Because this revision restores existing requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision restores existing requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed revision restores existing requirements and no fiscal impact is expected for businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-165. Emission Testing.

R307-165-1. Purpose.

R307-165 establishes the frequency of emission testing requirements for all areas in the state.

R307-165-2. Testing Every 5 Years.

Emission testing is required at least once every five years of all sources with established emission limitations specified in approval orders issued under R307-401 or in section IX, Part H of the Utah state implementation plan. In addition, if the executive secretary has reason to believe that an applicable emission limitation is being exceeded, the executive secretary may require the owner or operator to perform such emission testing as is necessary to determine actual compliance status. Sources approved in accordance with R307-401 will be tested within six months of start-up. The Board may grant exceptions to the mandatory testing requirements of R307-165-2 that are consistent with the purposes of R307.

R307-165-3. Notification of DAQ.

At least 30 days prior to conducting any emission testing required under any part of R307, the owner or operator shall notify the executive secretary of the date, time and place of such testing and, if determined necessary by the executive secretary, the owner or operator shall attend a pretest conference.

R307-165-4. Test Conditions.

All tests shall be conducted while the source is operating at the maximum production or combustion rate at which such source will be operated. During the tests, the source shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations. In addition, the source shall operate under such other relevant conditions as the executive secretary shall specify.

R307-165-5. Rejection of Test Results.

The executive secretary may reject emissions test data if they are determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the executive secretary was not provided an opportunity to have an observer present at the test.

**KEY: air pollution, emission testing
2005**

**Notice of Continuation June 11, 2003
19-2-104(1)**



**Environmental Quality, Air Quality
R307-201
Emission Standards: General Emission
Standards**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27757

Filed: 07/12/2005, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-201 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Board added language to clarify that locomotives are exempt from state emissions limits because locomotive emission rates are set by the Environmental Protection Agency (EPA). In addition, the Board revised Subsection R307-201-3(7) to return this subsection to the language found in the current rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 9. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101 and 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Although provisions of Rule R307-201 have been clarified, no additional requirements were added. Therefore, no changes in costs are expected to the state budget because of the clarifications.
- ❖ **LOCAL GOVERNMENTS:** Although provisions of Rule R307-201 have been clarified, no additional requirements were added. Therefore, no changes in costs are expected to sources owned by local governments because of the clarifications.
- ❖ **OTHER PERSONS:** Although provisions of Rule R307-201 have been clarified, no additional requirements were added. Therefore, no changes in costs are expected to other persons because of the clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although provisions of Rule R307-201 have been clarified, no additional requirements were added. Therefore, no changes in costs are expected to affected persons because of the clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, provisions of Rule R307-201 have been clarified, but the clarifications are not expected to have a fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-201. Emission Standards: General Emission Standards.

R307-201-1. Purpose.

R307-201 establishes emission standards for all areas of the state except for sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-201-2. Applicability.

R307-201 applies statewide to any sources of emissions except for sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-201-3. Visible Emissions Standards.

(1) Visible emissions from installations constructed on or before April 25, 1971, except diesel engines, shall be of a shade or density no darker than 40% opacity, except as otherwise provided in these rules.

(2) Visible emissions from installations constructed after April 25, 1971, except diesel engines shall be of a shade or density no darker than 20% opacity, except as otherwise provided in these rules.

(3) Visible emissions for all incinerators, no matter when constructed, shall be of shade or density no darker than 20% opacity.

(4) No owner or operator of a gasoline powered engine or vehicle shall allow, cause or permit visible emissions.

(5) Emissions from diesel engines, except locomotives, manufactured after January 1, 1973, shall be of a shade or density no darker than 20% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding three minutes in any hour.

(6) Emissions from diesel engines manufactured before January 1, 1973, shall be of a shade or density no darker than 40% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding three minutes in any hour.

(7) Visible emissions exceeding the opacity standards for short time periods as the result of initial warm-up, soot blowing, cleaning of grates, building of boiler fires, cooling, etc., caused by start-up or shutdown of a facility, installation or operation, or unavoidable combustion irregularities ~~[that]which~~ do not exceed three minutes in length (unavoidable combustion irregularities which exceed three minutes in length must be handled in accordance with R307-107), shall not be deemed in violation provided that the executive secretary finds that adequate control technology has been applied. ~~[Unavoidable combustion irregularities that exceed three minutes in length must be addressed in accordance with R307-107.]~~ The owner or operator shall minimize visible and non-visible emissions during start-up or shutdown of a facility, installation, or operation through the use of adequate control technology and proper procedures.

(8) Compliance Method. Emissions shall be brought into compliance with these requirements by reduction of the total weight of contaminants discharged per unit of time rather than by dilution of emissions with clean air.

(9) Opacity Observation. Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9. Opacity observers of mobile sources and intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a 6-minute period shall not apply.

R307-201-4. Automobile Emission Control Devices.

Any person owning or operating any motor vehicle or motor vehicle engine registered or principally operated in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make inoperable the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.

KEY: air pollution, PM10

2005

Notice of Continuation June 11, 2003

19-2-101

19-2-104

Environmental Quality, Air Quality

R307-207

Emission Standards: Residential Fireplaces and Stoves

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27760

Filed: 07/12/2005, 10:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-207 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Air Quality Board clarified the applicability provision of Rule R307-207. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 16. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Although the applicability provision of Rule R307-207 has been clarified, no additional requirements are being added. Therefore, no changes in costs are expected to the state budget because of the clarification.
- ❖ LOCAL GOVERNMENTS: Although the applicability provision of Rule R307-207 has been clarified, no additional requirements are being added. Therefore, no changes in costs are expected to sources owned by local governments because of the clarification.
- ❖ OTHER PERSONS: Although the applicability provision of Rule R307-207 has been clarified, no additional requirements are being added. Therefore, no changes in costs are expected to other persons because of the clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although the applicability provision of Rule R307-207 has been clarified, no additional requirements are being added. Therefore, no changes in costs are expected to affected persons because of the clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, the applicability provision of R307-207 has been clarified, but this clarification is not expected to have a fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-207. Emission Standards: Residential Fireplaces and Stoves.****R307-207-1. Purpose.**

R307-201 establishes emission standards for all areas of the state except for sources listed in section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-207-2. Applicability.

R307-207 applies statewide except for the following areas: all regions of Utah County north of the southernmost border of Payson City and east of State Route 68, all of Salt Lake County, all of Davis County, and in all regions of Weber County west of the Wasatch Mountain Range.

R307-207-3. Opacity for Residential Heating.

Visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

- (1) An initial fifteen minute start-up period, and
- (2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

KEY: woodburning, fireplaces, stoves, PM 10

2005

19-2-101

19-2-104

**Environmental Quality, Air Quality****R307-302****Davis, Salt Lake, Utah, Weber
Counties: Residential Fireplaces and
Stoves****NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27761

Filed: 07/12/2005, 10:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-302 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Air Quality Board removed an outdated compliance date in Subsection R307-302-3(4). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 17. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101 and 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No changes in costs are expected to the state budget because of the clarifications.
- ❖ **LOCAL GOVERNMENTS:** No changes in costs are expected to sources owned by local governments because of the clarifications.
- ❖ **OTHER PERSONS:** No changes in costs are expected to other persons because of the clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No changes in costs are expected to affected persons because of the clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, an outdated compliance date was removed in Rule R307-302. This clarification is not expected to have a fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

**ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-302. Davis, Salt Lake, Utah, Weber Counties: Residential Fireplaces and Stoves.

R307-302-1. Definitions.

The following additional definition applies to R307-302:

"Sole Source of Heat" means the residential solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.

R307-302-2. Applicability.

(1) R307-302-3 shall apply in all regions of Utah County north of the southernmost border of Payson City and east of State Route 68, all of Salt Lake County, all of Davis County, and in all regions of Weber County west of the Wasatch Mountain Range.

(2) R307-302-4 shall apply only within the city limits of Provo in Utah County.

(3) R307-302-5 shall apply in both areas.

R307-302-3. No-Burn Periods for Fine Particulate.

(1) Sole source of residential heating.

