

UTAH STATE BULLETIN

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Nancy L. Lancaster, Editor
Kenneth A. Hansen, Director
Kimberly K. Hood, Executive Director

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing

Notice for Children's Health Insurance Program (CHIP)

The Utah Department of Health has submitted an amendment to the CHIP State Plan. This amendment gives CHIP enrollees the option of using their adjusted gross income (AGI) from their most recent Utah State tax return as income verification and changes the collection of CHIP quarterly premiums from the Department of Health to the Department of Workforce Services. Changes are posted to the web and can be viewed at: <http://health.utah.gov/chip/>

The proposed changes are subject to Centers for Medicare and Medicaid Services approval.

For questions regarding this notice, please contact Heidi Petersen at 801-538-6806, or heidipetersen@utah.gov.

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 December 31, 2010, 12:00 a.m., and January 14, 2011, 11:59 p.m. are included in this, the February 01, 2011 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 between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 March 3, 2011. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 1, 2011, 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 seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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 Section 63G-3-301; 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

Administrative Services, Administration
R13-3
 Americans with Disabilities Act
 Grievance Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34347

FILED: 01/05/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Congress amended the Americans with Disabilities Act (ADA) by passing the ADA Amendments Act (ADAAA) of 2008 (Pub. L. No. 110-325; effective 01/01/2009). This notice of proposed rule amendment updates the Department's complaint procedures, which are required by 28 CFR 35.107(b).

SUMMARY OF THE RULE OR CHANGE: This proposed amendment: 1) updates definitions consistent with the Americans with Disabilities Act Amendments Act (ADAAA); 2) extends the period for filing a complaint from 60 days to 90 days, and provides the executive director with discretion to direct the use of the grievance process for complaints filed more than 90 days after the alleged noncompliance; 3) provides that by filing a complaint or subsequent appeal, the complainant authorizes a confidential review of all relevant records, including records classified as private or controlled under the Government Records Access and Management Act; 4) permits investigation by a designee of the executive director or director in the event that the Americans with Disabilities Act (ADA) coordinator is unable or unwilling to conduct the investigation; 5) requires prompt delivery of the executive director's final decision to the complainant; and 6) makes other stylistic changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 28 CFR 35.107 and Section 63A-1-105.5 and Subsection 63G-3-201(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment has no impact to the state budget. It clarifies and updates existing language. It provides administrative flexibility. Based on past experience, the change that extends the complaint filing window from 60 days to 90 days will not have any fiscal impact on the state.

◆ **LOCAL GOVERNMENTS:** This amendment does not impact local governments. The complaint procedure is available to individuals, not local governments.

◆ **SMALL BUSINESSES:** This amendment does not impact small businesses. The complaint procedure is available to individuals, not small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment imposes no cost or savings to persons other than small businesses, businesses, or local government entities. The amendment clarifies and updates existing language. While the amendment provides for 30 additional days in which an individual may file a complaint, this additional time will not likely produce any additional cost or savings for the individual.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment makes no change in compliance costs for affected persons. The amendment clarifies and updates existing language. It provides an additional 30 days in which an individual may file an ADA complaint with the Department of Administrative Services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on businesses. It provides a procedure for individuals to follow to file an ADA complaint with the Department of Administrative Services.

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

ADMINISTRATIVE SERVICES
 ADMINISTRATION
 ROOM 3120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kenneth Hansen by phone at 801-538-3777, by FAX at 801-359-0759, or by Internet E-mail at khansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Kimberly Hood, Executive Director

R13. Administrative Services, Administration.

R13-3. Americans with Disabilities Act Grievance Procedures.

R13-3-1. Authority and Purpose.

(1) This rule is made under authority of Section 63A-1-105.5 and Subsection 63G-3-201(3). As required by 28 CFR 35.107, the Utah Department of Administrative Services, as a public entity that employs more than 50 persons, adopts and publishes the grievance procedures within this rule for the prompt and equitable

resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, as amended, [~~of 1990~~ 42 USC 12131 through 12165, and 28 CFR Part 35.]

(2) The purpose of this rule is to implement the provisions of 28 CFR 35 which in turn implements Title II of the Americans with Disabilities Act [~~of 1990~~], which provides that no ~~[qualified]~~ individual ~~[with a disability]~~ shall ~~[, by reason of this disability,]~~ be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by the department because of a disability.

R13-3-2. Definitions.

(1) "ADA Coordinator" means the employee assigned by the executive director ~~[the responsibility for investigating]~~ to investigate and ~~[facilitating]~~ facilitate the prompt and equitable resolution of complaints filed by qualified persons with disabilities. The ADA Coordinator may be a representative of the Department of Human Resource Management assigned to the Department.

(2) "Department" means the ~~[department of administrative services]~~ Department of Administrative Services created by Section 63A-1-104.

(3) "Designee" means an individual appointed by the executive director or a director to investigate allegations of ADA non-compliance in the event the ADA Coordinator is unable or unwilling to conduct an investigation for any reason, including a conflict of interest. A designee does not have to be an employee of the department; however, the designee must have a working knowledge of the responsibilities and obligations required of employers and employees by the ADA.

(4) "Director" means the head of the division of the ~~[department of administrative services]~~ Department affected by a complaint filed under this rule.

~~[(4)](5)~~ "Disability" means, with respect to an ~~[qualified]~~ individual ~~[with a disability]~~, a physical or mental impairment that substantially limits one or more of the major life activities of such ~~[an]~~ individual ~~[compared to the average person in the general population, taking into account mitigating measure]~~; a record of such an impairment; or being regarded as having such an impairment.

~~[(5)](6)~~ "Executive Director" means the executive director of the department.

~~[(6)](7)~~ "Major life activities" ~~[means activities that are of essential importance to daily life, such as]~~ include caring for ~~[one's—]~~ oneself, performing manual tasks, ~~[walking, —]~~ seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

~~[(7)](8)~~ "Qualified Individual" ~~[with a Disability—]~~ means an individual ~~[with a disability,]~~ who ~~[with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, —]~~ meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department ~~[of Administrative Services]~~. A "qualified individual"

~~[with a disability—]~~ also ~~[includes an employee or applicant with an ADA-qualifying disability, —]~~ who, with or without reasonable accommodation, can perform the essential functions of the employment position that individual holds or desires ~~[his or her actual or desired position, with or without a reasonable accommodation].~~

R13-3-3. Filing of Complaints.

(1) Any qualified individual ~~[with a disability]~~ may file a complaint ~~[within 60 days of the alleged]~~ alleging noncompliance with ~~[the provisions]~~ Title II of the Americans with Disabilities Act [~~of 1990~~], as amended, or the federal regulations promulgated thereunder. ~~[Complaints shall be filed within 60 days to assure prompt, effective assessment and consideration of the facts and to allow time to pursue other available remedies, if necessary. The filing of a complaint or of a subsequent appeal is authorization by the complainant to allow necessary parties to review all relevant information, including records classified as private or controlled under the Government Records Access and Management Act (Section 63G-2-101) and information otherwise protected by statute, rule, regulation, or other law.]~~

(2) ~~[The complaint shall be filed]~~ Qualified individuals shall file their complaints with the Department's ADA Coordinator, unless the complaint alleges that the ADA Coordinator was non-compliant, in which case qualified individuals shall file their complaints with the Department's designee ~~[in writing or in another accessible format suitable to the complainant.]~~

(3) Qualified individuals shall file their complaints within 90 days after the date of the alleged noncompliance to facilitate the prompt and effective consideration of pertinent facts and appropriate remedies; however, the Executive Director has the discretion to direct that the grievance process be utilized to address legitimate complaints filed more than 90 days after alleged noncompliance.

(4) Each complaint shall:

- (a) include the complainant's name and address;
- (b) include the nature and extent of the individual's disability;
- (c) describe the department's alleged discriminatory action in sufficient detail to inform the department of the nature and date of the alleged violation;
- (d) describe the action and accommodation desired; and
- (e) be signed by the complainant or by his legal representative.

~~[(3)](5)~~ Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

~~[(4)](6)~~ If the complaint is not in writing, the ADA coordinator or designee shall transcribe or otherwise reduce the complaint to writing upon receipt of the complaint.

(7) By the filing of a complaint or a subsequent appeal, the complainant authorizes necessary parties to conduct a confidential review all relevant information, including records classified as private or controlled under the Government Records Access and Management Act, Utah Code, Subsection 63G-2-302(1) (b) and Section 63G-2-304 consistent with 42 U.S.C. 12112(d)(4) (A), (B), and (C) and 42 U.S.C. Section 12112(d)(3)(B) and (C), and relevant information otherwise protected by statute, rule, regulation, or other law.

R13-3-4. Investigation of Complaints.

(1) The ADA coordinator or designee shall investigate complaints to the extent necessary to assure all relevant facts are collected and documented. This may include gathering all information listed in Subsection R13-3-3[~~(3)~~](4) and (7) of this rule if it is not made available by the complainant.

(2) The ADA coordinator or designee may seek assistance from the Attorney General's staff, and the department's human resource and budget staff in determining what action, if any, should be taken on the complaint. The ADA coordinator or designee may also consult with the director of the affected division in making a recommendation.

(3) The ADA coordinator or designee shall consult with representatives from other state agencies that ~~could~~ may be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any recommendation that would:

- (a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;
- (b) require facility modifications; or
- (c) require reassignment to a different position.

R13-3-5. Recommendation and Decision.

(1) Within 15 working days after receiving the complaint, the ADA coordinator or designee shall recommend to the director what action, if any, should be taken on the complaint. The recommendation shall be in writing or in another accessible format suitable to the complainant.

(2) If the ADA coordinator or designee is unable to make a recommendation within the 15 working day period, ~~he shall notify~~ the complainant shall be notified in writing, or in another accessible format suitable to the complainant, stating why the recommendation is delayed and what additional time is needed.

(3) The director may confer with the ADA coordinator or designee and the complainant and may accept or modify the recommendation to resolve ~~the cause of~~ the complaint. The director shall ~~decide~~ render a decision within 15 working days after the director's receipt of the recommendation from the ADA coordinator or designee. The director shall take all reasonable steps to implement ~~his~~ the decision. The director's decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

R13-3-6. Appeals.

(1) The complainant may appeal the director's decision to the executive director within ten working days ~~from~~ after the complainant's receipt of the director's decision.

(2) The appeal shall be in writing or in another accessible format reasonably suited to the complainant's ability.

(3) The executive director may name a designee to assist on the appeal. The ADA coordinator and the director's designee may not also be the executive director's designee for the appeal.

(4) In ~~The~~ the appeal the complainant shall describe in sufficient detail why the decision does not ~~meet~~ effectively address the complainant's needs ~~without undue hardship to the department~~.

(5) The executive director or designee shall review the ADA coordinator's recommendation, the director's decision, and the points raised on appeal prior to reaching a decision. The executive director may direct additional investigation as necessary. The executive director shall consult with representatives from other state agencies that would be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any decision that would:

- (a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;
- (b) require facility modifications; or
- (c) require reassignment to a different position.

(6) The executive director shall issue ~~his~~ a final decision within 15 working days after receiving the complainant's appeal. The decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

(7) If the executive director or ~~his~~ designee is unable to reach a final decision within the 15 working day period, ~~he~~ the complainant shall ~~notify the individual~~ be notified in writing, or by another accessible format suitable to the complainant, why the final decision is being delayed and the additional time needed to reach a final decision.

R13-3-7. Record Classification.

(1) Records created in administering this rule are classified as "protected" under Subsections 63G-2-305(9), (22), (24), and (25).

(2) After issuing a decision under Section R13-3-5 or a final decision upon appeal under Section R13-3-6, portions of the record pertaining to the complainant's medical condition shall be classified as "private" under Subsection 63G-2-302(1)(b) or "controlled" under Section 63G-2-304, consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. 12112(d)(3)(B) and (C), at the option of the ADA coordinator.

(a) The written decision of the division director or executive director shall be classified as "public," and all other records, except controlled records under Subsection R13-3-7(2), classified as "private."

R13-3-8. Relationship to Other Laws.

This rule does not prohibit or limit the use of remedies available to individuals under:

- (a) the state Anti-Discrimination Complaint Procedures, Section 34A-5-107, and Section 67-19-32;
- (b) the Federal ADA Complaint Procedures, 28 CFR 35.170 through 28 CFR 35.178; or
- (c) any other Utah State or federal law that provides equal or greater protection for the rights of individuals with disabilities.

KEY: grievance procedures, disabled persons

Date of Enactment or Last Substantive Amendment: ~~February 26, 2009~~ **2011**

Notice of Continuation: December 10, 2007

Authorizing, and Implemented or Interpreted Law: 63A-1-105.5; 63G-3-201(3); 28 CFR 35.107

Agriculture and Food, Animal Industry
R58-1
Admission and Inspection of Livestock,
Poultry and Other Animals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34343

FILED: 01/04/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes to this rule are in response to requests by the public and to update our requirements to be consistent with those rules in surrounding states that govern the importation of animals.

SUMMARY OF THE RULE OR CHANGE: Several changes have been made to the existing rule to reflect input from the public that was perceived as rules that were overbearing and did not reflect the current disease situation in the United States. Other changes were made to bring the animal importation requirements of Utah in line with those of the surrounding states.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j) and Title 4, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no costs or savings to the state because of the rule change because the state is not involved in the actual testing of the animal.
- ◆ **LOCAL GOVERNMENTS:** Local government is not involved in the enforcement of this rule so there is no cost or savings to local government.
- ◆ **SMALL BUSINESSES:** In most cases, the animal disease testing requirements have been changed that will lessen the cost to these businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In most cases, the animal disease testing requirements have been changed that will lessen the cost to these businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs to import an animal into Utah are based on the species and consist of charges by a private accredited veterinarian to provide a Certificate of Veterinary Inspection after examining the animal, herd, or flock. Costs are also incurred if the species requires certain testing for absence of a specific animal disease.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The compliance costs for most species will remain the same as before the rule change. The costs for importation of swine and exhibition animals will decrease. Changes in this rule will bring our state requirements more in line with requirement in surrounding states. It will result in less confusion with the public moving animals interstate.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Terry Menlove by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at tmenlove@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.

R58-1-1. Authority.

A. Promulgated under the authority of Title 4, Chapter 31 and Subsections 4-2-2(1)(c)(i), 4-2-2(1)(j).

B. ~~[Intent:]~~ It is the intent of these rules to eliminate or reduce the spread of diseases among animals~~[livestock]~~ by providing standards to be met in the movement of animals~~[livestock]~~ within the State of Utah~~[;]~~ (INTRASTATE)~~[;]~~ and the importation ~~[Import movements, INTERSTATE;]~~ of ~~[livestock, poultry and other]~~ animals into the state (INTERSTATE).

R58-1-2. Definitions.

A. "Accredited Veterinarian" - A veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

B. "Animals" - All vertebrates, except humans.

~~C[B].~~ "Approved Livestock Market" - A livestock market which meets the requirements as outlined in 9 CFR 78, which is

incorporated by reference, Title 4, Chapter 30, Utah Code Unannotated; and R58-7, Utah Administrative Code.

D. "Approved Slaughter Establishment" - A State or Federally inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by State or Federal inspectors.

E [C]. "Brand Inspection Certificate" - An official form, issued by a government agency or other agency responsible for animal identification in the state of origin, used to transfer title of livestock; listing the identification marks of the animal(s) as well as the consignor and consignee contact information.

F[~~D~~]. "Camelidae" - A term referring to members of the family of animals which for the purposes of these rules includes camels, llamas, alpacas, guanacos, and vicunas.

G. "Captive Cervidae" - A term referring to members of the family of animals which for the purposes of these rules includes captive bred Caribou (Reindeer), captive bred Elk, and captive bred Fallow deer or any other captive bred cervidae allowed with permission from the state veterinarian and the Utah Division of Wildlife Resources.

H. "Commuter cattle" - A herd of cattle located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of cattle interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual.

I. "Department" - Utah Department of Agriculture and Food.

J[E]. "Direct Movement" - Movement in which the animals are not unloaded enroute to their final destination and not commingled with another producer's animals.

K[F]. "Exposed Animal", "Reactor", "Suspect", as defined in the United States Department of Agriculture; Animal and Plant Health Inspection Service and Veterinary Services Brucellosis Eradication Uniform Methods and Rules, and 9 CFR 78.

L[G]. Farm of Origin - For the purposes of this rule, means the farm where the animal was born.

M[H]. "Livestock Market Veterinarian" - A Utah licensed and USDA accredited veterinarian appointed by the Utah Department of Agriculture and Food to work in livestock markets in livestock health and movement matters.

N[I]. "Official Calfhod Vaccinate" - Female bison or cattle [of a dairy breed or beef breed] vaccinated by a USDA Veterinary Services representative, State certified technician, or accredited Veterinarian with an approved dose of RB51 Vaccine or other USDA approved agent while from 4 to 12 months of age in accordance with its labeling. These cattle must be properly identified by official tattoos and ear tag or registration tattoo and be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

O. "Poultry" - The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons, pheasants, domestic fowl, waterfowl and gamebirds.

P[J]. "Qualified Feedlot" - A feedlot approved by the Utah Department of Agriculture and Food to handle heifers, cows or bulls which are either official calfhod vaccinated, or brucellosis unvaccinated animals confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter or another

qualified feedlot. All such animals must be kept separate from other animals not destined for slaughter. ~~[No Grazing is allowed except, bulls and heifers which have been castrated or spayed upon arrival may be allowed to go for outside grazing prior to return for finish feeding and subsequent slaughter. Spayed heifers must be officially identified with a brand reserved by the state for such animals prior to leaving the feedlot for grazing.]~~

Q[K]. "Quarantine" - A verbal or written restriction of movement of animals into or out of an area or premise, issued by a representative of the Utah Department of Agriculture and Food under authority of the Commissioner of Agriculture.

R[L]. "Reportable Disease List" - A list of diseases and conditions [developed by the state veterinarian] that may affect the health and welfare of the animals or the public [industry of the state,] which are reportable to the state veterinarian.

S[M]. "Test Eligible Cattle and Bison" - All cattle or bison six months of age or older, except:

1. Steers, spayed heifers;
2. Official calfhod vaccinates of any[dairy] breed[s- under 20 months of age and beef breeds] under 24 months of age which are not parturient, springers, or post parturient;
3. Official calfhod vaccinates, dairy or beef breeds of any age, which are Utah Native origin.
4. Utah Native Bulls from non-infected herds.

R58-1-3. Intrastate Cattle Movement - Rules - Brucellosis.

A. The State Veterinarian may require brucellosis testing of cattle, bison, and elk, moving intrastate as necessary to protect against potential disease threat or outbreak.

B. Utah Department of Agriculture and Food Livestock Inspectors will help regulate Intrastate movement of cattle according to Brucellosis rules at the time of change of ownership inspection.

R58-1-4. Interstate Importation Standards.

A. No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or moved into the State of Utah until written permission for such entry is first obtained from ~~the~~ Veterinary Services Division, United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services Division, and ~~the~~ Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture ~~and Food.~~

B. Certificate of Veterinary Inspection. An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals ~~and poultry.~~ A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the animal health [livestock sanitary] official of the state of origin.

C. Import Permits. Livestock, poultry and other animal import permits may be issued by telephone to the ~~[consignor, a consignee or to an]~~ accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection ~~and may be obtained from the Utah Department of Agriculture and Food, 350 North Redwood Road, PO Box 146500, Salt Lake City, Utah 84114-6500, Phone (801)538-7164. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at~~

~~http://ag.utah.gov/animind/ahealth.html, or at 1-800-545-USDA(8732).~~

R58-1-5. Cattle and Bison.

