

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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

Environmental Quality Air Quality

Notice of Public Comment Period for Fireworks Exceptional Events – Event Date: July 4, 2010

Federal regulations (40 Code of Federal Regulations (CFR) Part 50) allow states to exclude air quality data that exceed or violate a National Ambient Air Quality Standard (NAAQS) if it can demonstrate that an "exceptional event" has caused the exceedance or violation. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable or preventable using techniques implemented to attain and maintain the NAAQS. Exceptional events are events for which the normal planning and regulatory process established by the Clean Air Act are not appropriate.

Exceptional events may be caused by human activity that is unlikely to recur at a particular location, or may be due to a natural event. EPA defines a "natural event" as an event in which human activity plays little or no direct causal role to the event in question. For example, a natural event could include such things as high winds, wild fires, and seismic/volcanic activity. In addition, the EPA will allow states to exclude data from regulatory determinations on a case-by-case basis for monitoring stations that measure values that exceed or violate the NAAQS due to emissions from fireworks displays from cultural events. These events can be flagged as being affected by exceptional or natural events and then justified.

Federal regulations (40 CFR Part 50.14(c)(3)(i)) require that all relevant flagged data, the reasons for the data being flagged, and a demonstration that the flagged data are caused by exceptional events be made available by the State for 30 days of public review and comment. These comments will be considered in the final demonstration of the event that is submitted to EPA. The following monitored values have been attributed to exceptional events:

1. July 4, 2010, Ogden Monitor Station, 42.1 $\mu\text{g}/\text{m}^3$ PM_{2.5} (Due to Firework Display Emissions)
2. July 4, 2010, Cottonwood Monitor Station, 35.9 $\mu\text{g}/\text{m}^3$ PM_{2.5} (Due to Firework Display Emissions)

The documentation to support removing this data from use in regulatory determinations will be available by October 15, 2011 for public review and comment. It can be viewed at the following website: www.airquality.utah.gov/Public-Interest/Public-Comment-Hearings/Exceptional_Events/Exceptional_Events.htm or at the DEQ Building located at 150 North 1950 West in Salt Lake City.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at 801-536-4412 (TDD 536-4414).

The comment period will close at 5:00 p.m. on November 17, 2011. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to Jkarmazyn@utah.gov or may be mailed to:

Joel Karmazyn
Utah Division of Air Quality
PO Box 144820
195 N 1950 W
Salt Lake City, UT 84114-4820

Environmental Quality Air Quality

Notice of Public Comment Period, Fireworks Exceptional Events – Event Date: July 4, 2011

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July 4, 2011, Ogden Monitor Station, 43.8 $\mu\text{g}/\text{m}^3$ PM_{2.5} (Due to Firework Display Emissions)

The documentation to support removing this data from use in regulatory determinations will be available by September 15, 2011, for public review and comment. It can be viewed at the following website www.airquality.utah.gov/Public-Interest/Public-Commen-Hearings/Exceptional_Events/Exceptional_Events.htm or at the DEQ Building located at 150 North 1950 West in Salt Lake City.

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Joel Karmazyn
Utah Division of Air Quality
PO Box 144820
195 N 1950 W
Salt Lake City, UT 84114-4820

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for October 2011 Medicaid Rate Changes

Effective October 1, 2011, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

Tax Commission
Property Tax

Corrections to the Amendment on Section R884-24P-57, DAR No. 35152, in the September 1, 2011, Bulletin

The Tax Commission filed an amendment on Section R884-24P-57, Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330, under DAR No. 35152 in the September 1, 2011, issue of the Bulletin (2011-17, pg. 75). After publication, the Tax Commission discovered that the information given for the rule analysis was incorrect. The following information for the "purpose of the amendment", the "summary of changes" and the "cost information" is the correct information.

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates language to match statutes.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes reference to Section 59-2-918 since that section has been repealed; updates an amount from 1 to 2.5% to reflect that this amount was changed in statute in the definition of the term "eligible judgment;" and makes technical changes.

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--Property tax revenues are local revenues.
- ◆ LOCAL GOVERNMENTS: None--The amendment updates language to match statutes.
- ◆ SMALL BUSINESSES: None--The amendment updates language to match statutes.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The amendment updates language to match statutes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment updates language to match statutes.

Questions regarding this correction should be addressed to Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@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 August 16, 2011, 12:00 a.m., and September 01, 2011, 11:59 p.m. are included in this, the September 15, 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 October 17, 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 January 13, 2012, 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, Child Welfare
Parental Defense (office Of)
R19-1-6
Child Welfare Parental Defense
Oversight Committee**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35205

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment establishes the Child Welfare Parental Defense Oversight Committee to advise the Office of Child Welfare Parental Defense.

SUMMARY OF THE RULE OR CHANGE: Establishes composition and terms of membership of the committee.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-1-105.5 and Section 63A-11-2

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There may be a small cost to the state budget as per diems may be paid to committee members. An exact amount cannot be determined as it is unknown how many times the committee will meet or how many members of the committee will choose to accept their per diems.

◆ **LOCAL GOVERNMENTS:** The purpose of the committee is to advise the Office of Child Welfare Parental Defense, a state agency. Local governments neither receive advice from nor provide members to the committee. As a result, there are no costs or savings to local governments associated with this amendment.