(a) Previously registered sole source residential solid fuel burning devices in areas described in (i),(ii),and(iii) below must continue to be registered with the executive secretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below. No new registrations will be accepted in these areas.

(i) Areas of Utah County north of the southernmost border of Payson City and east of State Route 68,

(ii) all of Salt Lake County, and

(iii) areas in Davis County that are south of the southernmost border of Kaysville.

(b) By November 1, 2006, all sole source residential solid fuels burning devices in Weber County west of the Wasatch Mountain Range and areas north of the southernmost border of Kaysville must be registered with the executive secretary or local health district office in order to be exempt during mandatory no-burn periods as detailed below.

(2) When the ambient concentration of PM10 measured by the monitors in Salt Lake, Davis, Weber, or Utah Counties reaches the level of 120 micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 120 micrograms per cubic meter concentration. Residents of the affected areas shall not use residential solid fuel burning devices or fireplaces except those that are the sole source of heat for the entire residence and registered with the executive secretary or the local health district office, or those having no visible emissions.

(3) PM10 Contingency Plan. If the PM10 Contingency Plan described in Section IX, Part A, of the state implementation plan has been implemented, the following actions will be implemented immediately:

(a) The trigger level for no-burn periods as specified in (2) above will be 110 micrograms per cubic meter for that area where the PM10 Contingency Plan has been implemented; and

(b) In the regions of Utah County north of the southernmost border of Payson City and east of State Route 68, Salt Lake County, Davis County, and all regions of Weber County west of the Wasatch Mountain Range, it shall be unlawful to sell or install for use as a solid fuel burning device any used solid fuel burning device that is not approved by the Environmental Protection Agency.

(4) ~~[After January 1, 1999, w]~~When the ambient concentration of PM_{2.5} measured by the monitors in Salt Lake, Davis, Weber, or Utah Counties reaches the level of 52 micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 52 micrograms per cubic meter concentration. Residents of Salt Lake County, Davis County, or the affected areas of Utah and Weber Counties shall not use residential solid fuel burning devices or fireplaces except those that are the sole source of heat for the entire residence and registered with the executive secretary or the local health district office, or those having no visible emissions.

R307-302-4. No-Burn Periods for Carbon Monoxide.

(1) Beginning on November 1 and through March 1, the executive secretary will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for residential solid fuel burning devices and fireplaces is in effect when the running eight-hour average carbon monoxide concentration as monitored by the state at 4:00 PM reaches a value of 6.0 ppm or more.

(2) In addition to the conditions contained in (1) above, the executive secretary may use meteorological conditions to initiate a no-burn period. These conditions are:

- (a) a national weather service forecasted clearing index value of 250 or less;
 - (b) forecasted wind speeds of three miles per hour or less;
 - (c) passage of a vigorous cold front through the Wasatch Front;
- or
- (d) arrival of a strong high pressure system into the area.

(3) During the no-burn periods specified in (1) and (2) above, residents of Provo City shall not use residential solid fuel burning devices or fireplaces except those that are the sole source of heat for the entire residence and are registered with the executive secretary or the local health district office, or those having no visible emissions.

R307-302-5. Opacity for Residential Heating.

Except during no-burn periods as required by R307-302-3 and 4, visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

- (1) An initial fifteen minute start-up period, and
- (2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

**KEY: air pollution, woodburning, fireplaces, stoves
2005**

Notice of Continuation June 19, 2003

19-2-101

19-2-104

Environmental Quality, Air Quality **R307-305**

Nonattainment and Maintenance Areas for PM₁₀: Emission Standards

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27762

Filed: 07/12/2005, 10:30

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-305 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Board made clarifications throughout Rule R307-305, but there are no significant changes in meaning. The Board added language to clarify that locomotives are exempt from state emissions limits because locomotive emission rates are set by the Environmental Protection Agency (EPA). In addition, the original proposal separated the rules into two categories, rules that apply only in nonattainment and maintenance areas and must be federally approved, and rules that apply in all other areas of the state and are not federally approved. As a result of this separation, a provision governing excess emissions was erroneously left out of the original proposal to amend of Section R307-305-3. This provision is currently enforced statewide and is part of the federally enforceable State Implementation Plan, and the Board has added it as Subsection R307-305-3(4). (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 19. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Although provisions of Rule R307-305 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to the State budget because of the clarifications. In addition, because the other revision restores existing requirements, no change in costs is expected to the state budget.

❖ LOCAL GOVERNMENTS: Although provisions of Rule R307-305 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to sources owned by local governments because of the clarifications. In addition, because the other revision restores existing requirements, no change in costs is expected to sources owned by local governments.

❖ OTHER PERSONS: Although provisions of Rule R307-305 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to other persons because of the clarifications. In addition, because the other revision restores existing requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although provisions of Rule R307-305 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to affected persons because of the clarifications. In addition, because the other revision restores existing requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, provisions of Rule R307-302 have been clarified, but the clarification is not expected to have a fiscal impact on businesses. In addition, because the other revision restores existing requirements, no fiscal impact is expected on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-305. Nonattainment and Maintenance Areas for PM10: Emission Standards.****R307-305-1. Purpose.**

This rule establishes emission standards and work practices for sources located in PM10 nonattainment and maintenance areas to meet the reasonably available control measures requirement in section 189(a)(1)(C) of the Act.

R307-305-2. Applicability.

The requirements of R307-305 apply to the owner or operator of any source that is listed in Section IX, Part H of the state implementation plan or located in a PM10 nonattainment or maintenance area.

R307-305-3. Visible Emissions.

(1) Visible emissions from existing installations except diesel engines shall be of a shade or density no darker than 20% opacity. Visible emissions shall be measured using EPA Method 9.

(2) No owner or operator of a gasoline engine or vehicle shall allow, cause or permit the emissions of visible contaminants.

(3) Emissions from diesel engines, except locomotives, shall be of a shade or density no darker than 20% opacity, except for starting motion no farther than 100 yards or for stationary operation not exceeding three minutes in any hour.

(4) Visible emissions exceeding the opacity standards for short time periods as the result of initial warm-up, soot blowing, cleaning of grates, building of boiler fires, cooling, etc., caused by start-up or shutdown of a facility, installation or operation, or unavoidable combustion irregularities which do not exceed three minutes in length (unavoidable combustion irregularities which exceed three minutes in length must be handled in accordance with R307-107), shall not be deemed in violation provided that the executive secretary finds that adequate control technology has been applied. The owner or operator shall minimize visible and non-visible emissions during start-up or shutdown of a facility, installation, or operation through the use of adequate control technology and proper procedures.

R307-305-4. Particulate Emission Limitations and Operating Parameters (PM10).

Any source with emission limits included in Section IX, Part H, of the Utah state implementation plan shall comply with those emission limitations and operating parameters. Specific limitations will be set by the executive secretary, through an approval order issued under R307-401, for installations within a source that do not have limitations specified in the state implementation plan.

R307-305-5. Compliance Testing (PM10).

Compliance testing for PM10, sulfur dioxide, and oxides of nitrogen emission limitations shall be done in accordance with Section IX, Part H of the state implementation plan. PM10 compliance shall be determined from the results of EPA test method 201 or 201a. A backhalf analysis shall be performed for inventory purposes for each PM10 compliance test in accordance with ~~[a method approved by the executive secretary]~~ Method 202, or other appropriate EPA approved reference method.

R307-305-6. Automobile Emission Control Devices.

Any person owning or operating any motor vehicle or motor vehicle engine registered in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make inoperable within the State of Utah the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.

R307-305-7. Compliance Schedule for New Nonattainment Areas.

The provisions of R307-305 shall apply to the owner or operator of a source that is located in any new PM10 nonattainment area 180 days after the area is officially designated a nonattainment area for PM10 by the Environmental Protection Agency. Provisions of R307-201 shall continue to apply to the owner or operator of a source during this transition period.