~~A. [Import Permit and Certificate of Veterinary Inspection-~~

~~1. No cattle or bison may be imported into Utah without an import permit issued by the Department of Agriculture and Food.] A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state.~~

~~B. All cattle and bison[~~, except steers and spayed heifers,~~] must carry some form of individual identification, such as:~~

~~1.[~~] A[~~a~~] brand registered with an official brand agency,~~~~

~~2.[~~] A[~~a~~]n [Electronic ID-] ear tag, or~~~~

~~3.[~~] A[~~a~~] registration tattoo.~~~~

~~4. Identification must be listed on the Certificate of Veterinary Inspection. Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection.~~

~~5. All cattle and bison imported into Utah from Canada, except those imported directly to slaughter, must be permanently branded with the letters CAN, not less than two (2) inches high nor more than three (3) inches high, placed high on the right hip.~~

~~C. The import permit number must be listed on the Certificate of Veterinary Inspection.[~~This includes exhibition cattle. Commuter cattle are exempt as outlined in Subsection R58-1-5(B). Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: http://ag.utah.gov/animind/ahealth.html, or at 1-800-545-USDA(8732).~~~~

~~D[~~2~~]. The following cattle are exempted from (A[~~+~~]) above:~~

~~1[~~a~~]. Cattle consigned directly to slaughter at an approved [state or federally inspected-]slaughter establishment[house]; and~~

~~2[~~b~~]. Cattle consigned directly to a State or Federal approved Auction Market.~~

~~3[~~e~~]. Movements under Subsections R58-1-5(D[A])(1[~~2~~]) [(~~a~~), and R58-1-5(D[A])(2)(~~b~~)] must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.~~

~~4. Commuter cattle are exempt as outlined in Subsection R58-1-5(F).~~

~~E[~~3~~]. A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state [under these provisions].~~

~~F[B]. [Commuter Cattle.—]Commuter[~~, temporary grazing,~~] cattle may enter Utah or return to Utah after grazing if the following conditions are met.~~

~~1. A[~~-~~] commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will allow movements for grazing for current season if the following conditions are met:~~

~~a. All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78, which is incorporated by reference; USDA, Animal and Plant~~

Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating States.

~~b. Commuter cattle shall not be mixed with quarantined, exposed, or suspect cattle nor change ownership during the grazing period.~~

~~c. All bulls used in the commuter herd must be tested annually for trichomoniasis as required by the state of Utah.~~

~~2. No quarantined, exposed or reactor cattle shall enter Utah.~~

~~G[C]. [Brucellosis.—]Prior to importation of cattle or bison into Utah the following health restrictions must be met.~~

~~1. Bison and beef breed heifers of vaccination age between four and 12 months must be officially calfhood vaccinated for brucellosis prior to entering Utah. All female bison and beef breed cattle imported to Utah must have a legible brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah, unless going directly to slaughter, or qualified feedlot to be sold for slaughter, or to an approved livestock market to be sold for slaughter or for vaccination.~~

~~a. Bison and beef breed heifers of vaccination age may be vaccinated upon arrival by special permit from the state veterinarian.~~

~~2. Test eligible cattle imported from states designated as brucellosis free, that are acquired directly from the farm of origin and moving directly to the farm of destination are not required to be tested for brucellosis prior to movement.~~

~~3. Test eligible cattle imported from states designated as brucellosis free, that are acquired through "trading channels", or any "non-farm of origin source" must be tested negative for brucellosis within 30 days prior to entry.~~

~~4. All test eligible cattle imported from states that have not been designated as brucellosis free must test negative for brucellosis within 30 days before movement into Utah.~~

~~5. Exceptions to the above testing requirements include exhibition animals and Test Eligible Cattle imported to Utah and moving directly to:~~

~~a. an approved livestock market, or~~

~~b. to a "qualified feedlot", or~~

~~c. for immediate slaughter to an approved slaughter[ing] establishment[~~where federal or state inspection is maintained~~].~~

~~[A brand inspection certificate, or proof of ownership, which indicates the intended destination is required for cattle entering the state under these provisions.~~

~~—]6. No reactor cattle, or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to an approved slaughter[ing] establishment[~~where recognized state or federal meat inspection is maintained~~]. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.~~

~~7. Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to an approved slaughter[ing] establishment[~~where state or federal inspection is maintained~~] or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.~~

~~8. Entry of cattle which have been adult vaccinated is not permitted unless they are for immediate slaughter to an approved~~

~~slaughter establishment [where state or federal inspection is maintained].~~

~~[D. Tuberculosis.~~

~~9. A negative tuberculosis test is required within 60 days prior to shipment for all dairy cattle 2 months of age and older and bison 6 months of age and older.~~

~~10. [b] Breeding cattle originating within a quarantined area or from reactor or exposed herds [Exhibition cattle,] and all cattle from an area which is not classified as Tuberculosis Free according to 9 CFR, 77 are required to be tested for tuberculosis within 60 days prior to entry to Utah.~~

~~11. Rodeo bulls and roping steers must be tested annually during the calendar year for tuberculosis prior to entry to Utah.~~

~~[E. Scabies.~~

~~12. No cattle affected with, or exposed to scabies shall be [trailed, driven, shipped or otherwise] moved into Utah. Cattle from a county where scabies have been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection [also the approved vat number and location, if used].~~

~~13[F]. [Splenic or Tick Fever.] No cattle infested with ticks that can transmit splenic or tick fever, or exposed to tick infestations shall be [shipped, trailed, or driven, or otherwise] imported into the State of Utah for any purpose.~~

~~[G. Exhibitions, Fairs, and Shows.~~

~~1. Dairy cattle and cattle for breeding purposes imported for exhibition or show purposes only to be returned to state of origin may enter provided:~~

~~a. The cattle are accompanied by the proper Certificate of Veterinary Inspection and import permit.~~

~~b. The cattle must have negative tuberculosis T.B. test within 60 days prior to entry.~~

~~c. The cattle must have a negative brucellosis test within 30 days prior to entrance. Official Calhoad Vaccinates under test eligible age are acceptable.~~

~~H. Trichomoniasis.]~~

~~14. All bulls imported to Utah shall be in compliance with R58-21-3(A), which requires testing of all bulls over nine months of age for Trichomoniasis prior to entry, with some exceptions which are for slaughter, rodeo, exhibition, and dairy bulls kept in confinement.~~

R58-1-6. Horses, Mules, [and] Asses, and Other Equidae.

~~A. Equidae [Horses, mules and asses] may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection.~~

~~B. The Certificate of Veterinary Inspection must show a negative Equine Infectious Anemia (EIA) (Coggins - AGID or ELISA) [eoggins] test within one year previous to the time the certificate was issued.~~

~~1. Entry of equidae into Utah shall not be allowed until the EIA test has been completed and reported negative.~~

~~2. Equidae which test positive to the EIA test shall not be permitted entry into Utah, except by special written permission from the state veterinarian.~~

~~3. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements.~~

~~C. Utah horses returning to Utah as part of a commuter livestock shipment are exempted from the Certificate of Veterinary Inspection requirements; however, a valid Utah horse travel permit as outlined under Sections 4-24-22 or 4-24-23 and Section R58-9-4 is required for re-entering Utah.~~

~~D. All stallions used for breeding that enter Utah or stallions whose semen will be shipped to Utah shall be tested for Equine Viral Arteritis (EVA) by an accredited veterinarian within 30 days prior to entry.~~

~~1. Exceptions are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.~~

~~2. The EVA test or vaccination status must be recorded on the Certificate of Veterinary Inspection.~~

~~3. Breeding stallions and semen infected with Equine Arteritis Virus must obtain a prior import permit and be handled only on an Approved Facility as required by R58-23. [Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8732).]~~

R58-1-7. Swine.

~~A. [Stocking, Feeding, and Breeding swine.] Swine for stocking, breeding, feeding or exhibition may be shipped into the state if the following requirements are met:~~

~~1. Import Permit and Certificate of Veterinary Inspection~~

~~1. All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they have not been fed raw garbage.~~

~~a. The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro chips or other permanent means.~~

~~2. An import permit issued by the Department [of Agriculture and Food] must accompany all swine [hogs, including feeder hogs] imported into the state. [Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA (8743).]~~

~~2. Test Status. The Certificate of Veterinary Inspection must list the brucellosis, and pseudorabies test status of the animals.~~

~~3. Quarantine. All swine shipped into the state for feeding or breeding purposes are subject to an 18 day quarantine beginning with the date of arrival at destination. The department shall be notified by the owner of date of arrival. Release from quarantine shall be given by the department only when satisfied that health conditions are satisfactory.~~

~~4. Brucellosis.]~~

~~3. All breeding and exhibition swine over the age of three months shipped into Utah shall be tested [must pass a] negative [test] for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd or brucellosis free state.~~

~~a. A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.~~

b. Swine from states with serious disease occurrences or known populations of feral or wild hogs maybe required to be tested for Brucellosis prior to entry to Utah.

~~5. Pseudorabies~~

~~4. All breeding, feeding and exhibition swine shall be tested[must pass a] negative for pseudorabies [test-]within thirty days unless they originate from a recognized qualified pseudorabies free herd or pseudorabies Stage V state.~~

a. Swine that have been vaccinated with any pseudorabies vaccine shall not enter the state.

b. Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR [4-]71, which is incorporated by reference.

c. Swine from states with known populations of feral or wild hogs maybe required to be tested for Pseudorabies prior to entry to Utah.

~~6. Erysipelas - Breeding and exhibition swine shall be immunized with erysipelas bacterin prior to importation.~~

~~7. Leptospirosis - All breeding and exhibition swine over four months of age shall be vaccinated for leptospirosis prior to entry. Herd and vaccination status must be stated on the Certificate of Veterinary Inspection.~~

~~8. PRRS - All breeding and exhibition swine 2 months of age and over must be tested negative for Porcine Reproductive and Respiratory Syndrome (PRRS) virus within 30 days prior to entry to Utah or come from a PRRS monitored herd.~~

~~JB. Immediate Slaughter~~

1. Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious disease in compliance with 9 CFR 71, which is incorporated by reference.

~~2. Exhibition swine that have attended livestock shows in Utah shall not be returned to Utah farms but shall go directly to slaughter.~~

~~JC. Prohibition of Non-domestic and Non-native Suidae and Tayassuidae[-]~~

1. Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies.

2. These[y] animals are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above [vaccination and] testing requirements.[-Swine from states with known populations of feral or wild hogs maybe required to be tested for Brucellosis, Pseudorabies, and PRRS prior to entry to Utah.]

3. Any person who imports Javelina, Peccary or feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) into Utah without prior approval by the Department shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department.

R58-1-8. Sheep.

A. All sheep imported must be accompanied by a Certificate of Veterinary Inspection and an [prior-]import permit.

1. ~~[Blue Tongue.-]No sheep exhibiting clinical signs of blue tongue may enter Utah.~~

2. ~~[Foot Rot.-]Sheep must be thoroughly examined for evidence of foot rot and verified that they are free from foot rot.~~

3. ~~[A prior entry permit must be obtained by calling the Utah Department of Agriculture and Food, (801)538-7164. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: http://ag.utah.gov/animind/ahealth.html, or at 1-800-545-USDA (8732).]~~

~~4. Scrapie.-]Sheep entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.~~

4. Sheep from [S]scrapie infected, exposed, quarantined or source flocks may not enter the state unless an official post-exposure flock eradication and control plan[, approved by the State Veterinarian in Utah,] has been implemented.

5. Breeding rams six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis free flock.

a. Rams entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-9. Poultry.

All poultry imported into the state shall comply with Title 4, Chapter 29 and R58-6 governing poultry which requires an import [prior-]permit from the Department[-of Agriculture and Food].[-This number can be called for information concerning permits: (801)538-7164. Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: http://ag.utah.gov/animind/ahealth.html, or at 1-800-545-USDA (8732).]

R58-1-10. Goats and Camelids.

A. Goats being imported into Utah must meet the following requirements:

1. Dairy goats must have an import permit from the Department [of Agriculture and Food (phone 801-538-7164)]and[.] an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd. Thereto; there must be no evidence of [E]lymphadenitis (abscesses).[-Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: http://ag.utah.gov/animind/ahealth.html, or at 1-800-545-USDA(8732).]

2. Meat type goats must have a Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

3. Goats entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

4. Exemption - Goats for slaughter may be shipped into Utah directly to an approved[state or federally inspected] slaughter[ing] establishment or to an [state and federally-]approved auction market[-for sale to such slaughtering establishment].

B. Camelids being imported into Utah must [meet the following requirements:

~~1. A]have a Certificate of Veterinary Inspection[;] showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd.~~

~~2. Negative tuberculosis test within 60 days;~~

~~3. Negative brucellosis within 30 days.]~~

[4]C. Test eligible age for both brucellosis and tuberculosis shall be 6 months of age or older for both goats and camelids.

D. Dairy goats and camelids entering Utah for exhibition purposes only and returning immediately to their home state are exempt from the testing requirement.

R58-1-11. Psittacine and Passerine Birds and Raptors.

A. No psittacine or passerine birds or raptors offered for sale shall be shipped into the State of Utah unless an import permit is obtained from the Department prior to importation and an official Certificate of Veterinary Inspection accompanies the birds.

1. Request for an import permit must be made by an accredited veterinarian certifying that the birds are free from any signs[symptoms] of any infectious, contagious or communicable disease.

2. The request must [also]state the number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination, all listed on the Certificate of Veterinary Inspection. [~~Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).~~]

R58-1-12. Dogs and Cats.

All dogs, cats and ferrets over three months of age shall be accompanied by an official Certificate of Veterinary Inspection, showing vaccination against rabies. The date of vaccination, name of product used, and expiration date must be given.

R58-1-13. Game and Fur-Bearing Animals.

A. No game or fur bearing animals will be imported into Utah without an [prior]import permit being obtained from the Department.

B. Each shipment shall be accompanied by an official Certificate of Veterinary Inspection.[~~Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).~~]

C[B]. All mink entering Utah shall have originated on ranches [~~or herds]~~where virus enteritis has not been diagnosed or exposed to within the past three years.[

~~C. Elk brought into the state under regulations governing elk farming and hunting shall meet the importation requirements of R58-18-11 and 12.]~~

R58-1-13a. Captive Cervidae.

A. All captive cervidae entering Utah must meet the following requirements:

1. No captive elk will be imported into Utah unless the destination premises is licensed with the Utah Department of Agriculture and Food.

2. No captive caribou or fallow deer will be imported into Utah unless a Certificate of Registration (COR) has been obtained from the Utah Division of Wildlife Resources.

3. No captive cervidae will be allowed to be imported into Utah that have originated from or have ever been east of the 100 degree meridian.

4. All captive elk imported into Utah must meet the genetic purity requirement as referenced in Title 4, Chapter 39, Section 301, Utah Code Unannotated.

5. All captive elk must meet the following Chronic Wasting Disease (CWD) requirements:

a. Elk must come from a CWD free area.

b. Elk must originate from a herd that is not affected with or is a trace back or forward herd for CWD.

c. Elk must originate from a herd that has had CWD herd surveillance program for 5 years prior to movement.

6. All captive cervidae must be permanently identified using either a microchip or tattoo.

7. All captive cervidae must have an import permit from the Department.

8. All captive cervidae must have an official Certificate of Veterinary Inspection showing the following:

a. A negative single cervical tuberculin test within 60 days of import.

b. Negative Brucella abortus test results from a single sample that has been tested by two USDA approved tests.

c. All animal identification.

d. A statement the that animals listed on the certificate are not known to be infected with Johnne's Disease (Paratuberculosis)or Malignant Catarrhal Fever and have never been east of the 100 degree meridian.

R58-1-14. Zoo Animals.

A. The entry of common zoo animals, such as monkeys, apes, baboons, rhinoceros, giraffes, zebras, elephants, to be kept in zoos, or shown at exhibitions is authorized when a import permit, subject to requirements established by the state veterinarian, has been obtained from the Department. Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2159[6]. [~~Import permits may be obtained after hours and weekends by calling current telephone numbers listed online at: <http://ag.utah.gov/animind/ahealth.html>, or at 1-800-545-USDA(8732).~~]

R58-1-15. Wildlife.

A. It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13.

B. All wildlife imports shall meet the same Department requirements as required for the importation of domestic animals.

R58-1-16. Duties of Carriers.

Owners and operators of railroads, trucks, airplanes, and other conveyances are forbidden to move any livestock, poultry, or other animals into or within the State of Utah or through the State except in compliance with the provisions set forth in these rules.

A. Sanitation. All railway cars, trucks, airplanes, and other conveyances used in the transportation of livestock, poultry or other animals shall be maintained in a clean, sanitary condition.

B. Movement of Infected Animals. Owners and operators of railway cars, trucks, airplanes, and other conveyances that have been used for movement of any livestock, poultry, or other animals infected with or exposed to any infectious, contagious, or communicable disease as determined by the Department, shall be required to have cars, trucks, airplanes, and other conveyances thoroughly cleaned and disinfected under official supervision before further use is permissible for the transportation of livestock, poultry or other animals.

C. Compliance with Laws and Rules. Owners and operators of railroad, trucks, airplanes, or other conveyances used for the transportation of livestock, poultry, or other animals are responsible to see that each consignment is prepared for shipment in keeping with the State and Federal laws and regulations. Certificate of Veterinary Inspection, brand certificates, and permits should be attached to the waybill accompanying attendant in charge of the animals.

KEY: disease control, import requirements
Date of Enactment or Last Substantive Amendment: ~~August 7, 2007~~ **2011**
Notice of Continuation: February 8, 2007
Authorizing, and Implemented or Interpreted Law: 4-31; 4-2-2(1)(j)

Agriculture and Food, Animal Industry
R58-2
Diseases, Inspections and Quarantines

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 34352
 FILED: 01/06/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Changes to this rule are in response to requests by the public that rules should be in place that will allow various shows, fairs, and auctions to hold terminal shows for various livestock species.

SUMMARY OF THE RULE OR CHANGE: A definition section was added to the rule to define those terms used in the section concerning terminal shows. A section was added to allow fairs, livestock shows, and auctions the option to hold a terminal show for one or more species of animals.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j) and Title 4, Chapter 31

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The addition of the definition dealing with the show of livestock at terminal shows will not impose any new inspection obligations on the department. The department will be able to accommodate these small additions in the current budget.
- ◆ **LOCAL GOVERNMENTS:** Local government is not affected by this rule because they are not involved in the enforcement of this rule.
- ◆ **SMALL BUSINESSES:** For persons showing livestock, there should be no increase in costs because the cost for a terminal or nonterminal show will be the same.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** For persons showing livestock, there should be no increase in costs because the cost for a terminal or nonterminal show will be the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For persons showing livestock, there should be no increase in costs because the cost for a terminal or nonterminal show will be the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is being updated to address changes with current livestock show practices and to address the needs to control/prevent the spread of disease that could impact the livestock economy. These rule changes will not have any fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Terry Menlove by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at tmenlove@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Leonard Blackham, Commissioner

**R58. Agriculture and Food, Animal Industry.
R58-2. Diseases, Inspections and Quarantines.**

R58-2-1. Authority.

Promulgated Under the Authority of Sections 4-31-15 and 4-31-17 and Subsection 4-2-2(1)(c)(ii).

R58-2-2. Definitions.

A. "Animal exhibition" - An event where animals are congregated for the purpose of exhibition and judging.

B. "Animals" - For the purpose of this chapter animals means poultry, rabbits, cattle, sheep, goats and swine.

C. "Terminal show" - A fair or livestock judging exhibition with designated species of animals that are declared "at risk animals" which at the conclusion of the event must be transported directly to slaughter.

R58-2-3[2]. Reportable and Quarantinable Animal Diseases.

A. Reporting of Diseases. It shall be the responsibility of veterinary diagnostic laboratories, veterinary practitioners, livestock inspectors, and livestock owners to report immediately by phone or written statement to the Department of Agriculture and Food any of the diseases listed on the Utah Department of Agriculture and Food Reportable Disease list, available at the Utah Department of Agriculture and Food, Division of Animal Health, PO Box 146500, 350 North Redwood Road, Salt Lake City, UT 84114-6500.

1. All swine moving within the State of Utah shall be identifiable to determine the farm of origin as per 9 CFR, 1, 71.19, January 1, 2002, edition which is hereby adopted and is incorporated by reference within this rule.

2. All sheep moving within the State of Utah shall, upon change of ownership, comply with federal Scrapie identification requirements as listed in 9 CFR Part 79, January 1, 2002, requiring official identification to determine the farm of origin.

3. Sheep from Scrapie infected, exposed, quarantined or source flocks may not be permitted to move into or within the state, except to slaughter, unless a flock eradication and control plan, approved by the State Veterinarian in Utah, has been implemented in the flock where the diseased animal resides.

4. Any live scrapie-positive, suspect, or high-risk sheep of any age and any sexually intact exposed sheep of more than one year of age shall be required to possess official individual identification as listed in 9 CFR Part 79, January 1, 2002.

B. Quarantines. The Department of Agriculture and Food or its agent may issue quarantines on:

1. Any animal infected with diseases listed on the reportable disease list or any infectious or dangerous entity which is determined to be a threat to other animals or humans.

2. Any animal which it believes may jeopardize the health of other animals, or humans.

3. Any area within the State of Utah to prevent the spread of infectious or contagious diseases.

a. Quarantines shall be deemed issued to owners or caretakers of animals affected with or exposed to infectious, contagious, or communicable diseases by serving an official notice of quarantine to the owner or caretaker in person, by phone, by public meetings, or by registered mail to his last known address.

b. On and after the effective date of quarantine no animals shall be moved or allowed to be moved from or onto the quarantined premises without the owner or caretaker of the

quarantined livestock having first obtained a written permit from the Utah Department of Agriculture and Food or its authorized agent to move the animals.

c. Quarantines shall be released upon compliance with Section 4-31-17; as well as with 9 CFR 71.2, January 1, 2002, edition; and the Utah Health Code Sections 26-6, 19-4 and 19-5.

R58-2-4. Disease Control at Animal Exhibitions and Livestock Auctions.

A. To reduce potential spread of disease from animal exhibitions and livestock auctions the Utah Department of Agriculture and Food may:

1. Specify an animal exhibition a terminal show for designated species coming to the event when the Utah Department of Agriculture and Food is aware that a disease risk exists in that local area or the state.

2. Give each county in the state the authority to designate a terminal show for any animal exhibition or fair being held within the county.

3. Give the specific show that is a member of the Junior Livestock Show Association the authority to designate a terminal show.

4. Restrict movement of livestock into and out of a livestock auction or temporary livestock sale when the Utah Department of Agriculture and Food is aware of a disease risk exists in that local area or the state.

KEY: quarantines

Date of Enactment or Last Substantive Amendment: [February 1, 2005]2011

Notice of Continuation: August 15, 2006

Authorizing, and Implemented or Interpreted Law: 4-31-15; 4-31-17; 4-2-2(1)(c)(ii)

**Agriculture and Food, Plant Industry
R68-7
Utah Pesticide Control Act**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 34342

FILED: 01/03/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Update rule to be in compliance with current conditions and have clearer rules especially for fumigation and termite pesticide application.

SUMMARY OF THE RULE OR CHANGE: This amendment: clarifies commercial pesticide applicator business requirements; clarifies how many times a person may attempt to take a pesticide exam; adds more detail to the record

requirements for pesticide applicators; adds new language requiring restricted use pesticide dealers to submit electronic records on an annual basis; adds more detail to the record requirements for which restricted use pesticide dealers are required to keep; adds requirements for new responsibilities of pesticide businesses and pesticide applicators; adds more detail for minimum standards for termite applicators; adds more detail for minimum standards for fumigation applications; adds more detail for transportation, storage and handling requirements; adds unlawful acts to coincide with changes made on the above mentioned items; and adds reference to penalty matrix for enforcement action.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-14-6

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated cost to the state budget because the state is already doing the work with existing staff and budget.
- ◆ LOCAL GOVERNMENTS: Local governments are not affected by the rule change because the regulation is done by state government and local government does not regulate this pesticide rule.
- ◆ SMALL BUSINESSES: There will be a minimal cost to pesticide applicator companies for putting license information on their vehicles, upgrading storage facilities if necessary, and time spent for dealers to submit electronic records. They will be required to keep more detailed and accurate records of applications and training that is conducted. The increased cost would be associated to the record keeping.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be a minimal cost to pesticide applicators. They will be required to keep more detailed and accurate records of applications and training that is conducted. The increased cost would be associated to the record keeping.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a minimal cost to pesticide applicator companies for putting license information on their vehicles, upgrading storage facilities if necessary, and time spent for dealers to submit electronic records.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rules are being updated to be in line with current conditions and recommendations from EPA as it relates to fumitoxin issues. There will be minimal fiscal impact to the regulated business, but this is necessary to provide adequate consumer protection to the public when dealing with restricted use pesticides.

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

AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
- ◆ Clark Burgess by phone at 801-538-9929, by FAX at 801-538-7126, or by Internet E-mail at cburgess@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 02/07/2011 10:00 AM, Utah Department of Agriculture and Food, 350 N Redwood Rd, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Leonard Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-7. Utah Pesticide Control [Aet]Rule.

R68-7-6. Categorization of Pesticide Applicators.

Commercial and Non-commercial applicators shall be categorized in one or more of the categories defined below, based on the application site and the type of work they perform.

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators using pesticides to control pests in the production of agricultural crops including, but not limited to, field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators using pesticides on animals including, but not limited to, beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine or their employees engaged in the business of applying pesticides for hire, publicly representing themselves as pesticide applicators or engaged in large-scale use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators using pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators using pesticides to control pests on ornamental and turf plants and in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on home foundations, sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators using pesticides on seeds.

(5) Aquatic Pest Control.

(a) Surface Water: This category includes applicators applying pesticides to standing or running water, excluding

applicators engaged in public health-related activities included in R68-7-6(8).

(b) Sewer Root Control: This category includes applicators using pesticides to control roots in sewers or in related systems.

(6) Right-of-Way Pest Control. This category includes applicators using pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health-related Pest Control. This category excludes any fumigation pesticide application and is limited to applicators using pesticides in, on, or around food handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses, storage units and any other structures and adjacent areas, public or private; to control household pests, fabric pests, and stored-product pests and to protect stored, processed and manufactured products. This category includes vertebrate pest control in and around buildings and allows for applications up to three feet from the structure.

(8) Public Health Pest Control. This category includes applicators applying the use of pesticides for the management and control of pests having medical and public-health importance. This category includes mosquitoes, ticks, bedbugs, louse, and fleas.

(9) Regulatory Pest Control.

(a) This category is limited to state and federal employees or persons under their direct supervision, who apply pesticides in a mechanical ejection device, or other methods to control regulated pests.

(b) This category is limited to state and federal employees or persons under their direct supervision, who apply pesticides in a protective collar, or other methods to control regulated pests.

(10) Demonstration, Consultation and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits and methods of applying restricted-use pesticides. This category includes, but is not limited to agricultural compliance specialists, extension personnel, commercial representatives, consultants and advisors, and persons conducting field research with restricted-use pesticides. In addition, they shall meet the specific standards that may be applicable to their particular activity.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by aircraft. Aerial applicators are required to be certified in the Aerial-Application Pest-Control Category and any other categories of intended application.

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides in the control of vertebrate pests outdoors, such as rodents, birds, bats, predators or domestic animals.

(13) Fumigation/Stored-Commodities Pest Control. This category includes applicators using fumigants to control pests in, on, or around soils, structures, railroad cars, stored grains, manufactured products, grain elevators, flour mills, and similar areas and items.

(14) Wood-Preservation Pest Control. This category includes applicators who apply wood-preservative pesticides to

wood products, such as fence posts, electrical poles, railroad ties, or any other form of wood products.

(15) Wood-Destroying Organisms Pest Control. This category includes applicators using pesticides to control termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi and any other pests destroying wood products.

R68-7-7. Standards of Competence for Certification of Applicators.

Applicators must be at least 16 years of age and show competence in the use and handling of pesticides according to the hazards involved in their particular classification by passing the tests and becoming certified as outlined in R68-7-8. Upon their becoming certified, the department will issue a license which will qualify an applicator to purchase and apply pesticides in the appropriate classification. Standards for certification of applicators as classified in R68-7-4 have been established by the EPA and such standards shall be a minimum for certification of applicators in the State of Utah.

(1) Commercial and Non-Commercial Applicators.

Commercial and non-commercial applicators shall demonstrate practical knowledge by written examination(s) of the principles and practices of pest control and safe use, storage and transportation of pesticides, to include the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant, as set forth in 40 CFR, Section 171.4 and the EPA approved Utah State Plan for certification of pesticide applicators. In addition, applicators applying pesticides by aircraft shall be examined on the additional standards specifically identified for this method of application as set forth herein.

(a) Exemptions. The standards for commercial and non-commercial applicators do not apply to the following persons for purposes of these rules:

(i) Persons conducting laboratory-type research involving pesticides; and

(ii) Doctors of medicine and doctors of veterinary medicine applying pesticides or drugs or medication during the course of their normal practice and who do not publicly represent themselves as pesticide applicators.

(2) Aerial Application. Additional Standards.

Applicators shall demonstrate by examination practical knowledge of pest control in a wide variety of environments. These may include, but are not limited to, agricultural properties, rangelands, forestlands, and marshlands. Applicators must have the knowledge of the significance of drift and of the potential for non-target injury and the environmental contamination. Applicators shall demonstrate competency as required by the general standards for all categories of certified commercial and non-commercial applicators. They shall comply with all standards set forth by the Federal Aviation Administration (FAA) and submit proof of current registration by that agency as a requirement for licensing as an aerial applicator.

~~[(3) Subterranean Termite Pre-Construction Treatment Applications. Minimum Standards. Full treatment. Effective preconstruction treatment for subterranean termite prevention requires the establishment of complete vertical and horizontal barriers between the structure and the termite colonies in the soil.]~~

~~_____ (a) For Horizontal Chemical Barriers: Applications shall be made using a low pressure spray after grading is complete and prior to the pouring of the footing and the main slab to provide thorough and continuous coverage of the area being treated. Application rates, unless label requires elevated rates, must be at least 1 gallon per 10 square feet.~~

~~_____ (b) For Vertical Chemical Barriers: Establish vertical barriers in areas such as around the base of foundations, plumbing lines, backfilled soil against foundation walls and other areas which may warrant more than a horizontal barrier. Application rates, unless labeling requires elevated rates, are to be treated at a rate of 4 gallons per 10 linear feet to soil backfill areas next to walls, piers, pipes, and under other "crucial areas" such as slab expansion joints.~~

~~_____ (c) Partial Treatments: Defined as anything less than a full treatment. Partial Pre-Construction treatments are not acceptable.~~

~~_____ (4)](3) Private Applicators. Private applicators shall show practical knowledge of the principles and practices of pest control and the safe use of pesticides, to include the standards for certification of private applicators as set forth in 40 CFR Section 171.5. In addition, private applicators applying restricted-use pesticides by aircraft shall show practical knowledge of the additional standards specifically identified for that method of application in R68-7-6(11) of these rules.~~

~~[(5)](4) Supervision of Non-Certified Applicators by Certified Private Applicators.~~

(a) A certified private applicator that functions in a supervisory role shall be responsible for the actions of any non-certified applicators under his instruction and control.

(b) A certified private applicator shall provide written or oral instruction for the application of a restricted-use pesticide applied by a non-certified applicator under his supervision when the certified applicator is not required to be physically present. If an applicator cannot read, instructions shall be given in a language understood by the applicator. The instructions shall include procedures for contacting the certified applicator in the event he is needed.

~~[(6)](5) The certified applicator shall be physically present to supervise the application of a restricted-use pesticide by a non-certified applicator if such presence is required by the label of the pesticide being applied.~~

R68-7-8. Certification Procedures.

(A) Commercial Applicators.

(1) License Required. No person shall apply, advertise for, solicit, or hold oneself out as willing to engage in the business of applying any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide applicator business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business license fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, ~~[2-5]~~5-9 commercial pesticide applicators and 10 or more commercial pesticide applicators.

(a) Application for such licenses shall be made in writing on an approved form obtained from the department and shall

include such information as prescribed by the department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed as a commercial applicator. An applicator and business license fee determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.

(b) A commercial pesticide applicator operating under more than one business identity or name from a single business location shall be licensed separately for each business identity or name.

(c) A commercial pesticide applicator with a single business identity or name but operating from more than one business location shall be licensed at each separate business location.

(d) If the name selected by an applicant for a license to act, operate, or do business or advertise as a commercial or noncommercial applicator in the State of Utah is the same or so near the same as that of another licensee already doing business in the state as to cause confusion in the minds of the people or is likely to deceive the public, the Department may require the applicant to apply for a license under a different name that is distinguishable from the names of existing licensees. Any determination made pursuant to this rule shall be at the sole discretion of the Department.

(e) Each business location licensed shall have a minimum of one certified applicator at that location who is certified in each licensed category for which applications are made.

(f) A franchised business shall have a separate license and a separate certified applicator at each business location.

(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. After paying the certification fee a person may attempt to pass any of the required exams up to three times. If any exam is not passed within three attempts, a person must wait one month and pay a retest fee for each exam failed and he or she will be allowed up to two additional attempts to pass an exam. If any exam is again not passed, a person must wait another month and again pay a retest fee for each exam failed and he or she will again be allowed up to two additional attempts to pass an exam. If after

seven attempts a required exam is not passed, a person must again pay the certification fee and the testing process will begin again; the original certification fee and any retesting fees will not be refunded.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended ~~prior~~ by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food of prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before March 1, individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures.

Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(7) Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of formulation (undiluted pesticide product as sold by the manufacturer) applied per unit area and total amount of pesticide used;

(e) Purpose of application (target site and pest to be treated);

(f) The name, address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

(8) Exemption.

The provisions of this section relating to licenses and requirements for their issuance do not apply to a person applying pesticides for his neighbors provided he operates and maintains pesticide application equipment for his own use, is not engaged in the business of applying pesticides for hire or compensation, does not publicly represent himself as a pesticide applicator, and operates his pesticide application equipment only in the vicinity of his owned or rented property for the accommodation of his neighbors; provided, however, that when such persons intend to use a restricted-use pesticide, they shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the department. Application for such license shall be made in writing on an approved form obtained from the department and shall include such information as prescribed by the department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and

knowledge of mixing and applying pesticides in a safe way. After paying the certification fee a person may attempt to pass any of the required exams up to three times. If any exam is not passed within three attempts, a person must wait one month and pay a retest fee for each exam failed and he or she will be allowed up to two additional attempts to pass an exam. If any exam is again not passed, a person must wait another month and again pay a retest fee for each exam failed and he or she will again be allowed up to two additional attempts to pass an exam. If after seven attempts a required exam is not passed, a person must again pay the certification fee and the testing process will begin again. The original certification fee and any retesting fees will not be refunded.

(3) License Issuance. If the department finds the applicant qualified to apply pesticides in the classification(s) applied for, the department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. ~~[—A prescribed examination and educational material fees shall be required.—]~~ The applicator is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee as determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(5) License ~~[Renewal,]~~ Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticide. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of formulation (undiluted pesticide concentrate product as sold by the manufacturer) applied per unit area, and total amount of pesticide used;

(e) Purpose of application (target site and pest to be treated);

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice. Non-Commercial applicators engaged in public-health related activities are exempt from recording the name and address of property owners, but are required to document a detailed description of treatment areas by using such means as GPS coordinates or other locality descriptions for record keeping purposes.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material

fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the department, by satisfying any of the following procedures or any other requirements specified by the department.

(a) Completion of a recertification course approved by the Utah Department of Agriculture and Food and passing a written test with a score of 70% or above or;

(b) Complete the original certification process of taking the required written test(s). A score of 70 percent or above is required to pass or;

(c) Accumulate ~~nine~~six credits of approved continuing education during the valid three years of certification.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

R68-7-9. Dealer Licensing.

(A) In order to facilitate rules of the distribution and sale of restricted-use pesticides, it is necessary to license dealers who dispense such materials.

(1) License Required.

It shall be unlawful for any person to act in the capacity of a restricted-use pesticide dealer, or advertise as, or presume to act as such a dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which such pesticides are distributed; provided, that any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes a restricted-use pesticide directly into ~~this state~~Utah shall obtain a pesticide dealer's license for his principal out-of-state location or outlet; provided further, that any manufacturer, registrant or distributor who sells only through or to a pesticide dealer is not required to obtain a pesticide dealer's license.

(2) License Issuance. Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a license fee determined by the department pursuant to subsection 4-2-2(2). If the department finds the applicant qualified to sell or distribute restricted-use pesticides and the applicant has paid the prescribed license fee, the department shall issue a restricted-use pesticides dealer's license. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. This license shall expire December 31 of each year, unless it has been previously revoked or suspended by the commissioner for causes which may include any of the unlawful acts included in R68-7-11.

(3) License Renewal. License-renewal fees are payable annually before January 1. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. If the renewal of a pesticide dealer's license is not received prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original license fee and shall be paid by the applicant before the license renewal shall be issued.

(4) Records Maintained. Each dealer outlet licensed to sell restricted-use pesticides ~~shall be~~is required by the department to maintain a restricted-use pesticide sales register by entering all restricted-use pesticide sales into the register at the time of sale. Also required, [A] an electronic format accepted by the department to be submitted to the department. The electronic register form, [provided by the department,] shall include the following information:

- ~~[(a) The name and address of the purchaser.~~
- ~~— (b) Brand name of restricted-use pesticide purchased.~~
- ~~— (c) EPA registration number of restricted-use pesticide purchased.~~
- ~~— (d) Month, day and year of purchase.~~
- ~~— (e) Quantity purchased.~~
- ~~— (f) Signature and license number of the purchaser, expiration date of license, or signature of purchaser's agent (uncertified person) if letter of authorization is on file. Letter of authorization must include names of agents, signature and license number of purchaser.](a) The Corporate or Company Name.~~
- ~~— (b) The name of the branch store that made the sale.~~

(c) The store's complete Restricted-Use Pesticide dealer license number, including the prefix.

(d) The complete sale date including the month, day and year.

(e) The first and last name of the salesperson that made the sale.

(f) The first and last name of the buyer.

(g) The buyer's complete Pesticide Applicator License number, including the prefix.

(h) If the buyer was authorized by letter. The authorization letter must be kept on file.

(i) If the buyer used a temporary permit.

(j) The buyer's complete street address, city, state and zip code.

(k) The brand name of the product sold, its EPA Registration Number and the quantity sold.

(l) The product container size and its unit of measure (i.e. gallons, liters, etc.).

Such records shall be kept for a period of two years from the date of restricted-use pesticide sale and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee, upon request, shall be furnished a copy of such records by the restricted-use pesticide dealer.

(5) Submission of Electronic records. On June 1 of each year, Dealers are required to submit their Restricted-Use Pesticide sales records for the period starting the previous July 1 through June 30 of the current year. The due date for submission is July 31 of the current year.

~~[(5)](6) Exemption. Provisions of this section shall not apply to: (a) a licensed pesticide applicator who sells restricted-use pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used for such pesticide application (b) Federal, state, county, or municipal agency which provide restricted-use pesticides only for its own programs shall be exempt from the license fee but must meet all other requirements of a pesticide dealer.~~

~~[(6)](7) Responsible for Acts of Employees. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of restricted-use pesticides and all claims and recommendations for use of restricted-use pesticides. A dealer's license shall be subject to denial, suspension or revocation for any violation of the Pesticide Control Act or rules promulgated thereunder, whether committed by the dealer or by the dealer's officer, agent, or employee.~~

R68-7-10. Responsibilities of Business and Applicator.

(A) Business Licensee Duties and Responsibilities

(1) A business licensee shall ensure that a qualifying party (licensed applicator) of the business licensee receives the training that the applicator requires to comply fully with the Utah Pesticide statutes and rules and label and labeling directions.