KEY: air pollution, particulate matter, PM10, PM 2.5 2005

**Notice of Continuation June 19, 2003
19-2-104 (1)(a)**



**Environmental Quality, Air Quality
R307-306**

**PM10 Nonattainment and Maintenance
Areas: Abrasive Blasting**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27763
Filed: 07/12/2005, 10:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-306 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, clarifications are made to Rule R307-306, but there are no significant changes in meaning. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 22. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Although provisions of Rule R307-306 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to the state budget because of the clarifications.
- ❖ **LOCAL GOVERNMENTS:** Although provisions of Rule R307-306 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to sources owned by local governments because of the clarifications.
- ❖ **OTHER PERSONS:** Although provisions of Rule R307-306 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to other persons because of the clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although provisions of Rule R307-306 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to affected persons because of the clarifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, provisions of Rule R307-302 have been clarified, but the clarifications are not expected to have a fiscal impact on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-306. PM10 Nonattainment and Maintenance Areas:
Abrasive Blasting.**

R307-306-1. Purpose.
This rule establishes requirements that apply to abrasive blasting operations in PM10 nonattainment and maintenance areas.

R307-306-2. Definitions.
The following additional definitions apply to R307-306.

"Abrasive Blasting" means the operation of cleaning or preparing a surface by forcibly propelling a stream of abrasive material against the surface.

"Abrasive Blasting Equipment" means any equipment used in abrasive blasting operations.

"Abrasives" means any material used in abrasive blasting operations including but not limited to sand, slag, steel shot, garnet or walnut shells.

"Confined Blasting" means any abrasive blasting conducted in an enclosure that significantly restricts air contaminants from being emitted to the ambient atmosphere, including but not limited to shrouds, tanks, drydocks, buildings and structures.

"Hydroblasting" means any abrasive blasting using high pressure liquid as the propelling force.

"Multiple Nozzles" means a group of two or more nozzles used for abrasive cleaning of the same surface in such close proximity that their separate plumes are indistinguishable.

"Unconfined Blasting" means any abrasive blasting that is not confined blasting as defined above.

"Wet Abrasive Blasting" means any abrasive blasting using compressed air as the propelling force and sufficient water to minimize the plume.

R307-306-3. Applicability.

R307-306 applies to any person who operates abrasive blasting equipment in a PM10 nonattainment or maintenance area, or to sources listed in Section IX, Part H of the state implementation plan.

R307-306-4. Visible Emission Standard.

(1) Except as provided in (2) below, visible emissions from abrasive blasting operations shall not exceed 20% opacity except for an aggregate period of three minutes in any one hour.

(2) If the abrasive blasting operation complies with the performance standards in R307-306-6, visible emissions from the operation shall not exceed 40% opacity, except for an aggregate period of 3 minutes in any one hour.

R307-306-5. Visible Emission Evaluation Techniques.

(1) Visible emissions shall be measured using EPA Method 9. Visible emissions from intermittent sources shall use procedures similar to Method 9, but the requirement for observations to be made at 15 second intervals over a six minute period shall not apply.

(2) Visible emissions from unconfined blasting shall be measured at the densest point of the emission after a major portion of the spent abrasive has fallen out at a point not less than five feet nor more than twenty-five feet from the impact surface from any single abrasive blasting nozzle.

(3) An unconfined blasting operation that uses multiple nozzles shall be considered a single source unless it can be demonstrated by the owner or operator that each nozzle, measured separately, meets the visible emission standards in R307-306-4.

(4) Emissions from confined blasting shall be measured at the densest point after the air contaminant leaves the enclosure.

R307-306-6. Performance Standards.

(1) To satisfy the requirements of R307-306-4(2), the abrasive blasting operation shall use at least one of the following performance standards:

- (a) confined blasting;
- (b) wet abrasive blasting;
- (c) hydroblasting; or

(d) unconfined blasting using abrasives as defined in (2) below.

(2) Abrasives.

(a) Abrasives used for dry unconfined blasting referenced in (1) above shall comply with the following performance standards:

(i) Before blasting, the abrasive shall not contain more than 1% by weight material passing a #70 U.S. Standard sieve.

(ii) After blasting the abrasive shall not contain more than 1.8% by weight material 5 microns or smaller.

(b) Abrasives reused for dry unconfined blasting are exempt from (a)(ii) above, but must conform with (a)(i) above.

(3) Abrasive Certification. Sources using the performance standard of (1)(d) above to meet the requirements of R307-306-4(2) must demonstrate they have obtained abrasives from a supplier who has certified (submitted test results) to the executive secretary at least annually that such abrasives meet the requirements of (2) above.

R307-306-7. Compliance Schedule.

The provisions of R307-306 shall apply in any new PM10 nonattainment area 180 days after the area is officially designated a nonattainment area for PM10 by the Environmental Protection Agency. Provisions of R307-206 shall continue to apply to the owner or operator of a source during this transition period.

KEY: air pollution, abrasive blasting, PM10

2005

19-2-101(1)(a)



Environmental Quality, Air Quality **R307-309** Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27765

Filed: 07/12/2005, 10:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language of Rule R307-309 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comment, the Air Quality Board revised Rule R307-309. The Board restored two sections of Rule R307-309 because the Division of Air Quality (DAQ) did not intend to delete the standards found in these two sections. These are Sections R307-309-5 and R307-309-6 in the current rule, and become Sections R307-309-7 and R307-309-8 as adopted by the Board. In the original proposal, the Board proposed changing an exemption for meeting opacity regulations from 25 mph to 30 mph. The Board is reinstating the 25 mph exemption for controlling fugitive dust. Other clarifications were made throughout Rule R307-309, but there are no significant

changes in meaning. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2005, issue of the Utah State Bulletin, on page 24. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-101, 19-2-104, and 19-2-109

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Although provisions of Rule R307-309 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to the state budget because of the clarifications. In addition, because the other revisions restore existing requirements, no change in costs is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Although provisions of Rule R307-309 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to sources owned by local governments because of the clarifications. In addition, because the other revisions restore existing requirements, no change in costs is expected to sources owned by local governments.
- ❖ OTHER PERSONS: Although provisions of Rule R307-309 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to other persons because of the clarifications. In addition, because the other revisions restore existing requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although provisions of Rule R307-309 have been clarified, there are no additional requirements being added. Therefore, no changes in costs are expected to affected persons because of the clarifications. In addition, because the other revisions restore existing requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In response to public comments, provisions of Rule R307-309 have been clarified, but the clarifications are not expected to have a fiscal impact on businesses. In addition, because the other revisions restore existing requirements, no fiscal impact is expected on businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/01/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-309. Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust.

R307-309-1. Purpose.

This rule establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust listed in Section IX, Part H of the state implementation plan or located in PM10 nonattainment and maintenance areas to meet the reasonably available control measures for PM10 required in section 189(a)(1)(C) of the Act.

R307-309-2. Definitions.

The following addition definition applies to R307-309: "Material" means sand, gravel, soil, minerals other matter that may create fugitive dust.

R307-309-3. Applicability.

(1) Applicability. R307-309 applies to all sources of fugitive dust and fugitive emissions listed in Section IX, Part H of the state implementation plan or located in a nonattainment or maintenance area for PM10, except as specified in (2) below.

(2) Exemptions.

(a) The provisions of R307-309 do not apply to agricultural or horticultural activities specified in 19-2-114 (1)-(3).

(b) Any activity subject to R307-307 is exempt from R307-309-7.

(3) Compliance Schedule. Any source located in a new nonattainment area for PM10 is subject to R307-309 180 days after the area is designated nonattainment by the Environmental Protection Agency. Provisions of R307-205 shall continue to apply to the owner or operator of a source during this transition period.

R307-309-4. Fugitive Emissions.

Fugitive emissions from any source shall not exceed 15% opacity. Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9. For intermittent sources and mobile sources, opacity observations shall use procedures similar to Method 9, [except]but the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply [~~and any time interval with no visible emissions shall not be included~~].

R307-309-5. General Requirements for Fugitive Dust.

(1) Except as provided in (2) below, opacity caused by fugitive dust shall not exceed:

(a) 10% at the property boundary; and
 (b) 20% on site
 (2) Opacity in (1) above shall not apply when the wind speed exceeds ~~30~~25 miles per hour and the owner or operator is taking appropriate actions to control fugitive dust.

(a) If the source has a fugitive dust control plan approved by the executive secretary, control measures in the plan are considered appropriate.