(B) Joint responsibility for supervised person(s)

(1) A business licensee, qualifying party and/or applicator may be held jointly responsible for the acts or omissions of another person who is employed by the business licensee, qualifying party or applicator if the business licensee fails to properly train, equip or prepare the other person(s) or fails to maintain records of proper training and equipping.

(2) Failure to fully respond to requests by the commissioners designated agent, in a stated time, for information relating to training and equipping will be evidence for a failure to properly train or equip. The supervising licensee has the burden of proof by a preponderance of the evidence that the business licensee, qualifying party or applicator has fulfilled the required duties as prescribed by this chapter, rules adopted pursuant to this chapter or a written order of the commissioner.

(C) Use of business name and license number.

(1) A business licensee must prominently display the license issued by the Department at the primary business office and each branch office.

(2) A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Department, on:

(a) Customer proposals or contracts for pest management services;

(b) Service records;

(c) Written materials provided to customers or potential customers;

(d) Correspondence;

(e) Advertisements; and

(f) Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number is displayed on a service vehicle or trailer used in providing pest management services conforms to the following:

(i) Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the Department issues the license or issues a business license change or after the service vehicle or trailer is acquired, whichever is sooner.

(ii) Is in a color that contrasts with the color of the service vehicle and trailer;

(iii) Is on both sides of the service vehicle or trailer;

(iv) Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and

(v) Uses at least two-inch numbers for the license number.

(vi) Letters and numbers must be weatherproof.

(3) A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (2)(g).

(4) When complying with subsection (2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.

(D) Customer Notification.

(1) Prior to the time of each Restricted-Use Pesticide (RUP) application identified by this rule, the licensed applicator for hire or an employee of the licensed business shall provide the customer with a written statement containing the following information:

_____ (a) Business name and telephone number of the licensed business.

_____ (b) Name and license number of the licensed applicator who made the application

_____ (c) Date and time of application.

_____ (d) Type of pesticide application service and brand name of pesticide(s) applied.

_____ (e) Instructions to the customer to contact the business telephone number if more specific information is desired regarding the pesticide product applied.

_____ (2) The written statement required in subsection (1) shall be provided to the customer by any of the following means:

_____ (a) Leave at the residence.

_____ (b) In the case of a multiunit residence leave with the property manager or his or her authorized representative, or

_____ (c) Mail to the property manager or his or her authorized representative if management is located at a location other than the pesticide application site, within seven (7) days prior to the date of the pesticide application.

R68-7-11. Minimum Standards for Termite Applications.

_____ (A) Subterranean Termite Pre-Construction Treatment Applications. Minimum Standards.

_____ (1) Full treatment: Effective preconstruction treatment for subterranean termite prevention requires the establishment of complete vertical and horizontal barriers between the structure and the termite colonies in the soil.

_____ (a) For Horizontal Chemical Barriers: Applications shall be made using a low pressure spray after grading is complete and prior to the pouring of the footing and the main slab to provide thorough and continuous coverage of the area being treated. Application rates, unless label requires elevated rates, must be at least 1 gallon per 10 square feet.

_____ (b) For Vertical Chemical Barriers: Establish vertical barriers in areas such as around the base of foundations, plumbing lines, backfilled soil against foundation walls and other areas which may warrant more than a horizontal barrier. Application rates, unless labeling requires elevated rates, are to be treated at a rate of 4 gallons per 10 linear feet per foot of depth to the footer or four feet which ever is less to soil backfill areas next to walls, piers, pipes, and under other "crucial areas" such as slab expansion joints.

_____ (c) Partial Treatments: Defined as anything less than a full treatment. Partial Pre-Construction treatments are not acceptable.

_____ (d) Applying a termiticide at any dosage, concentration or frequency less than that specified on the labeling is not permitted;

_____ (B) Termiticide Record Keeping. Additional Standards.

_____ (1) In addition to the recordkeeping requirements contained in R68-7-8, the applicator will keep as records a diagram/graph of the structure treated that includes dimensions of the structure, including depth to footer.

_____ (a) All records of applications for every individual structure must be kept together.

R68-7-12. Minimum Standards for Fumigant Applications.

_____ (A) Application of fumigant products require strict adherence to the label. And if required by the label, a verified and

written Fumigation Management Plan (FMP). The FMP will detail the information prescribed for by the label. State standards require the following.

_____ (1) Persons present at the time of releasing the fumigant and during the initial ventilation.

_____ (a) There shall be at least two persons, one of whom must be a certified applicator in the fumigation category, present at the time of the releasing of the fumigant and during the initial ventilation. During the interim, the premises shall be adequately safeguarded against entry by any person(s).

_____ (2) Notification of Local Fire Department.

_____ (a) Prior to fumigation of any building or enclosed space, other than a fumigating vault, the certified applicator shall notify and provide the local fire department with the address of the fumigation job, time of gas release, kind of gas to be used, and beginning time of the aeration of the premises.

_____ (3) Premises sealed.

_____ (a) Premises to be fumigated shall be sealed in a manner that confines the fumigant to the space intended to be fumigated.

_____ (4) Inspection of premises prior to releasing fumigant

_____ (a) Immediately before releasing the fumigant, the fumigator shall conduct a thorough inspection of the premises to verify that no person(s) or non-target animals remain, and that effective precautions have been taken to safeguard occupants of neighboring buildings as set forth below.

_____ (5) Fumigation of apartments within a multiple unit apartment building.

_____ (a) Fumigation of apartments within a multiple unit apartment building may be fumigated only after proper sealing of the area being fumigated and after all apartments are vacated.

_____ (b) All the adjacent units shall be properly ventilated during the entire exposure period.

_____ (6) Notification of all dwellings or places of business within 100 feet of building being fumigated.

_____ (a) All dwellings or places of business within 100 feet of the building being fumigated must be notified in writing in advance of the fumigation.

_____ (b) All premises within 10 feet must be vacated during the fumigation and aeration periods.

_____ (7) Warning signs.

_____ (a) Warning signs shall be posted conspicuously at all entrances of the premise to be fumigated and at the entrances of all adjacent multiple units and structures within 10 feet and kept there during the entire fumigation and ventilation period.

_____ (i) Signs shall be a minimum size of 8½ inches by 11 inches and color to be conspicuous and bearing the word "poison" and display the skull and cross-bones, the name of the fumigant used, and the name, address and telephone number of the fumigator.

_____ (b) Before the fumigant is released, all entrances leading directly to the fumigated space shall be closed, sealed, and locked except exits to be used by fumigating crew. These exits shall be closed, sealed, and locked promptly after the fumigant has been released.

_____ (8) Masks worn.

_____ (a) All members of the fumigating crew must be equipped with a serviceable mask of a type approved by the U.S. Mines, Safety, and Health Administration with correct canister for the type of gas used.

(b) Masks shall be worn while in the enclosed space during and after release of the gas, and until initial ventilation is completed.

(9) Re-entering fumigated premises

(a) No one other than the fumigator shall be permitted to re-enter the fumigated premises until the fumigator has ascertained by personal inspection, with gas mask and with a chemical appropriate test, that the premises are safe for occupancy.

(b) Aeration must be conducted according to the product labeling and re-entry allowed according to levels specified on the label.

(10) Exceptions

(a) The subparts 1 through 9 do not apply to fumigants used to control insects or other pests outside of buildings, or for spot fumigations, or restrictive treatments inside a building.

(i) Strict adherence to the label instructions must be adhered to during these applications.

(ii) During the ventilation period of a spot or restrictive fumigation, the premises shall not be occupied by anyone except the fumigator.

(iii) A warning gas is recommended where the fumigant is comparatively odorless.

(B) Fumigation of Burrowing Rodents require strict adherence to the label as well as a Fumigation Management Plan (FMP) that must contain the following information.

(1) Purpose of the application, indicate the exact pest to be controlled and the type of burrow system to be treated.

(2) Pesticide used. State the name of the pesticide, the EPA registration number, and dosage used.

(3) Property treated information. Record the property or facilities name and address. Verify the manager's name, and contact information.

(4) Licensed applicator information. Record licensed applicator's name, company, license number, phone numbers.

(5) Emergency Information. Note the phone number for the Nearest Hospital, Fire department, Police department, Poison Control and registrant of the fumigant.

(6) Instructions to personnel. Verify by signatures that all personnel has been instructed to:

(a) Report any accident or incident related to exposure, provide a telephone number for emergency response reporting.

(b) Report to proper authorities any theft of fumigant and/or equipment related to fumigation.

(7) Follow label directions. Monitoring, Notification, Sealing, Application Procedures, Fumigation Period, and Use Restrictions are to be followed per label instructions.

(8) Burrowing Rodent Fumigation Record Keeping. Additional Standards.

(a) In addition to the recordkeeping requirements contained in R68-7-8, the applicator will keep as records a diagram/graph of the property treated that includes dimensions of the property, any structure within, and mark each burrow treated.

R68-7-[10]13. Transportation, Storage, Handling, Using and Disposal of Pesticides and Pesticide Containers.

All pesticide applying entities shall provide a secure pesticide and device storage area that complies with all federal,

state, and local laws. The storage area may include an area on a service vehicle.

(1) No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or to pollute any waterway in a manner harmful to any wildlife therein.

(2) Pesticide containers shall be secured during transport by use of side or end racks, bracing, chocks, tie downs, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(3) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Stacking or wedging against ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(4) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured, illegible or damaged labels shall not be displayed or offered for sale.

(5) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and the registered pesticide label is affixed to the container.

(6) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container, apparatus, or rinsate in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, humans, desirable plants and animals, or wildlife. Provided that a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection. Disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(7) No person shall pollute streams, lakes, or other water supplies during pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent back siphoning shall be used.

(8) No pesticides shall be applied by aircraft or airblast sprayers to property abutting and/or adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises.

(9) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, humans, desirable plants or animals.

(10) Requirements for unattended pesticides and their containers:

(a) Generally accepted good housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (11) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., a minimum of three successive rinsings).

(c) For the purposes of (d) and (e) of this subsection and subsection (11) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals as to ensure the location of the pesticide and containers.

(d) Pesticides labeled with the signal word "danger/poison" and their containers shall be stored in a way which, when unattended, shall be so constructed and locked to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(e) Pesticides labeled with the signal word "danger" when not accompanied by the signal word "poison," pesticides labeled with the signal word "warning" and pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in an enclosure as described in (d) of this subsection: Provided that metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves shall be considered secured storage.

(11) Requirements for posting of storage area for pesticides and their containers labeled with the signal words "danger/poison":

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (Pesticide or Chemical) Storage Area/Keep Out" in at least two inch letters.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended:

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction:

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each entrance of the storage area.

(12) In accordance with State of Utah Agricultural Code, the Utah Department of Agriculture and Food hereby adopts the applicable portions of 40 CFR Part 152 Subpart A Section 152.3 and Part 165, Subparts A through E.

R68-7-~~14~~14. Unlawful Acts.

Any person who has committed any of the following acts is in violation of the Utah Pesticide Control Act or rules promulgated thereunder and is subject to penalties provided for in Sections 4-2-2 through 4-2-15:

(1) Made false, fictitious, or fraudulent claims, written or spoken misrepresenting the use, effect of pesticides, certification of applicator, or methods to be utilized;

(2) Applied known ineffective or improper pesticides;

(3) Operated in a faulty, careless or negligent manner;

(4) Neglected or, after notice, refused to comply with the provisions of the Act, these rules or of any lawful order of the department;

(5) Refused or neglected to keep and maintain records required by these rules, or to make reports when and as required;

(6) Made false or fraudulent records, invoices or reports;

(7) Engaged in the business of, advertised for, or held self out as applying a pesticide for hire or compensation on the lands of another without having a valid commercial applicator's license;

(8) Purchased, Used, or supervised the use of, a pesticide which is restricted to use by "certified applicators" without having qualified as a certified applicator or designated as a certified private applicators agent;

(9) Used fraud or misrepresentation in making application for, or renewal of, a registration, license, permit or certification;

(10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(11) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the department if those rules further restrict the uses provided on the labeling;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of the Act; conspired with such a licensed or an unlicensed person to evade the provisions of the Act; or allowed one's license or permit to be used by another person;

(13) Impersonated any federal, state, county, or other government official;

(14) Distributed any pesticide labeled for restricted use to any person unless such person or his agent has a valid license, or permit to use, supervise the use, or distribute restricted-use pesticide;

(15) Applied pesticides onto any land without the consent of the owner or person in possession thereof; except, for governmental agencies which must abate a public health problem.

(16) For an applicator to apply a [~~termiticide~~]termaticide at less than label rate or inconsistent with rules of the department if those rules further restrict the uses provided on the labeling as detailed in section R68-7-11.

(17) For an employer of a commercial or non-commercial applicator to allow an employee to apply pesticide before that individual has successfully completed the prescribed pesticide certification procedures.

(18) For a pesticide applicator not to have his/her current license in his/her immediate possession at all times when making a pesticide application.

(19) To allow an application of pesticide to run off, or drift from the target area to cause plant, animal, human or property damage.

(20) Refused or neglected to register a pesticide applicator business with the Utah Department of Agriculture and Food or follow the rules set forth in section R68-7-10 for licensing of a commercial business.

(21) To handle or apply any registered pesticide for which the person does not have an appropriate, complete, or legible label at hand.

(22) Refused or neglected to comply with the Federal Container and Containment regulations.

(23) Failure to perform fumigation work according to minimum standards required by this rule.

(24) Failed to display business license numbers in accordance with this rule.

(25) Refused or neglected to notify the customer of the application of a Restricted-Use Pesticide and the information detailed in R68-7-10.

(26) Failure of a qualifying party of the business licensee to train or prepare the applicator to comply fully with the Utah Pesticide statutes and rules and label and labeling directions.

(27) Failure to timely and fully respond to requests by the commissioners designated agent for information relating to training and equipping of applicators.

(28) Transported, stored, handled, used, or disposed of a pesticide or pesticides container inconsistent with rules specified in section R68-7-13.

R68-7-15. Penalty Matrix.

In the disposition of administrative cases, the department shall use the penalty matrix schedule to determine appropriate penalties. The department shall calculate penalties based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted and/or there are aggravating or mitigating factors present.

(1) The department may consider circumstances enhancing or reducing the penalty based on the seriousness of the violation. Aggravating and mitigating factors include, but are not limited to, the following:

(a) The number of separate alleged violations contained within a single notice of intent.

(b) The magnitude of the harm, or potential harm, including quantity and/or degree, to humans, animals, plants, property or the environment caused by the violation(s).

(c) The similarity of the current alleged violation to previous violations committed within the last three years.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(2) The department will annually review past violation trends and update the matrix based on compliance figures.

(a) A copy of the most current version of the Penalty Matrix will be made available by the department upon request.

KEY: inspections, pesticides

Date of Enactment or Last Substantive Amendment: [January 4, 2010]2011

Notice of Continuation: March 16, 2006

Authorizing, and Implemented or Interpreted Law: 4-14-6

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34351

FILED: 01/06/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2005, the Air Quality Board adopted Section IX Part H, Emission Limits and Operating Practices, as part of the PM10 Maintenance State Implementation Plan (SIP). Section IX.H.2.h contains a limit for total material moved (ore and waste) for the Kennecott Utah Copper Bingham Canyon Mine as a surrogate limit for direct and precursor emissions that contribute to ambient PM10 concentrations in Salt Lake County. At the September meeting of the Utah Air Quality Board, Rio Tinto, Kennecott Utah Copper (Kennecott) presented an information item outlining the need and scope of a Kennecott Bingham Canyon Mine Expansion Project. In order to obtain approval to proceed with the project, Kennecott has requested that the limit for total material moved contained in Section IX.H.2.h for the mine be adjusted from 197,000,000 tons per 12-month period to 260,000,000 tons per 12-month period. The Air Quality Board is seeking comment on increasing the limit for total material moved in Section IX.H.2.h (1) (a) of the Utah State Implementation Plan.

SUMMARY OF THE RULE OR CHANGE: This amendment increases the limit on total material moved (ore and waste) at the Kennecott Utah Copper Bingham Canyon Mine as contained in Section IX.H.2.h (1) (a) of the SIP from 197,000,000 tons per 12-month period to 260,000,000 tons per 12-month period.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates State Implementation Plan Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits., published by Utah Division of Air Quality, 04/06/2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact the state budget.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.
- ◆ **SMALL BUSINESSES:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact persons other than small businesses, businesses, or local government entities. Kennecott Utah Copper has stated this revision is needed to extend the useful life of the Bingham Canyon Mine.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are anticipated with this rule change. No new requirements were created with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY ROOM FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 02/22/2011 03:30 PM, DEQ MASOB Building, 195 N 1950 W, Board Room (Room 1015), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/06/2011

AUTHORIZED BY: Bryce Bird, 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 April 6, 2011 [~~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
Date of Enactment or Last Substantive Amendment: ~~November 10, 2008~~ **2011**
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)

Environmental Quality, Air Quality **R307-110-28** Regional Haze

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34350

FILED: 01/06/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-110-28 incorporates by reference Utah's Regional Haze State Implementation Plan (SIP). The Air Quality Board adopted a comprehensive Regional Haze SIP in 2003 that was based on the recommendations of the Grand Canyon Visibility Transport Commission. This SIP contained provisions to address the multiple emission sources and pollutants that contribute to regional haze in national parks and wilderness areas throughout the West. The SIP was based on the regional haze rule established by EPA at 40 CFR 51.309. In 2005, 40 CFR 51.309 was vacated because it was linked to EPA's Best Available Retrofit Technology (BART) rule, which had been vacated in 2002. EPA revised the stationary source requirements in the regional haze rule in 2006 to respond to the court's concerns about BART. In 2008, the Air Quality Board adopted revisions to the stationary source provisions of the SIP to meet the requirements of the 2006 regional haze rule. The revised SIP established regional milestones for SO₂ to ensure that significant emission reductions are achieved by 2018. The milestones establish the emission reduction goal without mandating how sources in the region will meet that goal. This allows sources to find the most cost-effective way to reduce the haze in the region. If the milestones are not met, then a backstop regulatory trading program will be triggered to guarantee that the environmental goals are met. Since 2008, the Utah Division of Air Quality has been working with EPA and the other participants (Wyoming, New Mexico, and the City of Albuquerque) in the regional program to further demonstrate that the SO₂ milestones show greater reasonable progress than BART. During this timeframe, there have also been changes in the expectations for future emissions from power plants in the region that affect the underlying assumptions of the milestones. In the fall of 2010, the three states that are continuing to participate in the regional milestones and backstop trading program developed the proposed revisions to the regional milestone to address EPA's concerns.

SUMMARY OF THE RULE OR CHANGE: This amendment incorporates two sets of changes to the Regional Haze SIP Text. Proposed Changes to the SO₂ Milestones and Backstop Trading Program: 1) the SO₂ milestones for the years 2008-2018 have been changed. The proposed SO₂ milestone in 2018 is 141,849 tons. Arizona is no longer participating in the trading program and is instead focusing resources on developing a single SIP under section 308 of the regional haze rule. The trading program was designed to accommodate changes and the milestone has been reduced to reflect the smaller number of sources in the program. The base year for the milestones (2006) has not been changed, but emission reductions between 2006 and 2010 have been included for individual plants. New source growth estimates for utilities have been reduced substantially to account for changing projections for new coal-fired power plants in the region. The new source growth estimate is 2,600 tons of SO₂ for new plants in the region by 2018. All power plants that are subject to BART are assumed to meet the presumptive BART emission rate of 0.15 lb/MMBtu. This assumption is appropriate because the trading program was designed to achieve reasonable progress from all stationary sources of SO₂, with BART as a secondary goal. After seven successful years of implementing the program, there is greater certainty about regional emissions; therefore, the headroom/uncertainty factor is no longer needed. A smelter set-aside is no longer included in the program because this provision was primarily needed to address increased utilization of smelters in Arizona. The portion of the smelter set-aside attributed to Kennecott Utah Copper (100 tons) is insignificant within the context of the overall program; 2) several changes to the allocation methodology were made to reflect the reduced number of states and changing emissions in the region. A tribal set-aside of 2,500 allowances is included in the program. This set-aside is "below the line" and is available as a special allocation if the program is triggered. The renewable energy credit is no longer included in the program because other incentives are achieving the goal; 3) sections D.2 and D.3 of the SIP contain a summary of the stationary source provisions. These sections were revised to reflect the detailed changes described above; and 4) several definitions were changed in the Appendix to the SIP to reflect the changes described above. Proposed Changes to the 2008 SIP to Correct Errors and Clarify the Provisions of the SIP: 1) in Section D.6.c, Table 4 "Subject to BART Modeling" has been updated to reflect the final modeling that was completed in April 2007. The 2008 SIP included modeling results from an earlier draft from January 2007. The minor changes do not affect the determination of sources that are subject to BART; 2) in section D.6.d of the SIP, an error was discovered in the post-control BART modeling that is summarized in Table 7. This table was included for information purposes, and was not relied upon for the SIP analysis. The table has been removed from the SIP; 3) the estimated in-service date of the Hunter and Huntington upgrades were updated to reflect the current construction schedule; 4) other minor wording changes were made to section D.6 for consistency and to correct minor errors; and 5) section K.1.b of the SIP

describes the projected changes in emissions in Utah and the GCVTC region. A number of graphs showing the expected decrease in visibility impairment due to these changes have been added to more clearly show the visibility benefit in neighboring states.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates State Implementation Plan Section XX, Regional Haze, published by Utah Division of Air Quality, 04/06/2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact state budget.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.
- ◆ **SMALL BUSINESSES:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impacted small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impacted persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are anticipated with this rule change. No new requirements were created with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This action reduces the milestone that Western Backstop (WEB) sources, as defined in Section R307-250-4, shall meet in order to not trigger the WEB Sulfur Dioxide Trading Program, Rule R307-250. If the milestones are not met, a penalty shall be incurred by sources. Current projections show that the amended milestones will be met; therefore, there is no anticipated cost or savings associated with this action.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 02/24/2011 01:00 PM, DEQ, Four Corners Conference Room, 195 N 1950 W, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/06/2011

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-28. Regional Haze.

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on [~~September 3, 2008~~] April 6, 2011, 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

Date of Enactment or Last Substantive Amendment: [~~November 10, 2008~~] 2011

Notice of Continuation: March 15, 2007

Authorizing, and Implemented or Interpreted Law: 19-2-104(3) (e)

Environmental Quality, Air Quality **R307-328** Gasoline Transfer and Storage

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34349

FILED: 01/06/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-328 establishes the Stage I Vapor Recovery requirements for the State of Utah. Stage I gasoline vapor recovery systems are designed to capture the vapors expelled from an underground storage tank (UST) at a gas station when it is being filled. In this process, as gasoline is dispensed into the UST, excess vapors from the UST are transferred back into the tank truck and returned to the tank farm or loading facility where they are reprocessed or burned. Section R307-328-6 requires delivery trucks that service gas stations throughout Utah to be vapor tight and equipped to recover vapors and return them to the loading facilities. The delivery trucks are required to be tested annually between

December 1st and May 1st to ensure that they are vapor tight. In 2009, the Utah Petroleum Marketers and Retailers Association requested a rule change to eliminate the December 1st - May 1st testing window and allow testing year round. Trucking companies were finding it difficult to complete the testing on all of their trucks during the five-month window. In addition, winter is the most difficult time to test and repair trucks because of poor weather conditions. Utah Division of Air Quality (UDAQ) staff reviewed the proposal and determined that there were other reasons to eliminate the five-month testing window. 1) The Maximum Achievable Control Technology (MACT) rule for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), 40 CFR Part 63 Subpart R, requires an annual vapor tightness test for most of the delivery trucks that are subject to Rule R307-328. The MACT does not establish a testing window. It would be more efficient to align with the MACT testing schedule, allowing the owners and operators of these trucks to test trucks when they were scheduled for other maintenance, rather than waiting until the five-month testing window. 2) The five-month testing window causes difficulties for out-of-state trucks that are certified under the MACT, but are not allowed to refuel at Utah refineries because they were not tested within the five-month window. 3) The five-month testing window might be counterproductive in some cases because trucks are not tested in the middle of the summer and leaking trucks may not be identified until the following winter. 4) VOC emissions from tanker trucks may be important outside of the traditional ozone season of May - September. EPA has proposed expanding the ozone season in Utah to include the months of April and October, and elevated ozone values have been monitored during the middle of winter in the Uintah Basin. Technical work in support of the PM2.5 SIP has also identified VOC as an important precursor for PM2.5 during winter temperature inversions.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments include the following changes: eliminate the five-month testing window, and instead reference the MACT requirements for an annual test; replace the current leak tightness standard (pressure change of three inches H2O over five minutes) with the more stringent MACT standard (pressure change of one inch H2O over five minutes); and remove the reference to the vapor testing procedures in Rule R307-342 and instead rely on the MACT standard that uses federal Method 27. (DAR NOTE: the proposed repeal of Rule R307-342 is under DAR No. 34348 in this issue, February 1, 2011, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101 and Subsection 19-2-104(1) (a)

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Adds 40 CFR Subpart 63.425(e), published by Government Printing Office, July 1, 2009
- ♦ Adds 40 CFR Subpart 63.421, published by Government Printing Office, July 1, 2009

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** A possible time savings may be incurred due to the removal of duplicative requirements. No other cost or savings is anticipated for the state budget as this amendment does not create any new requirements.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings is anticipated for local government as this amendment does not create any new requirements.
- ◆ **SMALL BUSINESSES:** A possible savings may be incurred by small businesses due to the allowance of testing of gasoline cargo tanks over a longer period of time rather than all at once, and a possible time savings due to the removal of duplicative requirements. A possible cost may be incurred if gasoline cargo tanks do not currently meet the more stringent MACT standard.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A possible savings may be incurred by persons other than small businesses, businesses, or local government entities due to the allowance of testing of gasoline cargo tanks over a longer period of time rather than all at once, and a possible time savings due to the removal of duplicative requirements. A possible cost may be incurred if gasoline cargo tanks do not currently meet the more stringent MACT standard.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A possible cost may be incurred if gasoline cargo tanks do not currently meet the more stringent MACT standard.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A possible savings may be incurred by affected persons due to the allowance of testing of gasoline cargo tanks over a longer period of time rather than all at once, and a possible time savings due to the removal of duplicative requirements. A possible cost may be incurred if gasoline cargo tanks do not currently meet the more stringent MACT standard.

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

ENVIRONMENTAL QUALITY
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or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/06/2011

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.**R307-328. Gasoline Transfer and Storage.****R307-328-1. Purpose.**

The purpose of R307-328 is to establish Reasonably Available Control Technology (RACT) for control of gasoline vapors during the filling of [~~gasoline transport vehicles~~]gasoline cargo tank and storage tanks in Utah. The rule is based on federal control technique guidance documents. This requirement is commonly referred to as stage I vapor recovery.

R307-328-2. Applicability.

(1) [~~Transport Vehicles~~]Gasoline Cargo Tanks. R307-328 applies to the owner or operator of any [~~gasoline tank truck, railroad tank car, or other gasoline transport vehicle~~]gasoline cargo tank that loads or unloads gasoline in Utah.

(2) Gasoline Dispensing. R307-328 applies to the owner or operator of any bulk terminal, bulk plant, stationary storage container, or service station located in Utah that dispenses 10,000 gallons or more in any one calendar month.

(3) This rule applies to all [~~transport vehicles~~]gasoline cargo tanks and gasoline dispensing facilities that operate within Utah according to the compliance schedule defined in section 328-9 of this rule.

R307-328-3. Definitions.

The following additional definitions apply to R307-328.

"Bottom Filling" means the filling of a tank through an inlet at or near the bottom of the tank designed to have the opening covered by the liquid after the pipe normally used to withdraw liquid can no longer withdraw any liquid.

[~~—"Qualified contractor" means a contractor who has been qualified by the executive secretary in accordance with R307-342 to perform vapor tightness tests on gasoline transport vehicles.~~]

"Submerged Fill Pipe" means any fill pipe with a discharge opening which is entirely submerged when the liquid level is 6 inches above the bottom of the tank and the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

"Gasoline cargo tank" means gasoline cargo tank as defined in 40 CFR 63.421, effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

R307-328-4. Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles.

(1) No person shall load or permit the loading of gasoline into any gasoline cargo tank[~~tank truck, trailer, railroad tank car, or other transport vehicle~~] unless the emissions from such vehicle are controlled by use of a vapor collection and control system and submerged or bottom filling. RACT shall be required and in no case shall vapor emissions to the atmosphere exceed 0.640 pounds per 1,000 gallons transferred.

(2) Such vapor collection and control system shall be properly installed and maintained.

(3) The loading device shall not leak.

(4) The loading device shall utilize the dry-break loading design couplings and shall be maintained and operated to allow no more than an average of 15 cc drainage per disconnect for 5 consecutive disconnects.

(5) All loading and vapor lines shall be equipped with fittings which make a vapor tight connection and shall automatically close upon disconnection to prevent release of the organic material.

(6) A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads ("bulk plant") need not comply with R307-328-4 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installations shall on-load and off-load gasoline by use of bottom or submerged filling or alternate equivalent methods. The emission limitation is based on operating procedures and equipment specifications using Reasonably Available Control Technology as defined in EPA documents EPA 450/2-77-026 October 1977, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," and EPA-450/2-77-035 December 1977, "Control of Volatile Organic Emissions from Bulk Gasoline Plants." The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the executive secretary.

(7) Hatches of gasoline cargo tanks~~[transport vehicles]~~ shall not be opened at any time during loading operations except to avoid emergency situations or during emergency situations. Pressure relief valves on storage tanks and gasoline cargo tanks~~[transport vehicles]~~ shall be set to release at the highest possible pressure, in accordance with State or local fire codes and National Fire Prevention Association guidelines. Pressure in the vapor collection system shall not exceed the gasoline cargo tank~~[transport vehicle]~~ pressure relief setting.

(8) Each owner or operator of a gasoline storage or dispensing installation shall conduct testing of vapor collection systems used at such installation and shall maintain records of all tests for no less than two years. Testing procedures of vapor collection systems shall be approved by the executive secretary and shall be consistent with the procedures described in the EPA document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051.

(9) Semi-annual testing shall be conducted and records maintained of such test. The frequency of tests may be altered by the executive secretary upon submittal of documentation which would justify a change.

(10) The vapor collection and vapor processing equipment shall be designed and operated to prevent gauge pressure in the gasoline cargo tank~~[delivery vessel]~~ from exceeding 18 inches of water and prevent vacuum from exceeding 6 inches of water. During testing and monitoring, there shall be no reading greater than or equal to 100 percent of the lower explosive limit measured at 1.04 inches around the perimeter of a potential leak source as detected by a combustible gas detector. Potential leak sources include, but are not limited to, piping, seals, hoses, connections, pressure or vacuum vents, and vapor hoods. In addition, no visible liquid leaks are permitted during testing or monitoring.

R307-328-5. Stationary Source Container Loading.

(1) No person shall transfer or permit the transfer of gasoline from any gasoline cargo tank~~[delivery vessel (i.e. tank truck or trailer)]~~ into any stationary storage container with a capacity of 250 gallons or greater unless such container is equipped with a submerged fill pipe that extends to no more than twelve inches from the bottom of the storage tank for fill pipes installed on or before November 9, 2006, and no more than six inches from the bottom of the storage tank for fill pipes installed after November 9, 2006, and at least 90 percent of the gasoline vapor, by weight, displaced during the filling of the stationary storage container is prevented from being released to the atmosphere. This requirement shall not apply to:

(a) the transfer of gasoline into any stationary storage container of less than 550 gallons used primarily for the fueling of implements of husbandry if such container is equipped with a permanent submerged fill pipe;

(b) the transfer of gasoline into any stationary storage container having a capacity of less than 2,000 gallons which was installed prior to January 1, 1979, if such container is equipped with a permanent submerged fill pipe;

(c) the transfer of gasoline to storage tanks equipped with floating roofs or their equivalent which have been approved by the executive secretary.

(2) The 90 percent performance standard of the vapor control system shall be based on operating procedures and equipment specifications. The design effectiveness of such equipment and the operating procedure must be documented and submitted to and approved by the executive secretary.

(3) Each owner or operator of a gasoline storage tank or the owner or operator of the gasoline cargo tank~~[delivery vessel]~~ subject to (1) above shall install vapor control equipment, which includes, but is not limited to:

(a) vapor return lines and connections sufficiently free of restrictions to allow transfer of vapor to the gasoline cargo tank~~[delivery vessel]~~ or to the vapor control system, and to achieve the required recovery;

(b) a means of assuring that the vapor return lines are connected to the gasoline cargo tank~~[delivery vessel]~~, or vapor control system, and storage tank during tank filling;

(c) restrictions in the storage tank vent line designed and operated to prevent:

(i) the release of gasoline vapors to the atmosphere during normal operation; and

(ii) gauge pressure in the gasoline cargo tank~~[delivery vessel]~~ from exceeding 18 inches of water and vacuum from exceeding 6 inches of water.

R307-328-6. Gasoline Cargo Tank~~[Transport Vehicles]~~.

(1) Gasoline cargo tanks~~[transport vehicles]~~ must be designed and maintained to be vapor tight during loading and unloading operations as well as during transport, except for normal pressure venting required under United States Department of Transportation Regulations.

(2) The design of the vapor recovery system shall be such that when the gasoline cargo tank~~[delivery tank]~~ is connected to an approved storage tank vapor recovery system or loading terminal, 90% vapor recovery efficiencies are realized. The connectors of the ~~[delivery tanks]~~gasoline cargo tanks shall be compatible with the

fittings on the fill pipes and vapor vents at the storage containers and gasoline loading terminals where the ~~[delivery tank]~~gasoline cargo tank will service or be serviced. Adapters may be used to achieve compatibility.

(3) No person shall knowingly allow the introduction of gasoline into, dispensing of gasoline from, or transportation of gasoline in a gasoline cargo tank that does not meet the leak tight testing requirements of R307-328-7~~[transport vehicle without a current Utah Vapor Tightness Certificate].~~

(4) A vapor-laden gasoline cargo tank~~[transport vehicle]~~ may be refilled only at installations equipped to recover, process or dispose of vapors. ~~[Transport vehicles]~~Gasoline cargo tanks that only service locations with storage containers specifically exempted from the requirements of R307-328-6(1)-(3) above, provided such ~~[transport vehicles]~~gasoline cargo tanks are loaded through a submerged fill pipe or equivalent equipment provided the design and effectiveness of such equipment are documented and submitted to and approved by the executive secretary.

R307-328-7. ~~[Leak Tight]~~Vapor Tightness Testing.

(1) Gasoline cargo tanks ~~[tank trucks]~~ and their vapor collection systems shall be tested annually for leakage in accordance with the test methods and vapor tightness standards in 40 CFR 63.425(e), effective as of the date referenced in R307-101-3, which are hereby incorporated by reference,~~[by a qualified contractor using procedures approved by the executive secretary and consistent with the procedures described in R307-342.~~

~~(2) Gasoline tank trucks and their vapor collection systems shall be tested for leakage annually between December 1 and May 1.~~

~~(3) The tank shall not sustain a pressure change of more than 750 pascals (3 inches of H₂O) in five minutes when pressurized (by air or inert gas) to 4500 pascals (18 inches of H₂O) or evacuated to 1500 pascals (6 inches of H₂O).~~

~~(4) No visible liquid leaks are permitted during testing.~~

~~(5) Gasoline tank trucks shall be certified leak tight at least annually by a qualified contractor approved by the executive secretary.]~~

~~(6) Each owner or operator of a gasoline cargo tank ~~[truck]~~ shall have documentation in their~~[his]~~ possession demonstrating that the gasoline cargo tank has passed the annual test in (1) above within the preceding twelve months. ~~[a valid vapor tightness certification, which:~~~~

~~(a) shows the date that the gasoline tank truck last passed the Utah vapor tightness certification test; and~~

~~(b) shows the identification number of the gasoline tank truck.]~~

~~(7) [Records of certification inspections]~~The vapor tightness documentation described in (2), as well as record of any maintenance performed, shall be retained by the owner or operator of the gasoline cargo tank~~[tank truck]~~ for a two year period and be available for review by the executive secretary or the executive secretary's representative.

R307-328-8. Alternate Methods of Control.

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control,

an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-328, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-328 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, volatile organic compounds and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

R307-328-9. Compliance Schedule.

(1) Effective May 1, 2000, all Facilities located in Davis, Salt Lake, Utah, and Weber Counties shall be in compliance with this rule.

(2) All other facilities located in Utah, shall be in compliance with this rule according to the following phase-in schedule:

(a) Facilities located in Box Elder, Cache, Tooele and Washington Counties shall be in compliance with this rule by April 30, 2009.

(b) Facilities located in Emery, Iron, Juab, Millard, Sevier, Summit and Uintah Counties shall be in compliance with this rule by April 30, 2010.

(c) All facilities located in Utah shall be in compliance with this rule by April 30, 2011.

(3) If this implementation schedule results in a scheduling and/or financial hardship for an individual facility, that facility may request a six-month extension from the Executive Secretary of the Utah Air Quality Board. A maximum of two six-month extensions may be granted. Regardless of extension requests submitted, all facilities must be in compliance with this rule not later than April 30, 2011.

(4) A request for an extension must be documented and contain valid reasons why a facility will not be able to meet the phase-in schedule indicated in (2)(a) or (b) above. A late start on preparation or planning is not a valid reason to grant an extension. The request for extension must also contain a proposed

implementation schedule that shows compliance to this rule at the earliest possible date, but no later than April 30, 2011.

(5) The vapor tightness testing standard in R307-328-7(1) shall apply to tests conducted after April 6, 2011. All gasoline cargo tanks shall be tested using the vapor tightness testing standard in R307-328-7(1) by April 6, 2012.

R307-328-10. Authorized Contractors.

(1) All modifications performed on underground storage tanks regulated by Title 19, Chapter 6, Part 4, the Utah Underground Storage Tank Act, to bring them into compliance with R307-328, shall be performed by contractors certified under R311-201.

KEY: air pollution, gasoline transport, ozone

Date of Enactment or Last Substantive Amendment:
[November 10, 2008]2011

Notice of Continuation: March 15, 2007

Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-342
Qualification of Contractors and Test
Procedures for Vapor Recovery
Systems for Gasoline Delivery Tanks

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 34348

FILED: 01/06/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-342 requires the contractors that perform tests of the vapor recovery systems to follow specified procedures and to be qualified annually by the Executive Secretary. The Utah Air Quality Board is proposing changes to Rule R307-328, amending the testing requirements for trucks and replacing it with the federal Maximum Achievable Control Technology (MACT) requirements. The MACT does not require a certified Tester; therefore, the test method and the certification requirements in Rule R307-342 are not needed. (DAR NOTE: The proposed amendment to Rule R307-328 is under DAR No. 34349 in this issue, February 1, 2011, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Utah Air Quality Board is proposing the repeal of Rule R307-342. Concurrently to this repeal, the Utah Air Quality Board is proposing changes to R307-328, removing the reference to the testing and certification requirements contained in Rule

R307-342, thus making Rule R307-342 no longer necessary. Rule R307-342 is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No cost or savings is anticipated to the state budget as previous certifications of testing contractors fees paid for the review of applications.

◆ **LOCAL GOVERNMENTS:** No cost or savings is anticipated for local government as this action does not create or remove any requirements for local government.