(b) Wind speed may be measured by a hand-held anemometer or equivalent device.

(3) Opacity observations of emissions from stationary sources shall be conducted in accordance with EPA Method 9. For intermittent sources and mobile sources, opacity observations shall use procedures similar to Method 9, ~~except~~ but the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply ~~and any time interval with no visible emissions shall not be included~~.

R307-309-6. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations, or engaging in clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, or movement of trucks or construction equipment over cleared land one-quarter acre or greater in size or access haul roads, or engaging in demolition activities including razing homes, buildings or other structures shall submit a plan to control fugitive dust to the executive secretary no later than 30 days after the source becomes subject to R307-309. The plan shall address fugitive dust control strategies for the following operations as applicable:

- (a) Material Storage;
 - (b) Material handling and transfer;
 - (c) Material processing;
 - (d) Road ways and yard areas;
 - (e) Material loading and dumping;
 - (f) Hauling of materials;
 - (g) Drilling, blasting and pushing operations;
 - (h) Clearing and leveling;
 - (i) Earth moving and excavation;
 - (j) Exposed surfaces;
 - (k) Any other source of fugitive dust.
- (2) Strategies to control fugitive dust may include:
- (a) Wetting or watering;
 - (b) Chemical stabilization;
 - (c) Enclosing or covering operations;
 - (d) Planting vegetative cover;
 - (e) Providing synthetic cover;
 - (f) Wind breaks;
 - (g) Reducing vehicular traffic;
 - (h) Reducing vehicular speed;
 - (i) Cleaning haul trucks before leaving loading area;
 - (j) Limiting pushing operations to wet seasons;
 - (k) Paving or cleaning road ways;
 - (l) Covering loads;
 - (m) Conveyor systems;
 - (n) Boots on drop points;
 - (o) Reducing the height of drop areas;
 - (p) Using dust collectors;
 - (q) Reducing production;
 - (r) Mulching;

- (s) Limiting the number and power of blasts;
 - (t) Limiting blasts to non-windy days and wet seasons;
 - (u) Hydro drilling;
 - (v) Wetting materials before processing;
 - (w) Using a cattle guard before entering a paved road;
 - (x) Washing haul trucks before leaving the loading site;
 - (y) Terracing;
 - (z) Cleaning the materials that may create fugitive dust on a public or private paved road promptly; or
 - (aa) Preventing, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site.
- (3) Each source shall comply with all provisions of the fugitive dust control plan as approved by the executive secretary.

R307-309-7. Storage, Hauling and Handling of Aggregate Materials.

Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-8. Construction and Demolition Activities.

Any person engaging in clearing or leveling of land with an area of one-quarter acre or more, earthmoving, excavating, construction, demolition, or moving trucks or construction equipment over cleared land or access haul roads shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-[7]9. Roads.

(1) Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same whose activities result in fugitive dust from the road shall minimize fugitive dust to the maximum extent possible. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

(2) Unpaved Roads. Any person responsible for construction or maintenance of any new or existing unpaved road shall prevent, to the maximum extent possible, the deposit of material from the unpaved road onto any intersecting paved road during construction or maintenance. Any person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road promptly.

R307-309-[8]10. Mining Activities.

(1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under the provisions of R307-309-[8]10 and not by R307-309-7, 8, 9, and 9]11.

(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.

- (3) The fugitive dust control measures to be used may include:
- (a) periodic watering of unpaved roads,
 - (b) chemical stabilization of unpaved roads,
 - (c) paving of roads,

(d) prompt removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface,

(e) restricting the speed of vehicles in and around the mining operation,

(f) revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust,

(g) restricting the travel of vehicles on other than established roads,

(h) enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage,

(i) substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion,

(j) minimizing the area of disturbed land,

(k) prompt revegetation of regraded lands,

(l) planting of special windbreak vegetation at critical points in the permit area,

(m) control of dust from drilling, using water sprays, hoods, dust collectors or other controls approved by the executive secretary.

(n) restricting the areas to be blasted at any one time,

(o) reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization,

(p) restricting fugitive dust at spoil and coal transfer and loading points,

(q) control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or techniques as approved by the executive secretary, or

(r) other techniques as determined necessary by the executive secretary.

R307-309-[9]11. Tailings Piles and Ponds.

(1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under the provisions of R307-309-[9]11 and not by R307-309[-]7, 8, 9, and [8]10.

(2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include:

(a) watering,

(b) chemical stabilization,

(c) synthetic covers,

(d) vegetative covers,

(e) wind breaks,

(f) minimizing the area of disturbed tailings,

(g) restricting the speed of vehicles in and around the tailings operation, or

(h) other equivalent methods or techniques which may be approvable by the executive secretary.

KEY: air pollution, dust, PM 10

2005

Notice of Continuation June 8, 2004

19-2-101

19-2-104

19-2-109



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the 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 (1998).

Corrections, Administration
R251-113
Distribution of Reimbursement for the
Felony Probation Inmate Costs
Reimbursement Program/Fund

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28086
FILED: 07/13/2005, 13:21

**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: This rule is provided in accordance with Section 64-13c-301, et seq. As required by Subsection 64-13c-303(1)(b), the purpose of this rule is to establish procedures for the distribution of reimbursement from the program. As required by legislative intent language from the 2004 General Session, S.B. 1, Jail Reimbursement, lines 322 through 334. (DAR NOTE: S.B. 1 is found at UT L 2004 Ch 256, and was effective 03/02/2004.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was reviewed and amended on 11/02/2004. There have been no written comments prior to, or since the amendments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the standards and procedures for the distribution of monies allocated by the Legislature to the Felony Probation Inmate Costs Reimbursement Program/Fund each year. Therefore, this should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 07/13/2005



Corrections, Administration
R251-303
Offenders' Use of Telephones

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28085
FILED: 07/13/2005, 13:20

**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: This rule is authorized by Section 64-13-10, which allows the Department to adopt standards and rules in accordance with its responsibilities. This rule provides the Department's policy and procedures governing offenders' access to and use of telephones.

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 written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Offenders' use of the telephones is a daily occurrence and requires continued policy and procedures to maintain the safety and security of the facilities. Therefore, this rule should be continued.

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

CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Scott V. Carver, Executive Director

EFFECTIVE: 07/13/2005

Education, Administration
R277-459

Teachers' Supplies and Materials
Appropriation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28075
FILED: 07/06/2005, 15:26

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: Subsection 53A-1-402(1)(b) directs the State Board of Education to establish rules and minimum standards for school programs.

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 written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: H.B. 382, 2005 Legislative Session, provides a one-time appropriation for teacher classroom supplies. A rule is necessary to provide the

procedures by which funds are distributed and to promote fairness and consistency in the allocation of funding; and therefore, this rule should be continued. (DAR NOTE: H.B. 382 is found at UT L 2005 Ch 184, and was effective 07/01/2005.)

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 07/06/2005

Education, Administration
R277-464
Highly Impacted Schools

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 28076
FILED: 07/06/2005, 15:27

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: Subsection 53A-15-701(3) directs the State Superintendent of Public Instruction and the State Board of Education to develop a formula, administer the program, distribute the appropriation and monitor the effectiveness of highly impacted school programs, and Subsection 53A-17a-121(2) directs the State Board of Education to develop rules to implement programs for at risk students and distribute funds for at risk programs.

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 written comment has been 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 is necessary because it provides criteria and procedures for application and distribution of funds to highly impacted schools that provide at risk students with increased educational contact with qualified staff, and therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 07/06/2005

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 07/06/2005

Education, Administration
R277-520

Appropriate Licensing and Assignment
of Teachers

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28077
FILED: 07/06/2005, 15:28

**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: Subsection 53A-1-401(3) authorizes the State Board of Education to adopt rules in accordance with its responsibilities, and Subsection 53A-6-104(2)(a) authorizes the State Board of Education to rank, endorse, or classify licenses.

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 written comments have been 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 is necessary because it provides criteria for local school boards and charter schools to use when employing educators in appropriate assignments to ensure that public school students in the state of Utah are taught by appropriately trained and qualified teachers. The rule is also the basis for the distribution of professional staff costs to teachers for those teachers who are appropriately licensed and assigned.