◆ **SMALL BUSINESSES:** A savings will be incurred by small businesses due to the removal of the requirement for testing contractors to be certified by the State of Utah Division of Air Quality (DAQ), and a possible time savings due to the removal of duplicative requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A savings will be incurred by persons other than small businesses, businesses, or local government due to the removal of the requirement for testing contractors to be certified by the State of Utah DAQ, and a possible time savings due to the removal of duplicative requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are anticipated for affected persons as this action does not create any new requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A savings will be incurred by businesses due to the removal of the requirement for testing contractors to be certified by the State of Utah DAQ, and a possible time savings due to the removal of duplicative requirements.

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

ENVIRONMENTAL QUALITY

AIR QUALITY

FOURTH FLOOR

195 N 1950 W

SALT LAKE CITY, UT 84116-3085

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/06/2011

AUTHORIZED BY: Bryce Bird , Planning Branch Manager

R307. Environmental Quality, Air Quality.**~~R307-342. Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks.~~****~~R307-342-1. Purpose.~~**

~~The purpose of R307-342 is to establish the requirements for the qualification of contractors to perform vapor tightness tests on gasoline transport vehicles equipped with vapor recovery equipment.~~

~~R307-342-2. Applicability.~~

~~R307-342 is applicable to anyone who wishes to become qualified by the executive secretary to perform vapor tightness tests on gasoline transport vehicles that are required to be equipped with gasoline vapor recovery equipment and to be tested in accordance with R307-328-7.~~

~~R307-342-3. Contractor Qualification Requirements.~~

~~(1) Any person may become qualified to perform delivery tank vapor tightness tests by:~~

~~(a) preparing a written, detailed and approvable procedure by which the person proposes to conduct the pressure/vacuum test. The minimum test performance requirements are described in R307-342-5 and R307-342-6;~~

~~(b) submitting the procedure with a letter requesting approval of the procedure and qualification of the person as a qualified testing contractor;~~

~~(c) having the necessary facilities, equipment and expertise to perform a satisfactory test; and~~

~~(d) performing an acceptable demonstration test with a representative of the executive secretary in attendance.~~

~~(2) The person determined qualified to perform the tests will be issued a letter of qualification by the executive secretary valid for one year.~~

~~(3) Re-qualification will be accomplished by:~~

~~(a) requesting by letter to be requalified by the executive secretary; and~~

~~(b) performing an acceptable demonstration test with a representative of the executive secretary in attendance after which a letter of requalification will be sent.~~

~~R307-342-4. Equipment Requirements.~~

~~(1) Pressure Source. An air pump, shop compressed air, compressed gas tanks of air or inert gas, or other approved air pressure producing source or procedure sufficient to pressurize the tank to 18 inches of water above atmospheric pressure is required. Some models of reversible tank-type shop vacuum cleaners will perform adequately.~~

~~(2) Vacuum Source. A vacuum pump or other approved vacuum producing procedure capable of evacuating the tank to 6 inches of water is required. For example, some models of shop vacuum cleaners can accomplish this function.~~

~~(3) Pressure. A vacuum supply hose must be of sufficient length and wall strength to reach from the tank to the pressure vacuum source.~~

~~(4) Manometer. A liquid manometer or equivalent instrument must be capable of measuring up to 25 inches of water with scale division of 0.1 inches of water. A 1/4 inch hose to connect the manometer to the adapter tap is recommended.~~

~~(5) Stopwatch. A stopwatch with scale division to one second is required.~~

~~(6) Adapter. An adapter to connect the pressure vacuum hose to the tank with a shutoff valve to isolate the tank from the required pressure vacuum equipment is required. The adapter requires a shutoff valve, a tap to attach the manometer, and a bleed valve for adjusting pressure/vacuum to specified levels prior to start of timed period. However, each contractor must use an adapter compatible with his equipment.~~

~~(7) Caps. Dust caps with good gaskets are required on all outlets during the test.~~

~~(8) Pressure/Vacuum Relief Valves. The test apparatus should be equipped with an in-line pressure/vacuum relief valve set to activate at 25 inches of water above atmospheric and 12 inches of water below if the pressure/vacuum equipment has greater capacity than the set points to prevent possible tank damage.~~

~~R307-342-5. Test Procedures and Preparations.~~

~~(1) Location. The delivery tank must be tested in a location where it will not be subject to direct sunlight. Shop heaters/air conditioners must be turned off during the test as they will affect the tank stability.~~

~~(2) Purging the Tank. A good purge is necessary.~~

~~(a) The tank must be emptied of gasoline and vapors before testing to minimize "vapor growth" problems. Hauling a load of diesel fuel is recommended.~~

~~(b) A steam purge to degas the tank is acceptable.~~

~~(c) An alternate method is to purge with a high volume of air. For this purge, the hatches are to be opened and purge air or inert gas should be blown through the tank for 30 minutes or more to degas the tank. This method is not as effective and often requires a much longer time for stabilization during the test.~~

~~(3) Visual Inspection. While the tank is being purged, or prior to the test, the entire tank should be visually inspected for evidence of wear, damage or misadjustments that could be a source of potential leaks. Areas to check are domes, dome vents, cargo tank piping, hose connections, hoses and delivery elbows. Any part found defective should be adjusted, repaired or replaced as necessary before the pressure test is started.~~

~~(4) Vents, Valves, and Outlets.~~

~~(a) The emergency valves in the bottom of the tank must be opened during the purge and then closed to test.~~

~~(b) Open the top vents. If the top vents are the pneumatic type, then a shop air line connection must be provided as the vents must be in the open position during the purge and then closed to test.~~

~~(c) In order to complete the test, some types of dome vents may have to be replaced.~~

~~(d) During the test, all compartments must be interconnected so that the tank may be tested as a single unit. If this cannot be done, each compartment must be tested as a separate tank.~~

~~(e) Dust caps with good gaskets must be installed on all outlets.~~

~~(5) Pretest Preparation and Procedure.~~

~~(a) Open and close each dome cover.~~

~~(b) Connect the static electric ground connections to tank, attach the liquid delivery and vapor return hoses, remove liquid delivery elbows and seal the liquid delivery hose fitting, install dust caps on all outlets except the vapor return hose.~~

_____ (c) Attach the test adapter to the vapor return hose of the tank under test with the shutoff valve closed.

_____ (d) Connect the pressure supply hose to the adapter.

_____ (e) Connect the 1/4-inch hose to the adapter tap and the manometer if applicable and position of the manometer or gauge at eye level.

_____ (f) Open all internal vents and valves if possible. If not possible, each compartment must be tested as if each compartment was a separate tank.

_____ (6) The Pressure Test.

_____ (a) With all preparations complete, turn on the pressure source and open the shutoff valve in the adapter to apply air pressure slowly. Pressurize the tank to 18 inches of water.

_____ (b) Close the shutoff valve and allow the pressure in the tank to stabilize. When the pressure has stabilized, read and record the time and initial pressure on the manometer.

_____ (c) Allow five minutes to elapse, then read and record the final time and pressure.

_____ (d) Disconnect the pressure source from the adapter and slowly open the shutoff valve to bring the tank to atmospheric pressure.

_____ (e) Subtract the final pressures from the initial pressures.

_____ (f) If the sustained pressure drop is greater than 3.0 inches of water, repair the leaks and then repeat the steps in (a) through (e).

_____ (g) Repeat the steps in (a) through (f) until the change in pressure for two consecutive runs agrees within 1/2 inch of water. Calculate the arithmetic average of the two results.

_____ (7) The Vacuum Test.

_____ (a) Connect the vacuum source to the adapter. Start the vacuum source and slowly open the shutoff valve to evacuate the tank to six inches of water and close the shutoff valve.

_____ (b) Allow the pressure in the tank to stabilize, adjust as necessary to maintain six inches of water vacuum until the pressure stabilizes.

_____ (c) Read and record the time and the initial vacuum reading on the manometer. Allow five minutes to elapse, then read and record the final manometer reading.

_____ (d) Disconnect the vacuum source from the adapter, and slowly open the shutoff valve to bring the tank to atmospheric pressure.

_____ (e) Subtract the final reading from the initial reading.

_____ (f) If the sustained vacuum loss is greater than three inches of water, the leakage source must be located and repaired. The steps in (a) through (e) must be repeated.

_____ (g) Repeat the steps in (a) through (f) until the change in vacuum for two consecutive runs agree within 1/2 inches of water. Calculate the arithmetic average of the two results.

_____ (8) When the calculated average pressure change in five minutes for both the pressure test and the vacuum test are three inches of water or less, the requirements of the test are satisfied and the tested tank may be certified leak tight.

R307-342-6. Certification of a Delivery Tank.

_____ (1) The approved contractor will upon satisfactory completion of the vapor tightness test complete the documentation of certification in two copies. If desired, each contractor may

prepare his own certificate as long as the following items are included:

_____ (a) Gasoline delivery tank pressure test.

_____ (b) Tank owner and address.

_____ (c) Tank ID number.

_____ (d) Testing location.

_____ (e) Date of test.

_____ (f) Tester name and signature.

_____ (g) Company or affiliation of testers.

_____ (h) Test data results.

_____ (i) Date of next required test.

_____ (2) The contractor will keep one copy that will be made available for inspection by the executive secretary for two years. The tank owner or operator will keep the other copy of the certification with the delivery tank for two years for inspection by the executive secretary.

_____ (3) The approved contractor will mark the certified tank below the DOT test marking with "V.R. TESTED" followed by the month and year of the current certified test. The vapor recovery test marking shall be at least 1-1/4" high black permanent letters on a white background. The letters and numbers must be of a type that will remain legible from a distance of 20 feet for at least one year (painted or printed sticker is acceptable).

R307-342-7. Alternate Methods of Control.

_____ (1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-342, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

_____ (2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-342 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

_____ (3) For purposes of determining compliance with emission limits, volatile organic compounds and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

~~KEY: air pollution, ozone, gasoline transport~~
~~Date of Enactment or Last Substantive Amendment: January 16, 2007~~
~~Notice of Continuation: March 15, 2007~~
~~Authorizing, and Implemented or Interpreted Law: 19-2-104(1) (a)]~~

Health, Administration
R380-400
 Use of Statistical Sampling

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 34365
 FILED: 01/14/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In their report to the Legislature, Number 2009-12, and in subsequent reports, the Office of Legislative Auditor General recommended that the State Medicaid program obtain authority to use statistical sampling to establish overpayment recoveries due the State. This rule sets forth the methodology to adopt that sampling methodology and sets standards for its use.

SUMMARY OF THE RULE OR CHANGE: Statistical sampling techniques are authorized when: 1) a pattern of errors are discovered during an audit such that an error rate greater than 10% is discovered; 2) sampling size must establish a confidence level of 95% and a confidence interval of plus or minus 5%; and 3) the estimated error rate will then be extrapolated to the universe from which the sample is drawn to establish the overpayment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Data gathered by the Office of Legislative Auditor General and reported at pages 64 to 65 in report 2009-12 suggests the potential of a 2,000 percent increase in recoveries. Savings are anticipated to the state budget. The exact amount cannot be predicted. Some state agencies are Medicaid providers in some instances and recoveries are possible. Exact amount cannot be predicted.
- ◆ **LOCAL GOVERNMENTS:** Local governments are Medicaid providers in some instances and recoveries are possible. Exact amount cannot be predicted.
- ◆ **SMALL BUSINESSES:** Small businesses are Medicaid providers in some instances and recoveries are possible. Exact amount cannot be predicted.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other businesses are Medicaid providers in some instances and recoveries are possible. Exact amount cannot be predicted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be significant costs to Medicaid providers to respond to sampling established recoveries if they choose to hire their own experts to verify the work by state auditors. Exact amount unknown.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This method to increase recoveries of overpayments may have a significant impact on businesses that incorrectly bill Medicaid or other Department of Health programs. Based on the recommendation of the Office of Legislative Auditor General, I support proposing this rule to allow for public comments. A public hearing will be held in anticipation of strong interest in this rule.

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

HEALTH
 ADMINISTRATION
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Doug Springmeyer by phone at 801-538-6971, by FAX at 801-538-6306, or by Internet E-mail at dspringm@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 02/17/2011 06:00 PM, Utah State Capitol, 350 N State Street, Capitol Board Room (second floor east end), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: David Sundwall, MD, Executive Director

R380. Health, Administration.

R380-400. Use of Statistical Sampling.

R380-400-1. Use of Statistical Sampling Techniques.

The Department's procedures for auditing or reviewing Medicaid or other providers may include the use of random sampling and extrapolation. Extrapolation will be used when, at the discretion of the director of Internal Audit, performing the audit or review will be cost effective for the Department.

R380-400-2. Methodology.

(1). A statistically valid random sample will be selected from the universe of records to be audited or reviewed. The sample size shall be selected using accepted sample size estimation methods. The confidence level of the sample size calculation shall be 95% with a confidence interval of plus or minus 5%.

(2). Following the sample audit or review, the statistical margin of error of the sample will be computed and a confidence interval will be determined. The estimated error rate will be extrapolated to the universe from which the sample was drawn within the computed margin of error of the sampling process.

(3). Commonly accepted statistical analysis program may be used to estimate the sample and calculate the confidence interval, consistent with the sampling parameters.

R380-400-3. Prima Facie Effect of Review Findings.

The audit or review findings generated through statistical sampling procedures shall constitute prima facie evidence in all department proceedings regarding the number and amount of overpayments or underpayments received by the provider.

R380-400-4. Preliminary Report of an Audit or Review Findings and Minimum 10% Error Rate for Extrapolation.

If the department concludes from the audit or review that an overpayment has occurred, the department will issue the preliminary findings of a tentative overpayment and inform the provider of an opportunity to request a fair hearing. In cases where an error rate of 10% or less is discovered, actual damages will be used to calculate the overpayment. In cases where the error rate is greater than 10% extrapolation methodology will be utilized to calculate the overpayment. The Department will determine the 10% error rate without statistical parameters. The 10% error rate may be determined by the dollar error rate or the actual number of claims with errors. If either error rate exceeds 10%, extrapolation will be used to determine the overpayment and will be based on sound statistical sampling.

R380-400-5. Dollar Amount of Cost Errors.

The dollar amount of the overpayment will be based on actual cost errors. For example, if a provider submits an incorrect bill for an Evaluation and Management Code 99215 and the correct billing code should have been for 99212, the difference in the fee schedule between the two codes will be the overpayment.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2011
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Insurance, Administration
R590-260
Utah Defined Contribution Risk
Adjuster Plan of Operation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 34362

FILED: 01/13/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to adopt the Utah Defined Contribution Risk Adjuster Plan of Operation (Plan) as required by Section 31A-42-204. The Plan sets forth operating procedures for insurers who offer insurance plans through the Utah Health Exchange (Exchange) and sets standards and requirements for employers and their employees who purchase insurance through the Exchange.

SUMMARY OF THE RULE OR CHANGE: This rule adopts the Utah Defined Contribution Risk Adjuster Plan of Operation and sets the date of enforcement at 45 days after the rule becomes effective.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-42-204

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule will create no fiscal impact or increased work load for the department or the state budget. The rule sets forth procedures for health insurers to follow if they decide to participate in the Exchange.

♦ **LOCAL GOVERNMENTS:** This rule will have no effect on local governments since it deals with the relationship between the department and health insurers licensed through the department to do business in Utah.

♦ **SMALL BUSINESSES:** The rule sets qualifying requirements and standards for small businesses who want to participate in the Exchange. It provides small employers with additional insurance plans for their employees to choose from. For employers who were unable to afford coverage for their employees, the Exchange makes it possible for them to give each employee a choice of health coverage and contribute money to them to pay for their premium.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Health insurers who offer insurance on the Utah Health Exchange will be required to follow the procedures in the Plan. It is the insurer's choice if they participate. Those participating in the Plan have already incurred cost to have computer technicians put five of their more popular plans onto the Exchange and pay actuaries to determine the cost of these plans. The Plan sets qualifying requirements and standards for small and large businesses who want to participate in the Exchange. It provides employers with an additional option to present to their employees to choose from. For employers who were unable to afford coverage for their employees, the Exchange makes it possible for them to give each employee a choice of health plans to fit their needs and with the money contributed by their employer, they have a little help to pay for the insurance premium.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Health insurers who offer insurance on the Utah Health Exchange will be required to follow procedures in the Plan. It is the insurer's choice if they participate. Those participating in the Plan have already incurred cost to have computer technicians put five of their more popular plans onto the Exchange and pay actuaries to determine the cost of these plans. The Plan sets qualifying requirements and standards for small and large businesses who want to participate in the Exchange. It provides employers with an additional option to present to their employees to choose from. For employers who were unable to afford coverage for their employees, the Exchange makes it possible for them to give each employee a choice of health plans to fit their needs and with the money contributed by their employer, they have a little help to pay for the insurance premium. What the exact cost is for each affected person varies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on employers and health insurers who are on the Exchange and following the Defined Contribution plan varies. It should be noted that this participation is not mandated. It is completely voluntary on the part of the employer and insurer.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-260. Utah Defined Contribution Risk Adjuster Plan of Operation.
R590-260-1. Authority.
This rule is promulgated by the insurance commissioner pursuant to Section 31A-42-204, wherein the commissioner shall adopt the Utah Defined Contribution Risk Adjuster Plan of Operation.

R590-260-2. Purpose.
The purpose of this rule is to adopt the Utah Defined Contribution Risk Adjuster Plan of Operation as required by Section 31A-42-204.

R590-260-3. Plan of Operation.
The commissioner adopts the Utah Defined Contribution Risk Adjuster Plan of Operation that is available at the department and on line at <http://www.insurance.utah.gov/legalresources/currentrules.html>.

R590-260-4. Enforcement Date.
The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-260-5. Penalties.
A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-260-6. Severability.
If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: risk adjuster plan operation
Date of Enactment or Last Substantive Amendment: 2011
Authorizing, and Implemented or Interpreted Law: 31A-42-204

Natural Resources, Parks and
 Recreation
R651-611
 Fee Schedule

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 34364
 FILED: 01/14/2011

RULE ANALYSIS
 PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There are several reasons for the changes in the fee schedule rule. One of those is that the Division no longer offers duplicate annual passes. The amendment adds a designee by the director's authority to approve fees to allow a review committee the ability to make changes and approve

the fees. This Is The Place Monument is no longer a State Park but is a non-profit organization. The Jordanelle Events Center is a new facility offered to the public and it needed to be added to the fee schedule. The Veteran's discount is being added to recognize Veteran's Service and to be consistent with sister agency discounts.

SUMMARY OF THE RULE OR CHANGE: Several changes have been made due to the need to become consistent with changes in statute regarding This Is The Place Monument. Changes have also been made to recognize Veteran's Service, add the Jordanelle Event Center fees as it is a new facility, and to delete duplicate annual passes because there was abuse to that program. The statement "and/or designee" regarding the director's authority to approve fees will allow a committee to make any needed changes and not just the director.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 79-4-802

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be slight savings to the Utah Division of State Parks and Recreation due to the deletion of the duplicate pass and a slight cost to the Division for the Veteran's discount, with a combined net cost of less than \$2,000. It is estimated that the Jordanelle Events Center will generate approximately \$5,000 - \$10,000 annually.

◆ **LOCAL GOVERNMENTS:** There is no impact to local government with these changes because it will not impact the services they render or the revenues they receive.

◆ **SMALL BUSINESSES:** There will be no impact to small business with these changes because it will not impact the services they render or the revenues they receive.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Veteran's will benefit from the savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no material negative impact on businesses. The Jordanelle Event Center will give another avenue for caterer's and such to provide their services, should have a positive impact on small businesses.

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:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2011

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

R651. Natural Resources, Parks and Recreation.

R651-611. Fee Schedule.

R651-611-1. Use Fees.

All fees required under this fee schedule are to be paid in advance of occupancy or use of facilities.

A. Fees for services covering one or more months, for docks and dry storage, must be paid in advance for the season as determined by the Division.

B. Fee permits and passes are not refundable or transferable. ~~[Duplicate annual permits and s]~~ Special fun tags will be issued only upon completion of an affidavit and payment of the required fee. Inappropriate use of fee permits and passes may result in confiscation by park authorities.