Environmental Quality, Air Quality
R307-115

General Conformity

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28078
FILED: 07/07/2005, 12:09

**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: As specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws." One of those laws is 40 CFR Part 93, Subpart B, which is incorporated by reference by Rule R307-115. 40 CFR Part 93 Subpart B requires that no agency of the federal government support in any way any activity, with some exceptions, that does not conform to any state's implementation plan to protect air quality. 40 CFR 93.150 states that the provisions of 40 CFR Part 93 Subpart B "...establish the conformity criteria and procedures necessary to meet the (Clean Air) Act requirements until such time as the required conformity revision (by the State) is approved by the Environmental Protection Agency (EPA). A state's conformity provisions must contain criteria and procedures that are no less stringent than the requirements established in this subpart." Utah chose to meet this requirement by incorporating by reference the federal provisions.

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 written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-115 is required by 40 CFR Part 93, Subpart B. It has been approved by the EPA as part of Utah's State Implementation plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 07/07/2005

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 written comments have been received in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required by the state maintenance plan for ozone, incorporated by reference under Subsection R307-110-13; that plan applies in Salt Lake and Davis Counties. In addition, the rule could be implemented as a contingency measure in Ogden City and Utah County if current federal health standards are violated there, but the Board has adopted plans showing that those standards are not expected to be violated through 2017. Though the statute authorizes the Air Quality Board to require a trip reduction program for businesses, Rule R307-320 applies only to federal, state, and local agencies of government that have 100 or more employees at a single site.

The purpose of the rule is to reduce the amount of miles driven by employees commuting to and from work. Many of the agencies that have achieved the greatest reduction in drive-alone rates are located in downtown areas where bus routes, light rail, and van pools provide many options for employees. Where employees work erratic schedules, or where there are security concerns, employees are not asked to participate. About 80 agencies have been tracked, and, in general, compliance has been good. The lowest measured drive-alone rate is 35% at the U.S. Bureau of Reclamation. A great deal of the success of the program is attributable to the Utah Transit Authority (UTA), which markets an assortment of alternatives to driving alone. These programs include connecting potential carpoolers, promoting vanpools, and providing a free ride home for participants who have occasional emergencies that necessitate getting home at a different time. UTA improves the success of the rule by offering their voluntary programs to businesses, though Rule R307-320 does not apply to businesses. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

EFFECTIVE: 07/07/2005



Environmental Quality, Air Quality
R307-320
Davis, Salt Lake and Utah Counties,
and Ogden City: Employer-Based Trip
Reduction Program

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 28079
FILED: 07/07/2005, 12:10

**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: Rule R307-320 is authorized by Subsections 19-2-104(1)(h) and 19-2-104(2), which authorize, and set forth criteria for consideration in implementing, an employer-based trip reduction program for businesses and government agencies that have 100 employees or more at a single site in a nonattainment area. The statute requires permission of the governor before implementation, and requires that the Air Quality Board consider the impact of the business on overall air quality and the need of the business to use automobiles in order to carry out its business purposes before implementing the program. Rule R307-320, however, applies only to federal, state and local agencies of government that have 100 or more employees at a single site, and not to businesses.



Human Services, Recovery Services
R527-332
 Unreimbursed Assistance Calculation

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28089
 FILED: 07/14/2005, 08:47

**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 62A-11-107 authorizes the Office of Recovery Services to write rules to implement the provisions of Title 62A, Chapter 11. 45 CFR 302.32 requires that collections in excess of the unreimbursed assistance (URA) amount be paid to the family within two calendar days of the end of the month in which the assistance was received. In accordance with this law, this rule defines URA and how to make the URA calculation.

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 written comments have been 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 provides information necessary for calculating URA. The laws upon which it is based are still in effect. Therefore, this rule should be continued.

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@utah.gov

AUTHORIZED BY: Mark Brasher, Acting Director

EFFECTIVE: 07/14/2005



Human Services, Recovery Services
R527-450
 Federal Tax Refund Intercept

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28090
 FILED: 07/14/2005, 08:50

**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: Under Subsection 62A-11-107(8), the Office of Recovery Services (ORS) is empowered to adopt, amend, and enforce rules as necessary to carry out its legal responsibilities listed in Title 62A, Chapter 11, of the Utah Code including the collection of child and spousal support, and cooperation with the federal government in programs designed to recover money due the state. 45 CFR 303.72 outlines federal requirements for requesting collection of past-due support by federal tax refund intercept and how collections received by ORS shall be distributed. As authorized under these laws, this rule provides the certification criteria for federal tax intercept, the notice requirements, the conditions under which an earned income credit may be refunded, the requirement for distribution of funds collected through this process, and when ORS is required to delete or modify a previously certified debt.

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 written comments have been 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 provides the information necessary for certifying a support debt for federal tax refund intercept, for making necessary refunds and adjustments, and for distributing collected amounts. The laws upon which it is based are still in effect. Therefore, this rule should be continued.

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at klowe@utah.gov

AUTHORIZED BY: Mark Brasher, Acting Director

EFFECTIVE: 07/14/2005



Natural Resources, Parks and Recreation
R651-101
 Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28091
 FILED: 07/14/2005, 12:01

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 63-46b-5 contains the procedures for information adjudicative proceedings. This rule establishes and governs the administrative proceedings and therefore, needs to be updated occasionally to remain current.

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 written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Definitions and designations are continually changing in administrative procedures. This rule updates and adds new definitions, changes or deletes old definitions, addresses procedures, agency reviews, reconsiderations, judicial reviews, declaratory orders, emergency orders, and other important information involved with adjudicative proceedings. The rule is important to all parks and recreation employees and staff to understand and follow the proceedings written in this rule. This rule be continued as written, until such time as changes are necessary to update it once again.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 Room 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, 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 deeguess@utah.gov

AUTHORIZED BY: Mary Tullius, Director

EFFECTIVE: 07/14/2005



Natural Resources, Parks and Recreation
R651-223
 Vessel Accident Reporting

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28092
 FILED: 07/14/2005, 12:02

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 73-18-13 states the duties of operator involved in accidents; the notification and reporting procedures; use of accident reports and reporting false information (a misdemeanor). Subsection 73-18-13(3)(a) directs the board to adopt rules governing notification and reporting requirements for vessels involved in accidents.

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 written comments have been 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 should be continued as it gives specific detailed instructions to the operator of a vessel if there is an accident involving a vessel or its equipment. It requires the date, time, and location of each occurrence, the name of each person who died, or disappeared; assigned number of the vessel and the name and address of the owner and operator. This information is crucial when needed by the attendants of the ambulance, doctors etc. This rule should be continued as written in the interest of public safety, and requirements as listed in Section 73-18-13.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 Room 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, 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 deeguess@utah.gov

AUTHORIZED BY: Mary Tullius, Director

EFFECTIVE: 07/14/2005



Natural Resources, Wildlife Resources
R657-6
 Taking Upland Game

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 28082
 FILED: 07/08/2005, 13:32

**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: Under Sections 23-14-18 and 23-14-19 the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) has not received any written comments regarding this rule. DWR and the Wildlife Board have received several verbal comments during public meetings, both in support and opposition to Rule R657-6. Verbal comment received during the last 5-year review includes hunting seasons and hunt areas for Sandhill Crane, including habitat, depredation, providing opportunity, redistributing population, and cooperative flyway management of Sandhill Crane, hunting seasons and hunting methods for Forest Grouse, hare and rabbit. Any comments received opposing the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and

Wildlife Board's agenda for review and discussion during the review process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-6 provides the application procedures, standards, and requirements for taking upland game and Sandhill Crane. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of the upland game program and providing upland game hunting opportunities.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiemerrill@utah.gov

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 07/08/2005



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

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.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Records Committee

No. 27880 (AMD): R35-1. State Records Committee Appeal Hearing Procedures.
Published: June 1, 2005
Effective: July 14, 2005

Environmental Quality

Air Quality

No. 27818 (AMD): R307-101-2. Definitions.
Published: May 1, 2005
Effective: July 7, 2005

No. 27758 (AMD): R307-204-3. Definitions.
Published: April 1, 2005
Effective: July 7, 2005

No. 27764 (AMD): R307-205. Emission Standards: Fugitive Emissions and Fugitive Dust.
Published: April 1, 2005
Effective: July 7, 2005

No. 27759 (AMD): R307-206. Emission Standards: Abrasive Blasting.
Published: April 1, 2005
Effective: July 7, 2005

No. 27766 (AMD): R307-310-5. Transition Provision.
Published: April 1, 2005
Effective: July 7, 2005

No. 27767 (NEW): R307-421. Permits: PM10 Offset Requirements in Salt Lake County and Utah County.
Published: April 1, 2005
Effective: July 7, 2005

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 27925 (R&R): R414-14A. Hospice Care.
Published: June 1, 2005
Effective: July 2, 2005

No. 27902 (AMD): R414-301. Medicaid General Provisions.
Published: June 1, 2005
Effective: July 2, 2005

No. 27923 (AMD): R414-304. Income and Budgeting.
Published: June 1, 2005
Effective: July 2, 2005

No. 27879 (AMD): R414-305-2. Family Medicaid and Family Institutional Medicaid Resource Provisions.
Published: June 1, 2005
Effective: July 2, 2005

No. 27901 (NEW): R414-309. Medicare Drug Benefit Low-Income Subsidy Determination.
Published: June 1, 2005
Effective: July 2, 2005

Human Resource Management

Administration

No. 27885 (AMD): R477-2. Administration.
Published: June 1, 2005
Effective: July 2, 2005

No. 27886 (AMD): R477-4-7. Rehire.
Published: June 1, 2005
Effective: July 2, 2005

No. 27904 (AMD): R477-6. Compensation.
Published: June 1, 2005
Effective: July 2, 2005

No. 27896 (AMD): R477-7. Leave.
Published: June 1, 2005
Effective: July 2, 2005

No. 27889 (AMD): R477-8. Working Conditions.
Published: June 1, 2005
Effective: July 2, 2005

No. 27887 (AMD): R477-10. Employee Development.
Published: June 1, 2005
Effective: July 2, 2005

No. 27888 (AMD): R477-11-2. Dismissal or Demotion.
Published: June 1, 2005
Effective: July 2, 2005

No. 27890 (AMD): R477-12-3. Reduction in Force.
Published: June 1, 2005
Effective: July 2, 2005

Labor Commission

Industrial Accidents

No. 27892 (AMD): R612-1-3. Official Forms.
Published: June 1, 2005
Effective: July 2, 2005

No. 27894 (AMD): R612-2-1. Definitions.
Published: June 1, 2005
Effective: July 2, 2005

No. 27895 (AMD): R612-2-2. Authority.
Published: June 1, 2005
Effective: July 2, 2005

No. 27900 (AMD): R612-2-3. Filings.
Published: June 1, 2005
Effective: July 2, 2005

No. 27899 (AMD): R612-2-5. Regulation of
Medical Practitioner Fees.
Published: June 1, 2005
Effective: July 2, 2005

No. 27893 (AMD): R612-2-18. Dental Injuries. Transportation
Published: June 1, 2005
Effective: July 2, 2005

No. 27891 (AMD): R612-2-22. Medical Records.
Published: June 1, 2005
Effective: July 2, 2005

Occupational Safety and Health

No. 27903 (AMD): R614-7-4. Residential-Type Construction, Raising
Framed Walls.
Published: June 1, 2005
Effective: July 2, 2005

Natural Resources

Wildlife Resources

No. 27865 (AMD): R657-5. Taking Big Game.
Published: June 1, 2005
Effective: July 5, 2005

No. 27862 (AMD): R657-15. Closure of Gunnison, Cub and Hat
Islands.
Published: June 1, 2005
Effective: July 5, 2005

Operations, Traffic and Safety

No. 27876 (AMD): R920-50. Ropeway Operation Safety Rules.
Published: June 1, 2005
Effective: July 12, 2005

End of the Notices of Rule Effective Dates Section

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, 2005, including notices of effective date received through July 15, 2005, the effective dates of which are no later than August 1, 2005. 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).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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.utah.gov/>).

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	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Training Standards	27518	CPR	05/13/2005	2005-2/94
R19-1	Parental Defense Counsel Training	27518	NEW	05/13/2005	2004-22/9
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	27603	AMD	03/15/2005	2005-2/2
R23-2	Procurement of Architect-Engineer Services	27605	AMD	03/15/2005	2005-2/7
R23-3	Planning and Programming for Capital Projects	27615	AMD	03/15/2005	2005-2/9
R23-4	Suspension/Debarment and Contract Performance Review Committee	27610	AMD	03/15/2005	2005-2/10
R23-26	Dispute Resolution	27614	NEW	03/15/2005	2005-2/12
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	27848	AMD	07/01/2005	2005-10/7

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Fleet Operations</u>					
R27-1-2	Definitions	27546	AMD	01/10/2005	2004-23/3
R27-3-6	Application for Commute or Take Home Use	27599	NSC	02/01/2005	Not Printed
R27-4	Vehicle Replacement and Expansion of State Fleet	27543	AMD	01/10/2005	2004-23/5
R27-4-1	Authority	27594	NSC	02/01/2005	Not Printed
R27-6	Fuel Dispensing Program	27544	AMD	01/10/2005	2004-23/7
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	27880	AMD	07/14/2005	2005-11/5
R35-1a	State Records Committee Definitions	27621	NEW	03/08/2005	2005-2/17
R35-1a	State Records Committee Definitions	27700	NSC	04/01/2005	Not Printed
R35-2	Declining Appeal Hearings	27625	AMD	03/04/2005	2005-2/18
R35-3	Prehearing Conferences	27622	AMD	03/04/2005	2005-2/19
R35-4	Compliance with State Records Committee Decisions and Orders	27624	AMD	03/04/2005	2005-2/20
R35-5	Subpoenas Issued by the Records Committee	27623	AMD	03/04/2005	2005-2/21
R35-6	Expedited Hearing	27620	AMD	03/04/2005	2005-2/22
Agriculture and Food					
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	27570	AMD	01/18/2005	2004-24/5
R58-1-7	Swine	27687	AMD	03/18/2005	2005-4/8
R58-2	Diseases, Inspections and Quarantines	27581	AMD	02/01/2005	2005-1/9
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	27688	5YR	02/01/2005	2005-4/47
R58-10	Meat and Poultry Inspection	27693	5YR	02/03/2005	2005-5/28
R58-17	Aquaculture and Aquatic Animal Health	27696	5YR	02/03/2005	2005-5/28
R58-21	Trichomoniasis	27694	5YR	02/03/2005	2005-5/29
R58-22	Equine Infectious Anemia (EIA)	27695	5YR	02/03/2005	2005-5/29
<u>Marketing and Conservation</u>					
R65-10	Agriculture Resource Development Loans (ARDL)	27787	5YR	03/31/2005	2005-8/56
<u>Plant Industry</u>					
R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	27645	5YR	01/07/2005	2005-3/58
R68-8-2	Noxious Weed Seeds and Weed Seed Restrictions	27773	NSC	05/01/2005	Not Printed
R68-9-2	Designation and Publication of State Noxious Weeds	27774	NSC	05/01/2005	Not Printed
R68-20	Utah Organic Standards	27697	5YR	02/04/2005	2005-5/30
<u>Regulatory Services</u>					
R70-440	Egg Products Inspection	27514	NSC	01/01/2005	Not Printed
R70-440-2	Adopt by Reference	27628	AMD	02/15/2005	2005-2/23
R70-440-2	Adopt by Reference	27667	NSC	03/01/2005	Not Printed
R70-540-14	Exemptions	27569	AMD	03/18/2005	2004-24/7
R70-960-7	Registration Certificate Displayed	27523	NSC	01/01/2005	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1-6	Violation Schedule	27947	AMD	08/01/2005	2005-12/4
R81-1-7	Disciplinary Hearings	27948	AMD	08/01/2005	2005-12/5
R81-1-24	Responsible Alcohol Service Plan	27949	AMD	08/01/2005	2005-12/7
R81-5-5	Advertising	27725	AMD	05/01/2005	2005-6/3
R81-5-14	Membership Fees and Monthly Dues	27726	AMD	05/01/2005	2005-6/4
R81-5-17	Visitor Cards	27727	AMD	05/01/2005	2005-6/5
Capitol Preservation Board (State)					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	27711	5YR	02/16/2005	2005-6/33
R131-2	Capitol Hill Facility Use	27712	5YR	02/16/2005	2005-6/33
R131-7	State Capitol Preservation Board Master Planning Policy	27713	5YR	02/16/2005	2005-6/34
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	27631	NEW	03/03/2005	2005-2/24
R131-9	State Capitol Preservation Board Art Program and Policy	27632	NEW	03/03/2005	2005-2/26
Commerce					
<u>Administration</u>					
R151-1	Department of Commerce General Provisions	27633	NEW	02/15/2005	2005-2/29
R151-46b	Department of Commerce Administrative Procedures Act Rules	27636	AMD	02/15/2005	2005-2/32
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	27499	NSC	01/01/2005	Not Printed
R156-17a	Pharmacy Practice Act Rules	27786	REP	05/17/2005	2005-8/2
R156-17b	Pharmacy Practice Act Rules	27529	CPR	05/17/2005	2005-8/43
R156-17b	Pharmacy Practice Act Rules	27529	NEW	05/17/2005	2004-23/20
R156-17b	Pharmacy Practice Act Rules	27529	CPR	05/17/2005	2005-4/31
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rules	27698	AMD	04/04/2005	2005-5/2
R156-26a	Certified Public Accountant Licensing Act Rules	27835	AMD	06/21/2005	2005-10/12
R156-31b	Nurse Practice Act Rules	27600	AMD	02/17/2005	2005-2/36
R156-31b	Nurse Practice Act Rules	27714	NSC	04/01/2005	Not Printed
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	27752	5YR	03/15/2005	2005-7/75
R156-38b	State Construction Registry Rules	27734	NEW	04/18/2005	2005-6/6
R156-47b	Massage Therapy Practice Act Rules	27548	CPR	03/07/2005	2005-3/51
R156-47b	Massage Therapy Practice Act Rules	27548	AMD	03/07/2005	2004-24/7
R156-50	Private Probation Provider Licensing Act Rules	27435	CPR	01/18/2005	2004-24/58
R156-50	Private Probation Provider Licensing Act Rules	27435	AMD	01/18/2005	2004-20/12
R156-55a	Utah Construction Trades Licensing Act Rules	27942	AMD	07/18/2005	2005-12/13
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules	28048	5YR	06/28/2005	2005-14/97
R156-56	Utah Uniform Building Standard Act Rules	27489	AMD	01/01/2005	2004-21/6
R156-56-704	Statewide Amendments to the IBC	27490	AMD	01/01/2005	2004-21/11
R156-60c	Professional Counselor Licensing Act Rules	27749	5YR	03/14/2005	2005-7/75