C. Fees shall not be waived, reduced or refunded unless authorized by Division guideline; however, park or unit managers may determine and impose equitable fees for unique events or situations not covered in the current fee schedule. The director and/or designees(s) have [has] the prerogative to waive or reduce fees.

D. A competitive bid process may be used for establishing fees for recreation facilities as determined by the Division Director.

~~[D]~~E. The Multiple Park Permit, Senior Multiple Park Permit, Special Fun Tag, Camping Permit and Daily Private Vehicle Permit are good for one (1) private vehicle with up to eight (8) occupants, with the exception of any special charges. Multiple Park Permits, Senior Multiple Park Permits, and Special Fun Tags, are not honored at This Is The Place State Park.

~~[E]~~F. No charge for persons five years old and younger.

~~[F]~~G. With the exception of the Multiple Park Permit, Senior Multiple Park Permit, and Special Fun Tag, fees are applicable only to the specific park or facility where paid and will not be honored at other parks or facilities, unless otherwise stated in division guideline.

~~[G]~~H. The contract operator, with the approval of the Division Director, will set fees for This Is The Place ~~[State Park-]~~ Monument.

~~[H]~~I. A "senior" is defined as any resident of the State of Utah 62 years of age or older. Residency and proof of age are verified by presentation of a valid driver's license or a valid Utah identification card.

~~[I]~~J. Charges for services unique to a park may be established by the park manager with approval from the region manager. All approved charges must be submitted to the Division director or designee.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park (except This Is The Place Monument). These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

1. \$75.00 Multiple Park Permit (good for all parks except at This Is The Place Monument)

2. \$35.00 Senior Multiple Park Permit (good for all parks except at This Is The Place Monument)

3. \$200.00 Commercial Dealer Demonstration Pass

~~[4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.~~

~~5]4. \$25 Pedestrian/Cyclist Permit (good at all parks except at This Is The Place Monument)~~

5. Utah veterans with a 50% or greater service-connected disability may purchase the Utah State Parks annual pass at the same rate as the Senior Adventure Pass. Veterans must complete the Veterans Discount affidavit and provide qualifying information from the Veterans Administration.

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

C. Daily Permit - Allows access to a specific state park on the date of purchase.

.....

17. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

18. \$15.00 per OHV rider at the Jordan River OHV Center.

19. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum cost for Group Day Use for the following parks:

TABLE 16

1. Fixed (flat) rate:	
Bear Lake - East Side	\$ 75.00
Bear Lake - Big Creek	\$ 75.00
Bear Lake - Willow	\$ 75.00
Bear Lake Marina	\$ 75.00
Camp Floyd Day Use Pavilion	\$ 30.00
Deer Creek Island	\$100.00
Deer Creek - Sailboat	\$100.00
Deer Creek - Peterson	\$100.00
Deer Creek - Rainbow	\$200.00
Deer Creek - Wallsburg	\$300.00
East Canyon - Small	\$100.00
East Canyon - Medium	\$175.00
Fremont	\$ 70.00
Hyrum	\$150.00
Jordanelle - Hailstone Cabanas	\$ 20.00
Jordanelle - Beach	\$175.00
Jordanelle - Cove	\$175.00
Jordanelle - Keatley	\$175.00
Jordanelle - Rock Cliff North	\$175.00
Jordanelle - Rock Cliff South	\$175.00

<u>Jordanelle - Group Day Use Per</u>	
<u>Facility Hailstone Event Center</u>	<u>\$2,500.00</u>
Otter Creek -	\$100.00
Rockport - Crandalls	\$100.00
Rockport - Highland	\$100.00
Rockport - Lariat Loop	\$100.00
Rockport - Old Church	\$250.00
Snow Canyon - Galoot Day Use	\$ 75.00
Starvation - Mountain View	\$150.00
Steinaker -	\$150.00
Wasatch - Cottonwood	\$175.00
Wasatch - Oak Hollow	\$175.00
Wasatch - Soldier Hollow	\$175.00
Willard - Eagle Beach (150 max)	\$200.00
Willard - Pelican Beach (250 max)	\$350.00
Yuba Lake - Group Day Use Area	\$ 75.00

2. \$3.00 per person and \$2.00 per vehicle at Antelope Island State Park.

3. \$2 per person with a minimum fee of \$50 at Huntington, Millsite and Palisade state parks.

E. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

KEY: parks, fees

Date of Enactment or Last Substantive Amendment: ~~[June 10, 2009]~~ April 1, 2011

Notice of Continuation: February 13, 2006

Authorizing, and Implemented or Interpreted Law: 79-4-802

Natural Resources, Wildlife Resources

R657-5

Taking Big Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34341

FILED: 01/03/2011

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 big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revision to the above listed rule adds a nuisance definition to the depredation hunter pool and makes technical corrections.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment adds a definition of nuisance to the depredation hunter pool section and changes "proclamation" to "guidebook". It does not make any changes to division processes, therefore, 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, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment has no impact on individual hunters or the local governments, the division finds that this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment adds a definition and makes a technical correction; it does not have the potential to generate a cost or savings impact to sportsmen or small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment adds a definition and makes a technical correction; it does not have the potential to generate a cost or savings impact to sportsmen or to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this amendment will not create additional costs for those who participate in wildlife-related activities in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not have a potential to create an impact on businesses.

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:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-5. Taking Big Game.****R657-5-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the [~~Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

R657-5-2. Definitions.

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

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(l) "Hunter's choice" means either sex may be taken.

(m) "Limited entry hunt" means any hunt published in the hunt tables of the [~~proclamation~~]guidebook of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

(n) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(o) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the [~~proclamation~~]guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(p) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(q) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.

(r)(i) "Resident" for purposes of this rule means a person who:

(A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and

(B) does not claim residency for hunting, fishing, or trapping in any other state or country.

(ii) A Utah resident retains Utah residency if that person leaves this state:

(A) to serve in the armed forces of the United States or for religious or educational purposes; and

(B) complies with Subsection (m)(i)(B).

(iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:

(I) is not on temporary duty in this state; and

(II) complies with Subsection (m)(i)(B).

(iv) A copy of the assignment orders must be presented to a [wildlife]division office to verify the member's qualification as a resident.

(v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and

(B) complies with Subsection (m)(i)(B).

(vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

(s) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

(t)(i) "Valid application" means:

(A) it is for a species that the applicant is eligible to possess a permit;

(B) there is a hunt for that species regardless of estimated permit numbers; and

(C) there is sufficient information on the application to process the application, including personal information, hunt information, and sufficient payment.

(ii) Applications missing any of the items in Subsection (a) may still be considered valid if the application is timely corrected through the application correction process.

R657-5-3. License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or [proclamations]guidebooks of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

(3) A person must possess or obtain a Utah hunting or combination license to apply for or obtain any big game hunting permit.

R657-5-5. Duplicate License and Permit.

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office or online license agent, for ten dollars or half of the price of the original license, permit, or certificate of registration, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or certificate of registration provided the person did not receive the original license, permit, tag or certificate of registration.

R657-5-7. Temporary Game Preserves.

(1)(a) A person who does not have a valid permit to hunt on a temporary game preserve may not carry a firearm or archery equipment on any temporary game preserve while the respective hunts are in progress.

(b) "Carry" means having a firearm on your person while hunting in the field.

(2) As used in this section, "temporary game preserve" means all bull elk, buck pronghorn, moose, bison, bighorn sheep, Rocky Mountain goat, limited entry buck deer areas and cooperative wildlife management units, excluding incorporated areas, cities, towns and municipalities.

(3) Weapon restrictions on temporary game preserves do not apply to:

(a) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game [Proclamation]Guidebook and Waterfowl [Proclamation]Guidebook, respectively, and possessing only legal weapons to take upland game and waterfowl;

(b) livestock owners protecting their livestock;

(c) peace officers in the performance of their duties; or

(d) 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 protected wildlife.

R657-5-11. Muzzleloaders.

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

(a) can be loaded only from the muzzle;

(b) has open sights, peep sights, or a fixed non-magnifying 1x scope;

(c) has a single barrel;

(d) has a minimum barrel length of 18 inches;

(e) is capable of being fired only once without reloading;

(f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;

(g) is loaded with black powder or black powder substitute, which must not contain nitrocellulose based [smokeless]smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A 170 grain or heavier bullet, including sabots must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit may not possess or be in control of any firearm other than a muzzleloading rifle or have a firearm other than a muzzleloading rifle in his camp or motor vehicle during a muzzleloader hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game ~~[Proclamation]~~Guidebook and Waterfowl ~~[Proclamation]~~Guidebook, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;

(iii) livestock owners protecting their livestock; or

(iv) 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 protected wildlife.

R657-5-12. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw;

(d) a release aid that is not hand held or that supports the draw weight of the bow; or

(e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game ~~[Proclamation]~~Guidebook and Waterfowl ~~[Proclamation]~~Guidebook, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt;

(iii) livestock owners protecting their livestock; or

(iv) 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 protected wildlife.

R657-5-13. Areas With Special Restrictions.

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-~~603-5-~~614-4.

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

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

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

(5) In Salt Lake County, a person may not hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the ~~[proclamation]~~guidebook of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

R657-5-21. Purchasing or Selling Big Game or Their Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the ~~[proclamation]~~guidebook of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the ~~[proclamation]~~guidebook of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is obtained by the division by any means may be sold or donated at any time by the division or its agent.

(b) A person may purchase or receive protected wildlife from the division, which is sold or donated in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Possession of Antlers and Horns.

(1) A person may possess antlers or horns or parts of antlers or horns only from:

(a) lawfully harvested big game;

(b) antlers or horns lawfully obtained as provided in Section R657-5-21; or

(c) shed antlers or shed horns.

(2)(a) A person may gather shed antlers or shed horns or parts of shed antlers or shed horns at any time. An authorization is required to gather shed antlers or shed horns or parts of shed antlers or shed horns during the shed antler and shed horn season published in the [~~Bucks, Bulls, Once-in-a-Lifetime, Proclamation~~]guidebook of the Wildlife Board for taking big game.

(b) A person must complete a wildlife harassment and habitat destruction prevention course annually to obtain the required authorization to gather shed antlers during the antler gathering season.

(3) "Shed antler" means an antler which:

(a) has been dropped naturally from a big game animal as part of its annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(4) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

R657-5-23. Poaching-Reported Reward Permits.

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

(2) Any person who provides information leading to another person's successful prosecution for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-a-lifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (3).

(3)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry

or once-in-a-lifetime 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 Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

(4)(a) The division may issue only one poaching-reported reward permit for any one animal 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 per species shall be issued to any one person in any one calendar year.

(5)(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.

(6) Any person who receives a poaching-reported reward permit must possess or obtain a Utah hunting or combination license and otherwise be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

R657-5-24. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the [~~Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:

(a) one buck deer within the general hunt area specified on the permit for the time specified in the [~~Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the [~~Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(c) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(d) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in ~~[the Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt by region the general archery, the general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general any weapon or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-24(3).

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

R657-5-25. General Any Weapon Buck Deer Hunt.

(1) The dates for the general any weapon buck deer hunt are provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2) (a) A person who has obtained a general any weapon buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit as published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general any weapon buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections

R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-24(3).

R657-5-26. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2) (a) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit as published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-24(3).

(4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebooks of the Wildlife Board for taking big game.

R657-5-27. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general any weapon buck, or general muzzleloader buck hunting, except as specified in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, management buck deer, or cooperative wildlife

management unit buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry and cooperative wildlife management unit buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, management, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-29. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units;

(iii) one elk, any bull or antlerless on the Wasatch Front or Uintah Basin extended archery areas as provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, and Sanpete Valley extended archery areas during the extended archery areas seasons as provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-34(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

R657-5-30. General Season Bull Elk Hunt.

(1) The dates for the general season bull elk hunt are provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game within general season elk units, except in the following areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) A person may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-34(3).

R657-5-31. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may use a muzzleloader take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may use a muzzleloader take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-34(3).

R657-5-32. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the youth any bull elk season published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A youth may only obtain a youth any bull elk permit once during their youth.

(2) The youth any bull elk hunting season and areas are published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including a spike bull elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-34(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-34. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless ~~[Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General buck deer for archery, muzzleloader or any legal weapon;

(ii) general bull elk for archery, muzzleloader or any legal weapon;

(iii) limited entry buck deer for archery, muzzleloader or any legal weapon; or

(iv) limited entry bull elk for archery, muzzleloader or any legal weapon.

R657-5-35. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-

lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt when only archery equipment may be used and on buck pronghorn cooperative wildlife management unit located within a limited entry unit.

R657-5-36. Doe Pronghorn Hunts.

(1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn, per doe pronghorn tag, using any legal weapon within the area and season as specified on the permit and in the Antlerless ~~[Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-37. Antlerless Moose Hunts.

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless ~~[Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

R657-5-38. Bull Moose Hunts.

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.

(b) Bull moose permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-39. Bison Hunts.

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison of either sex within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw a an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) A [~~Henry Mountain~~]cow bison permit allows a person to take one cow bison using any legal weapon within the area and season as specified on the permit and in the Antlerless [~~Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw [~~Henry Mountain~~] cow bison permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a bison permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-40. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-41. Rocky Mountain Goat Hunts.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) A Rocky Mountain goat of either sex may be legally taken on a hunter[!]'s choice permit. Permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) A female-goat only permit allows a person to take one female-goat using any legal weapon within the area and season as specified on the permit and in the Antlerless [~~Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(7) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only permits. Hunters will be notified of the orientation date, time and location.

(8)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

R657-5-42. Depredation Hunter Pool Permits.

(1) When ~~[deer, elk or pronghorn]~~ big game are causing damage, ~~[antlerless]~~ or are considered a nuisance control hunts not listed in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) For the purpose of this section nuisance is defined as a situation where big game animals are found to have moved off formally approved management units onto adjacent units or other areas not approved for that species.

R657-5-44. Chronic Wasting Disease - Infected Animals.

(1) Any person who under the authority of a permit issued by the division legally takes a deer or elk that is later confirmed to be infected with Chronic Wasting Disease may:

(a) retain the entire carcass of the animal;

(b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or

(c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.

(2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the ~~[proclamation]~~ guidebook of the Wildlife Board for taking big game published in the year the new permit is valid.

(3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

R657-5-45. Management Bull Elk Hunt.

(1)(a) For the purposes of this section "management bull" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.

(b) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the management bull elk archery season published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2)(a) Management bull elk permits shall be distributed ~~[through the division's big game drawing]~~ pursuant to R657-62 with ~~[F]~~thirty percent of the permits ~~[are]~~being allocated to youth, ~~[30]~~thirty percent to seniors and the remaining ~~[40]~~forty percent to hunters of all ages.

~~[(b) Group application shall not be accepted in the division's big game drawing for management bull elk permits.]~~

~~(3) [Waiting periods as provided in R657-62-17 are incurred as a result of obtaining management bull elk permits.]~~

~~(4)(a) Bonus points shall be awarded when an applicant is unsuccessful in obtaining a management bull elk permit in the big game drawing.~~

~~(b) Bonus points shall be expended when an applicant is successful in obtaining a management bull elk permit in the big game drawing.~~

~~(5) Management bull elk permit holders may take one management bull elk during the season, on the area and with the weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the [Bucks, Bulls and Once-In-A-Lifetime Proclamation] guidebook of the Wildlife Board for taking big game.~~

~~[(6)4](a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.~~

(b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

~~[(7)5](a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a) must have their animal inspected by the division.~~

(b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 48 hours after the date of kill.

~~[(8)6] Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).~~

~~[(9)7] A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-34(3).~~

R657-5-46. General Any Weapon Buck Deer and Bull Elk Combination Hunt.

(1) Permit numbers, season dates and unit boundary descriptions for the general any weapon buck deer and bull elk combination hunt shall be established in the ~~[Bucks, Bulls and Once-In-A-Lifetime Proclamation]~~ guidebook of the Wildlife Board for taking big game.

(2) A person who obtains a general any weapon buck deer and bull elk combination permit may use any legal weapon to take one buck deer and one bull elk during the season and within the unit specified on the permit.

(a) A general any weapon buck deer and bull elk combination permit does not authorize the holder to hunt deer or elk within any cooperative wildlife management unit.

(3) A person who has obtained a general any weapon buck deer and bull elk combination permit may not hunt during any other deer or elk hunt or obtain any other deer or elk permit, except:

(a) antlerless deer, as provided in Subsection R657-5-28, and

(b) antlerless elk, as provided in Subsection R657-5-34.

(4)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general any weapon or general muzzleloader deer permit.

R657-5-47. Management Buck Deer Hunt.

(1)(a) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.

(b) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the management buck deer archery season published in the [~~Bucks, Bulls and Once In A Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the [~~Bucks, Bulls and Once In A Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

(2)[~~(a)~~] Management buck deer permits shall be distributed [~~through the division's big game drawing,~~]pursuant to rule R657-62 with [~~F~~]thirty percent of the permits [~~are~~]being allocated to youth, [~~30~~]thirty percent to seniors and the remaining [~~40~~]forty percent to hunters of all ages.

[~~(b) Group application shall not be accepted in the division's big game drawing for management buck deer permits.~~]

(3)[~~Waiting periods as provided in R657-62-17 are incurred as a result of obtaining management buck deer permits.~~]

[~~(4)(a) Bonus points shall be awarded when an applicant is unsuccessful in obtaining a management buck deer permit in the big game drawing.~~]

[~~(b) Bonus points shall be expended when an applicant is successful in obtaining a management buck deer permit in the big game drawing.~~]

[~~(5)~~] Management buck deer permit holders may take one management buck deer during the season, on the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the [~~Bucks, Bulls and Once In A Lifetime Proclamation~~]guidebook of the Wildlife Board for taking big game.

([~~6~~]4)(a) A person who has obtained a management buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management buck deer.

(b) Management buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

([~~7~~]5)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

([~~8~~]6) Management buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1)(a).

([~~9~~]7) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-28(4).

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: [~~August 5, 2010~~]2011

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

Natural Resources, Wildlife Resources **R657-63** Self Defense Against Wild Animals

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 34354

FILED: 01/11/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this rule is to define conditions and circumstances under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal.

SUMMARY OF THE RULE OR CHANGE: This rule defines the conditions and circumstances under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal. It also defines "wild animal".

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This new rule defines conditions and circumstances under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife

animal. The Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: Since this new rule only sets conditions under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal, this filing does not create any direct cost or savings impact to local governments since 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.

◆ SMALL BUSINESSES: Since this new rule only sets conditions under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal, this filing does not create any direct cost or savings impact to small businesses since they are not directly affected by the rule.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since this new rule only sets conditions under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal, this filing does not create any direct cost or savings impact to other persons since they are not directly affected by the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this new rule will not create a cost or savings impact to individuals in Utah.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-63. Self Defense Against Wild Animals.

R657-63-1. Purpose and Authority.

(1) The purpose of this rule is to define conditions and circumstances under which a person is legally justified in killing or seriously wounding a threatening or attacking wildlife animal.

(2) This rule is established and promulgated by the Wildlife Board under authority of Sections 23-14-18 and 23-14-19.

R657-63-2. Definitions.

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

(2) In addition:

(a) "Wild animal" means, for purposes of this rule, an individual animal that falls under the definition of "protected wildlife" as defined in Section 23-13-2.

(b) "Enter" means to physically penetrate the interior space of a structure with any part of the body, whether or not the exterior surface of the structure is ruptured.

R657-63-3. Self Defense.

(1) A person is legally justified in killing or seriously injuring a threatening wild animal when the person reasonably believes such action is necessary to protect them self, another person, or a domestic animal against an imminent attack by the wild animal that will likely result in severe bodily injury or death to the victim.

(2) In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the threatening wild animal will attack;

(d) the probability that the attack will result in death or serious bodily injury;

(e) the ability to safely retreat;

(f) the fault of the person in creating the encounter; and

(g) any previous pattern of aggressive or threatening behavior by the individual wild animal which was known to the person claiming self defense.