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-61-502	Unprofessional Conduct	27538	AMD	01/04/2005	2004-23/40
R156-71-202	Naturopathic Physician Formulary	27533	AMD	01/04/2005	2004-23/41
Real Estate					
R162-2-2	Licensing Procedure	27720	NSC	04/01/2005	Not Printed
R162-6-1	Improper Practices	27940	AMD	07/20/2005	2005-12/16
R162-102-1	Application	27797	AMD	05/25/2005	2005-8/12
R162-103-5	Appraisal Education Requirements	27950	AMD	07/27/2005	2005-12/17
R162-107	Unprofessional Conduct	27788	AMD	05/25/2005	2005-8/14
R162-109	Administrative Proceedings	27946	AMD	07/27/2005	2005-12/18
Securities					
R164-2	Investment Adviser - Unlawful Acts	27732	5YR	02/28/2005	2005-6/34
R164-2-1	Investment Adviser Performance-Based Compensation Contracts	27735	NSC	04/01/2005	Not Printed
R164-9-1	Registration by Coordination	27777	EMR	03/25/2005	2005-8/53
Community and Economic Development					
<u>Community Development, Community Services</u>					
R202-202-202	Opening and Closing Dates for HEAT Program	27418	AMD	01/12/2005	2004-19/24
R202-203-324	Income Deductions	27421	AMD	01/12/2005	2004-19/25
R202-203-328	Self-Employment Income	27419	AMD	01/12/2005	2004-19/26
R202-207-702	Records Management	27420	AMD	01/12/2005	2004-19/27
<u>Community Development, History</u>					
R212-11	Historic Preservation Tax Credit	28055	5YR	06/30/2005	2005-14/97
Corrections					
<u>Administration</u>					
R251-113	Distribution of Reimbursement for the Felony Probation Inmate Costs Reimbursement Program/Fund	28086	5YR	07/13/2005	2005-15/43
R251-303	Offenders' Use of Telephones	28085	5YR	07/13/2005	2005-15/43
Education					
<u>Administration</u>					
R277-400	School Emergency Response Plans	27539	NSC	01/01/2005	Not Printed
R277-407	School Fees	27798	AMD	05/19/2005	2005-8/15
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R651-211	Assigned Numbers	27563	AMD	01/15/2005	2004-24/33
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R651-215	Personal Flotation Devices	27565	AMD	01/15/2005	2004-24/35
R651-223	Vessel Accident Reporting	28092	5YR	07/14/2005	2005-15/48
R651-401	Off-Highway Vehicle and Registration Stickers	27566	AMD	01/15/2005	2004-24/37
R651-409	Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race	28061	5YR	07/01/2005	2005-14/99
R651-634	Snowmobile User Fee - Non-Residents	28060	5YR	07/01/2005	2005-14/99
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R655-4	Water Well Drillers	27691	5YR	02/01/2005	2005-4/55
R655-4	Water Well Drillers	27475	NSC	02/01/2005	Not Printed

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R657-5	Taking Big Game	27865	AMD	07/05/2005	2005-11/61
R657-6	Taking Upland Game	28082	5YR	07/08/2005	2005-15/49
R657-12	Hunting and Fishing Accommodations for Disabled People	27721	AMD	04/15/2005	2005-6/24
R657-13	Taking Fish and Crayfish	27432	CPR	01/03/2005	2004-22/66
R657-13	Taking Fish and Crayfish	27432	AMD	01/03/2005	2004-20/33
R657-15	Closure of Gunnison, Cub and Hat Islands	27863	5YR	05/05/2005	2005-11/99
R657-15	Closure of Gunnison, Cub and Hat Islands	27862	AMD	07/05/2005	2005-11/63
R657-21	Cooperative Wildlife Management Units for Small Game and Waterfowl	27864	5YR	05/05/2005	2005-11/99
R657-33	Taking Bear	27649	AMD	03/04/2005	2005-3/36
R657-33-2	Definitions	27751	NSC	04/01/2005	Not Printed
R657-37	Cooperative Wildlife Management Units for Big Game	27551	AMD	01/15/2005	2004-24/45
R657-38	Dedicated Hunter Program	27552	AMD	01/15/2005	2004-24/48
R657-42-4	Surrenders	27553	AMD	01/15/2005	2004-24/53
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R657-47	Trust Fund Permits (5YR EXTENSION)	27637	NSC	03/04/2005	Not Printed
R657-55	Wildlife Convention Permits	27827	NEW	06/01/2005	2005-9/38
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R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	27542	NSC	01/01/2005	Not Printed
R686-103	Professional Practices and Conduct for Utah Educators	27737	NSC	04/01/2005	Not Printed
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R708-32	Uninsured Motorist Database	27877	5YR	05/10/2005	2005-11/100
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R708-37	Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests	27898	5YR	05/13/2005	2005-11/101
R708-40	Driving Simulators	27579	CPR	04/18/2005	2005-6/28
R708-40	Driving Simulators	27579	NEW	04/18/2005	2005-1/31
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R708-41	Requirements for Acceptable Documentation	27809	NEW	06/01/2005	2005-9/41
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R710-4-3	Amendments and Additions	27653	AMD	03/04/2005	2005-3/44
R710-4-3	Amendments and Additions	27976	AMD	07/19/2005	2005-12/67
R710-6	Liquefied Petroleum Gas Rules	27573	AMD	01/19/2005	2004-24/54
R710-7-1	Adoption of Codes	27671	AMD	06/13/2005	2005-4/21
R710-8	Day Care Rules	27574	NSC	01/01/2005	Not Printed
R710-9-6	Amendments and Additions	27655	AMD	03/04/2005	2005-3/47
R710-9-6	Amendments and Additions	27754	AMD	05/04/2005	2005-7/68
R710-9-6	Amendments and Additions	27975	AMD	07/19/2005	2005-12/69