(3)(a) A person shall notify the division within 12 hours after killing or wounding a wild animal under Subsection (1).

(b) No wild animal killed pursuant to Subsection (1) or the parts thereof may be removed from the site, repositioned, retained, sold, or transferred without written authorization from the division.

(4)(a) A person is not legally justified in killing or seriously injuring a threatening wild animal under the circumstances specified in Subsection (1) if the person:

(i) has the ability to safely retreat from the threatening animal and fails to do so, except when the animal enters a home, tent, camper, or other permanent or temporary living structure occupied at the time by the person or another person; or

(ii) intentionally, knowingly, or recklessly provokes or attracts the wild animal into a situation in which it is probable it will threaten the person, another person, or a domestic animal.

(b) Notwithstanding Subsection (4)(a)(ii), a person lawfully pursuing a cougar or bear with dogs may seriously injure or kill that cougar or bear when they reasonably believe such action is necessary to protect them self or another person against an imminent attack that will likely result in severe bodily injury or death.

R657-63-4. Violations.

A person that kills or seriously injures a wild animal without legal justification as provided in this rule and otherwise in violation of the law shall be subject to criminal prosecution under this Title and the rules and proclamations of the Wildlife Board.

KEY: wildlife

Date of Enactment or Last Substantive Amendment: 2011

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Transportation, Preconstruction, Right-of-way Acquisition

R933-1

Right of Way Acquisition

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34363

FILED: 01/13/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add a purpose and authority section, incorporate 49 CFR 24 (with one exception) for state-funded projects that do not receive federal financial assistance, and to enact requirements for the purchase, sale or exchange of real property as required by Section 72-5-117.

SUMMARY OF THE RULE OR CHANGE: The proposed rule change would add a purpose and authority section, incorporate 49 CFR 24 (with one exception) for state-funded projects that do not receive federal financial assistance, and enact requirements for the purchase, sale or exchange of real property as required by Section 72-5-117.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-5-117

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 49 CFR 24, published by Government Printing Office, 2005
- ◆ Adds 49 CFR 24, published by Government Printing Office, 2005

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because the amendment only describes the manner in which the department already handles property acquisition.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government because the amendment only describes the manner in which the department already handles property acquisition.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses because the amendment only describes the manner in which the department already handles property acquisition.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities because the amendment only describes the manner in which the department already handles property acquisition.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons because the amendment only describes the manner in which the department already handles property acquisition. The department will continue to incur the expense of appraisals as required by law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts on businesses from this amendment because it only addresses the acquisition of rights of way and enacts the current practices of the Department as required by state and federal law.

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

TRANSPORTATION
PRECONSTRUCTION,
RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Linda Barrow by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at lindabarrow@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: John Njord, Executive Director

R933. Transportation, Preconstruction, Right of Way Acquisition.**R933-1. Right of Way Acquisition.****R933-1-1. Purpose and Authority.**

This rule provides the department's procedures for right of way acquisition and the purchase, sale, and exchange of real property. This rule is required by Section 72-5-117 and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R933-1-2. ~~Right of Way Acquisition~~ Incorporation of Federal ~~Publication~~ Regulations for Federal Financial Assistance Projects.

The State of Utah incorporates by reference 49 CFR 24 as amended in the Federal Register, ~~March 2, 1989~~ on January 4, 2005, as its administrative rules on the acquisition of rights of way for ~~federal-aid~~ projects receiving federal financial assistance.

R933-1-3. Partial Incorporation of Federal Regulations for State Projects Funded Without Federal Financial Assistance.

The State of Utah incorporates by reference 49 CFR 24 as amended in the Federal Register on January 4, 2005, as its administrative rules on the acquisition of rights of way for projects that do not receive federal financial assistance, except that 49 CFR 24.107 is not incorporated and shall not be the basis for recovery of attorney fees or other litigation expenses specified therein. Attorney fees and other litigation expenses shall only be recoverable for projects that do not receive federal financial assistance to the extent expressly provided for by state law.

R933-1-4. Requirements for Purchase, Sale, or Exchange of Real Property.

(1) When purchasing, selling, or exchanging real property, the department shall obtain and review the following documents and authorities as the department deems it necessary or appropriate to ensure that the value of the real property is congruent with the proposed price and other terms of purchase, sale, or exchange:

- (a) title insurance commitment;
- (b) an environmental assessment;
- (c) an engineering assessment;
- (d) applicable regulatory codes;
- (e) an appraisal;
- (f) an analysis of past maintenance and operational expenses, when available;
- (g) the situs, zoning, and planning information;
- (h) a land survey; and
- (i) other requirements determined necessary by the Department.

(2) This rule shall apply to all purchases, sales, and exchanges of the department, except as otherwise allowed, required or governed by state or federal law. For projects not receiving federal financial assistance, the requirements of this rule shall not apply to the purchase, sale, or exchange of property, or to an interest in real property that is under a contract or other written agreement prior to May 5, 2008, or with a value of less than \$100,000, as estimated by the department.

KEY: right of way acquisition, condemnation, ~~highway beautification~~

Date of Enactment or Last Substantive Amendment: ~~November 20, 2001~~ 2011

Notice of Continuation: November 29, 2006

Authorizing, and Implemented or Interpreted Law: ~~72-5-117~~ 7-501]

Workforce Services, Unemployment Insurance R994-403-113c Work Search

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34361

FILED: 01/13/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change the number of job contacts per week.

SUMMARY OF THE RULE OR CHANGE: Currently, unemployment claimants are required to make two new job contacts per week while receiving unemployment benefits. Given the current job market, claimants should be making more contacts to be successful in finding new work. The minimum number will now be four per week.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.
- ◆ **SMALL BUSINESSES:** There are no costs or savings to small businesses as there are no fees associated with this program as it is federally funded.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any other persons, local government entities, or businesses as there are no fees associated with this program as it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employer's contribution rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/03/2011

THIS RULE MAY BECOME EFFECTIVE ON: 03/10/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.

R994-403. Claim for Benefits.

R994-403-113c. Work Search.

(1) General Requirements.

A claimant must make an active, good faith effort to secure employment each and every week for which benefits are claimed. Efforts to find work must be judged by the standards of the occupation and the community.

(2) Active.

An active effort to look for work is generally interpreted to mean that each week a claimant should contact a minimum of

[two]four employers not previously contacted unless the claimant is otherwise directed by the Department. Those contacts should be made with employers that hire people in the claimant's occupation or occupations for which the claimant has work experience or would otherwise be qualified and willing to accept employment. Failure of a claimant to make at least the minimum number of contacts creates a rebuttable presumption that the claimant is not making an active work search. The claimant may overcome this presumption by showing that he or she has pursued a job development plan likely to result in employment. A claimant's job development activities for a specific week should be considered in relation to the claimant's overall work search efforts and the length of the claimant's unemployment. Creating a job development plan and/or writing resumes may be reasonable and acceptable activities during the first few weeks of a claim, but may be insufficient after the claimant has been unemployed for several weeks.

(3) Good Faith.

Good faith efforts are defined as those methods which a reasonable person, anxious to return to work, would make if desirous of obtaining employment. A good faith effort is not necessarily established simply by making a specific number of contacts to satisfy the Department requirement.

(4) Union Attachment.

(a) Union attachment is sufficient to meet the requirements of an active work search if the claimant is eligible for a deferral as established under Subsection 35A-4-403(1)(b).

(b) If the claimant is not in deferred status because the claimant did not earn at least 50 percent of his or her base period wage credits in employment as a union member, or the deferral has ended, the claimant must meet the requirements of an active, good faith work search by contacting employers in addition to contacts with the union. This work search is required even though unions may have regulations and rules which penalize members for making independent contacts to try to find work or for accepting nonunion employment.

KEY: filing deadlines, registration, student eligibility, unemployment compensation

Date of Enactment or Last Substantive Amendment: [August 26, 2009]2011

Notice of Continuation: June 26, 2007

Authorizing, and Implemented or Interpreted Law: 35A-4-403(1)

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-8** Utah Seed Law

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34345
FILED: 01/05/2011

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 outlines the procedures for inspection of seeds that are marketed in Utah. It is promulgated under authority of Sections 4-2-2, 4-16-3, and 4-17-3.

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 Department has received no comments either supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was amended and updated 07/02/2008 and the law continues to require this rule. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD

SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 01/05/2011

Health, Health Systems Improvement, Emergency Medical Services

R426-7

Emergency Medical Services Prehospital Data System Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34358
FILED: 01/12/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Section 26-8a-203 (Data collection) authorizes the state Emergency Medical Services (EMS) committee to specify the information that must be collected for the EMS data system, and it authorizes the Department to implement the system.

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 rule was amended in 2007. Three commenters submitted comments at that time. All three commenters addressed Subsection R426-7-3(10), the requirement of EMS to give a report to the receiving facility. They stated that if the requirement means giving a complete patient care report to the hospital within one hour, compliance will not always be possible. One commenter additionally stated the following claims: 1) the rule revision will cause lost productivity, due to personnel taking 15 minutes longer to fill out reports, amounting to an additional personnel cost of \$30 per EMS response; and 2) the rule revision will cause new infrastructure costs, due to buying laptop computers for field data entry, amounting to an additional infrastructure cost of \$2,800 per ambulance, with a 12–18 month replacement cycle. The commenter recommended the following actions: 1) attach a fiscal note to the rule change; 2) provide a new revenue stream for EMS agencies; 3) give sufficient thought initially to the dataset; and 4) delay or postpone NEMSIS compliance.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Over the ensuing years, many EMS agencies have implemented electronic reporting for reasons above and beyond the requirements of this rule. Recent federal initiatives underscore the importance of electronic medical records. Since the time that the rule was amended to adopt a national data standard, compliance with the rule has increased from 35% to 85% of EMS agencies. Data collected through the system has been utilized in dozens of data requests and research projects at the state level, and de-identified data is publicly available for analysis at both the state and national levels. Therefore, this rule should be continued. The rule was amended again in 2008 to address the concern regarding Subsection R426-7-3(10). The amended rule requires a report of critical information to be provided to the receiving hospital, rather than a full patient care report. In response to concerns about lost productivity and increased costs, the Bureau of EMS provided the following response to the commenter: 1) any increased time required to report the more extensive information required in the rule change is largely offset by efficiencies that are made possible by using the national standard for data transfer (for example, improving the efficiency and timeliness of the billing process, which improves collection rates); 2) the rule change did not specifically require an agency to make substantial changes to its field operations, if an agency did not currently use laptops for field data entry, it was not required to begin doing so. However, the Bureau of EMS made laptops

available to agencies free of charge; 3) a majority of EMS agencies in Utah had already completed the transition to the NEMSIS standard; and 4) at the next ambulance rate review, the Bureau of EMS would take into consideration any data documenting claimed increased costs caused by Rule R426-7 and consider possible rate adjustments. An additional consideration regarding personnel costs is that a typical high performance EMS system has a "unit hour utilization" ratio (the proportion of time that a unit on shift spends responding to calls) of 0.3 - 0.5. In other words, for every hour that a unit spends responding to a call, it spends 1 to 2 hours providing coverage for the next call. Patient care reports can be completed during the time in between calls.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Joshua Legler by phone at 801-273-6668, by FAX at 801-273-4165, or by Internet E-mail at jlegler@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 01/12/2011

Health, Health Systems Improvement,
Emergency Medical Services
R426-8
Emergency Medical Services Per
Capita Grants Program Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34346

FILED: 01/05/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-8a-207 describes funding for the Emergency Medical Services Grants program. Rule R426-8 describes the eligibility and implementation of Per Capita Grants.

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 regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Emergency Medical Services Per Capita Grants are awarded annually. The rule is necessary to explain eligibility and the grant award process. Therefore, this rule should be continued.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Allan Liu by phone at 801-273-6664, by FAX at 801-273-4165, or by Internet E-mail at alliu@utah.gov

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 01/05/2011

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

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34353

FILED: 01/11/2011

**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: The statute authorizes the State Parks Board to promulgate rules relating to carrying passengers for hire in Subsection 73-18-4(1)(d): "The Board may promulgate rules regulating vessel operators who carry passengers for hire and outfitting companies."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One letter has been received that relates to this rule. The letter was in reference to the content of the material in our study guide for the Captain's and Guide test. The letter neither supported or opposed the rule, but made suggestions for improving the testing process.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are over 90 outfitting companies and over 1,700 boat captains and guides licensed in the State of Utah. Customers of water-based outfitting companies deserve the assurance that the vessels they have hired are seaworthy and that operators who they have trusted their lives with have the experience and knowledge necessary to provide a safe and enjoyable voyage. Therefore, this rule should be continued. The Division has updated all tests and study guides, as well as moved the testing process online utilizing university testing centers around the state.

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:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 01/11/2011

**Natural Resources, Parks and
Recreation
R651-215
Personal Flotation Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34355

FILED: 01/11/2011

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: The statute authorizes the State Parks Board to promulgate rules relating to the wearing of personal flotation devices in Subsection 73-18-8(1)(d): "The board may require by rule for personal flotation devices to be worn:...."

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 has received any written comments in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Our life-jacket-wear rules are designed to provide safety to individuals participating in boating activities where there is an increased risk of falling overboard or being injured. Therefore, this rule should be continued. In many years of collecting boating accident data, the US Coast Guard finds that personal flotation device (PFD) wear has saved a large number of lives and if more persons were required to wear PFDs even more lives would be saved.

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:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 01/11/2011

Natural Resources, Parks and Recreation
R651-222
 Muffling Requirements

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34356
 FILED: 01/11/2011

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: The statute authorizes the State Parks Board to promulgate rules relating to the muffling of vessels in Section 73-18-11: "The board shall adopt rules for the regulating of muffling devices on all vessels."

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 has not received any written comments in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Many motorboats have as much or more horsepower than the average car. If these motors were not muffled properly, our waterways would become noisy and undesirable for many outdoor recreationists. Also, wildlife and sensitive habitat areas would be adversely affected by excessively loud boats. Therefore, this rule should be continued. Prior to the adoption of these rules there were numerous complaints about loud boats, now there are no complaints.

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:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 01/11/2011

**Natural Resources, Parks and
Recreation
R651-224
Towed Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 34357
FILED: 01/11/2011

**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: The statute authorizes the State Parks Board to promulgate rules relating to waterskiing in Section 73-18-5: "The board shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices which are towed behind a vessel".

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One written comment has been received in opposition to the rule requiring the ski flag being used only when a skier is down in the water.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Waterskiing causes many injuries each year in Utah. Our water ski rules are consistent with our neighboring states, and are designed to minimize accidents and injuries. In 2009, there were 25 accidents related to waterskiing and in 2010 there were 19. Without our current rules, these numbers would undoubtedly be higher. Therefore, this rule should be continued. The Division disagrees with the commenter's position that ski flags should be allowed to be displayed while someone is being towed. The purpose of the flag is to warn other boaters that someone (low visibility) is in the water near the boat. If the flag is allowed to be displayed while the skier is up (high visibility), then the warning effect of the flag is removed. Some of our neighboring states even call the flag the "Skier Down Flag" in law.

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:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 01/11/2011

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Occupational and Professional Licensing

No. 34215 (AMD): R156-78B. Prelitigation Panel Review Rule

Published: 12/01/2010

Effective: 01/10/2011

No. 34237 (AMD): R156-83-306. Drugs Approved for Online Prescribing, Dispensing, and Facilitation

Published: 12/01/2010

Effective: 01/10/2011

Real Estate

No. 34223 (NEW): R162-2a. Utah Housing Opportunity

Restricted Account

Published: 12/01/2010

Effective: 01/08/2011

No. 34225 (AMD): R162-2c-201. Licensing and Registration Procedures

Published: 12/01/2010

Effective: 01/08/2011

No. 34226 (AMD): R162-2c-203. Utah-Specific Education Certification

Published: 12/01/2010

Effective: 01/08/2011

No. 34227 (AMD): R162-2c-204. License Renewal

Published: 12/01/2010

Effective: 01/08/2011

No. 34224 (REP): R162-12. Utah Housing Opportunity Restricted Account

Published: 12/01/2010

Effective: 01/08/2011

Community and Culture

Housing and Community Development

No. 34135 (AMD): R199-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance

Published: 11/01/2010

Effective: 01/13/2011

Education

Administration

No. 34230 (AMD): R277-419. Pupil Accounting

Published: 12/01/2010

Effective: 01/10/2011

No. 34231 (AMD): R277-733. Adult Education Programs

Published: 12/01/2010

Effective: 01/10/2011

Insurance

Administration

No. 34026 (CPR): R590-93. Replacement of Life Insurance and Annuities

Published: 11/15/2010

Effective: 01/10/2011

No. 34026 (AMD): R590-93. Replacement of Life Insurance and Annuities

Published: 09/15/2010

Effective: 01/10/2011

No. 34175 (AMD): R590-133. Variable Contracts

Published: 11/15/2010

Effective: 01/10/2011

No. 34169 (AMD): R590-167-4. Establishment of Classes of Business

Published: 11/15/2010

Effective: 01/10/2011

NOTICES OF RULE EFFECTIVE DATES

Money Management Council

Administration

No. 34208 (AMD): R628-11. Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository
Published: 11/15/2010
Effective: 01/12/2011

Criminal Investigations and Technical Services, Criminal Identification

No. 34222 (AMD): R722-300-3. Definitions
Published: 12/01/2010
Effective: 01/07/2011

Natural Resources

Wildlife Resources

No. 34167 (AMD): R657-13. Taking Fish and Crayfish
Published: 11/15/2010
Effective: 01/04/2011

Transportation

Operations, Traffic and Safety

No. 34241 (AMD): R920-50. Ropeway Operation Safety Rules
Published: 12/01/2010
Effective: 01/10/2011

No. 34168 (AMD): R657-58. Fishing Contests and Clinics
Published: 11/15/2010
Effective: 01/04/2011

Workforce Services

Employment Development

No. 34239 (AMD): R986-200-246. Transitional Cash Assistance
Published: 12/01/2010
Effective: 01/13/2011

Public Safety

Fire Marshal

No. 34242 (AMD): R710-9. Rules Pursuant to the Utah Fire Prevention Law
Published: 12/01/2010
Effective: 01/09/2011

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, 2011 through January 14, 2011. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to 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	

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R156-50	Private Probation Provider Licensing Act Rules	34282	NSC	01/06/2011	Not Printed
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R156-83-306	Drugs Approved for Online Prescribing, Dispensing, and Facilitation	34237	AMD	01/10/2011	2010-23/14
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R162-2c-203	Utah-Specific Education Certification	34226	AMD	01/08/2011	2010-23/19
R162-2c-204	License Renewal	34227	AMD	01/08/2011	2010-23/23
R162-12	Utah Housing Opportunity Restricted Account	34224	REP	01/08/2011	2010-23/25
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EDUCATION					
<u>Administration</u>					
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R590-93	Replacement of Life Insurance and Annuities	34026	CPR	01/10/2011	2010-22/116
R590-133	Variable Contracts	34175	AMD	01/10/2011	2010-22/98
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 R651-215 Personal Flotation Devices 34355 5YR 01/11/2011 Not Printed
 R651-222 Muffling Requirements 34356 5YR 01/11/2011 Not Printed
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 R657-58 Fishing Contests and Clinics 34168 AMD 01/04/2011 2010-22/105

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R850-10 Expedited Rulemaking 34289 NSC 01/06/2011 Not Printed

TRANSPORTATION

Operations, Traffic and Safety

R920-50 Ropeway Operation Safety Rules 34241 AMD 01/10/2011 2010-23/63

WORKFORCE SERVICES

Employment Development

R986-200-246 Transitional Cash Assistance 34239 AMD 01/13/2011 2010-23/70

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

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 5YR = Five-Year Review

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	34026	R590-93	CPR	01/10/2011	2010-22/116
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	34356	R651-222	5YR	01/11/2011	Not Printed
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