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R746-341	Lifeline Rule	27821	AMD	06/20/2005	2005-9/42
R746-360-9	One-Time Distributions from the Fund	27302	CPR	01/04/2005	2004-23/54
R746-360-9	One-Time Distributions from the Fund	27302	AMD	01/04/2005	2004-15/59
R746-409-1	General Provisions	27527	NSC	01/01/2005	Not Printed
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R765-604	New Century Scholarship	27666	AMD	03/22/2005	2005-4/22
R765-626	Lender-of-Last-Resort Program	27841	5YR	04/26/2005	2005-10/53
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R850-23	Sand, Gravel and Cinders Permits	27609	NEW	04/01/2005	2005-2/72
R850-24	General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits	27607	NEW	04/01/2005	2005-2/76
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R850-25	Mineral Leases and Materials Permits	27606	NEW	04/01/2005	2005-2/81
R850-26	Coal Leases	27604	NEW	04/01/2005	2005-2/84
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R865-19S-8	Bonds and Securities Pursuant to Utah Code Ann. Section 59-12-107	27931	AMD	07/19/2005	2005-12/73
R865-19S-20	Basis for Reporting Tax Pursuant to Utah Code Ann. Section 59-12-107	27819	AMD	07/01/2005	2005-9/52
R865-19S-32	Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103	27820	AMD	07/01/2005	2005-9/54
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R865-19S-60	Sales of Machinery, Fixtures and Supplies to Manufacturers, Businessmen and Others Pursuant to Utah Code Ann. Section 59-12-103	27826	AMD	07/01/2005	2005-9/56
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R865-19S-71	Transportation Charges in Connection With the Sale of Tangible Personal Property Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	27831	AMD	07/01/2005	2005-9/58
R865-19S-78	Charges for Labor to Repair, Renovate and Install Tangible Personal Property Pursuant to Utah Code Ann. Section 59-12-103	27870	AMD	07/19/2005	2005-11/65
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R865-19S-90	Telephone Service Pursuant to Utah Code Ann. Section 59-12-103	27833	AMD	07/01/2005	2005-9/61
R865-19S-101	Application of Sales Tax to Fees Assessed in Conjunction with the Retail Sale of a Motor Vehicle Pursuant to Utah Code Ann. Section 59-12-103	27834	AMD	07/01/2005	2005-9/62
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R994-204	Included Employment	27789	5YR	04/01/2005	2005-8/59
R994-205	Exempt Employment	27791	5YR	04/01/2005	2005-8/59
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R994-403	Claim for Benefits	27729	NSC	04/01/2005	Not Printed

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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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<u>abrasive blasting</u> Environmental Quality, Air Quality	27759	R307-206	AMD	07/07/2005	2005-7/15
<u>acceptable documentation</u> Public Safety, Driver License	27809	R708-41	NEW	06/01/2005	2005-9/41

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	27706	R277-411	AMD	04/01/2005	2005-5/10
	27707	R277-412	AMD	04/01/2005	2005-5/13
	27708	R277-413	AMD	04/01/2005	2005-5/16
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	27908	R309-115	5YR	05/16/2005	2005-11/92
	27909	R309-150	5YR	05/16/2005	2005-11/92
	27906	R309-300	5YR	05/16/2005	2005-11/96
	27916	R309-405	5YR	05/16/2005	2005-11/97
	27781	R309-405	NSC	05/16/2005	Not Printed
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	27843	R652-120	5YR	04/28/2005	2005-10/53
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	27813	R850-21	AMD	06/01/2005	2005-9/46
	27612	R850-21	NEW	04/01/2005	2005-2/58
	27613	R850-22	NEW	04/01/2005	2005-2/65
	27606	R850-25	NEW	04/01/2005	2005-2/81
	27604	R850-26	NEW	04/01/2005	2005-2/84
	27601	R850-27	NEW	04/01/2005	2005-2/86
	27811	R850-50	AMD	06/01/2005	2005-9/49
	27602	R850-130	REP	04/01/2005	2005-2/89
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<u>advertising</u> Labor Commission, Antidiscrimination and Labor, Antidiscrimination	28004	R606-4	5YR	06/08/2005	2005-13/55
<u>aesthetics</u> Capitol Preservation Board (State), Administration	27631	R131-8	NEW	03/03/2005	2005-2/24
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	27429	R307-110-11	AMD	03/04/2005	2004-19/37
	27429	R307-110-11	CPR	03/04/2005	2005-3/52
	27343	R307-110-12	CPR	01/04/2005	2004-23/53
	27343	R307-110-12	AMD	01/04/2005	2004-17/12
	28078	R307-115	5YR	07/07/2005	2005-15/45
	27764	R307-205	AMD	07/07/2005	2005-7/12
	27759	R307-206	AMD	07/07/2005	2005-7/15
	27665	R307-210	AMD	04/19/2005	2005-4/17
	27766	R307-310-5	AMD	07/07/2005	2005-7/27
	28079	R307-320	5YR	07/07/2005	2005-15/46
	27701	R307-320	NSC	07/07/2005	Not Printed
	27767	R307-421	NEW	07/07/2005	2005-7/28
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<u>air travel</u> Administrative Services, Finance	27848	R25-7	AMD	07/01/2005	2005-10/7
<u>aircraft</u> Tax Commission, Motor Vehicle	27803	R873-22M-27	AMD	06/08/2005	2005-9/63
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<u>alcoholic beverages</u> Alcoholic Beverage Control, Administration	27947	R81-1-6	AMD	08/01/2005	2005-12/4
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	27949	R81-1-24	AMD	08/01/2005	2005-12/7
	27725	R81-5-5	AMD	05/01/2005	2005-6/3
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<u>annuity replacement</u> Insurance, Administration	27829	R590-93	R&R	06/08/2005	2005-9/12
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<u>bail bond recovery agent</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	28052	R722-310	5YR	06/29/2005	2005-14/100
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<u>birds</u> Natural Resources, Wildlife Resources	28082	R657-6	5YR	07/08/2005	2005-15/49
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	27862	R657-15	AMD	07/05/2005	2005-11/63
<u>bituminous-asphaltic sands</u> School and Institutional Trust Lands, Administration	27613	R850-22	NEW	04/01/2005	2005-2/65
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	27863	R657-15	5YR	05/05/2005	2005-11/99
	27862	R657-15	AMD	07/05/2005	2005-11/63
	27864	R657-21	5YR	05/05/2005	2005-11/99
	27649	R657-33	AMD	03/04/2005	2005-3/36
	27751	R657-33-2	NSC	04/01/2005	Not Printed
	27551	R657-37	AMD	01/15/2005	2004-24/45
	27552	R657-38	AMD	01/15/2005	2004-24/48
	27553	R657-42-4	AMD	01/15/2005	2004-24/53
	27637	R657-47	NSC	03/04/2005	Not Printed
	27639	R657-47	REP	03/04/2005	2005-3/39
	27827	R657-55	NEW	06/01/2005	2005-9/38
<u>wildlife conservation</u>					
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	27432	R657-13	CPR	01/03/2005	2004-22/66
	27432	R657-13	AMD	01/03/2005	2004-20/33
	27864	R657-21	5YR	05/05/2005	2005-11/99

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	27639	R657-47	REP	03/04/2005	2005-3/39
	27827	R657-55	NEW	06/01/2005	2005-9/38
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	27895	R612-2-2	AMD	07/02/2005	2005-11/52
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	27899	R612-2-5	AMD	07/02/2005	2005-11/54
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	27488	R590-231	NEW	05/20/2005	2004-21/15
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