◆ **SMALL BUSINESSES:** The purpose of the committee is to advise the Office of Child Welfare Parental Defense, a state agency. Small businesses neither receive advice from nor provide members to the committee, except possibly where a business person is appointed to the committee. As a result, there are likely no costs or savings to small businesses associated with this amendment. There is the possibility of some opportunity cost for the public members of the committee but these are unlikely.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The purpose of the committee is to advise the Office of Child Welfare Parental Defense, a state agency. Other persons neither receive advice from nor provide members to the committee, except possibly where a person from the public is appointed as a member of the committee. As a result, there are likely no costs or savings to small businesses associated with this amendment. There is the possibility of some

opportunity cost for the public members of the committee but these are unlikely.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The text simply outlines the committee's composition and how committee members are appointed. There are no provisions that require compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule has no impact on businesses.

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

ADMINISTRATIVE SERVICES
CHILD WELFARE PARENTAL DEFENSE (OFFICE OF)
ROOM 3120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Sal Petilos by phone at 801-538-3091, by FAX at 801-538-3844, or by Internet E-mail at spetilos@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Sal Petilos, Deputy Director

R19. Administrative Services, Child Welfare Parental Defense (Office of).

R19-1. Parental Defense Counsel Training.

R19-1-6. Child Welfare Parental Defense Oversight Committee.

(1) This section establishes the Child Welfare Parental Defense Oversight Committee to advise the Office of Child Welfare Parental Defense, under the authority of Section 63A-1-105.5.

(2) The committee shall be composed of seven members as follows:

(a) the executive director of the Department of Administrative Services or the director's designee;

(b) a member from of the Legislature appointed jointly by the Speaker of the House and the President of the Senate;

(c) the Juvenile Court administrator or the administrator's designee;

(d) the executive director of the Commission on Criminal and Juvenile Justice or the director's designee; and

(e) three public members appointed by the executive director of the Department of Administrative Services.

(3)(a) the executive director of the Department of Administrative Services shall appoint each public member to a four-year term.

- (b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (4) Four members of the committee are a quorum.
- (5) The executive director of the Department of Administrative Services or the director's designee is chair of the committee.

KEY: child welfare, parental defense
Date of Enactment or Last Substantive Amendment: ~~May 13, 2005~~ 2011
Notice of Continuation: October 21, 2009
Authorizing, Implemented, or Interpreted Law: 63A-1-105.5; 63A-11-2; 63A-11-107

**Administrative Services, Child Welfare
 Parental Defense (Office of)
 R19-1-7
 Electronic Meetings**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 35206
 FILED: 09/01/2011**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to establish procedures for conducting electronic meetings of the Child Welfare Parental Defense Oversight Committee.

SUMMARY OF THE RULE OR CHANGE: Provisions govern any meeting at which one or more Committee members appear telephonically or electronically pursuant to Section 52-4-207.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 52-4-207 and Section 63A-1-105.5

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** By allowing for electronic meetings, some savings may be realized by reduced travel on the part of committee members and reduced per diem payment by the state. Exact figures cannot be determined as they would depend on the number of meetings per year, how many members participate electronically, and other variables; all of

these variables are unknown. Other costs associated with the meeting, such as providing telephonic or electronic infrastructure for the meeting and providing notice, are already build into the state's budget.
 ♦ **LOCAL GOVERNMENTS:** The rule text governs electronic meetings of a state body in which local governments do not participate. Thus there are no costs or savings for local governments.
 ♦ **SMALL BUSINESSES:** By allowing for electronic meetings, some savings may be realized by reduced travel on the part of committee members. Exact figures cannot be determined as they would depend on the number of meetings per year, how many members participate electronically, and other variables; all of these variables are unknown.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** By allowing for electronic meetings, some savings may be realized by reduced travel on the part of committee members. Exact figures cannot be determined as they would depend on the number of meetings per year, how many members participate electronically, and other variables; all of these variables are unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs associated with the meeting, such as providing telephonic or electronic infrastructure for the meeting and providing notice, are already build into the state's budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule has no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 CHILD WELFARE PARENTAL DEFENSE (OFFICE OF)
 ROOM 3120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Sal Petilos by phone at 801-538-3091, by FAX at 801-538-3844, or by Internet E-mail at spetilos@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Sal Petilos, Deputy Director

R19. Administrative Services, Child Welfare Parental Defense (Office of).**R19-1. Parental Defense Counsel Training.****R19-1-7. Electronic Meetings.**

(1) Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting meetings of the Child Welfare Parental Defense Oversight Committee.

(2) These procedures established under the authority of Sections 52-4-207 and 63A-1-105.5.

(3) The following provisions govern any meeting at which one or more Committee members appear telephonically or electronically pursuant to Section 52-4-207.

(a) If one or more members of the Committee may participate electronically or telephonically, public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided to at least one newspaper of general circulation within the state and to a local media correspondent. These notices shall be provided at least 24 hours before the meeting.

(c) Notice of the possibility of an electronic meeting shall be given to the Committee members at least 24 hours before the meeting. In addition, the notice shall describe how a Committee Member may participate in the meeting electronically or telephonically.

(d) When notice is given of the possibility of a Committee member appearing electronically or telephonically, any Committee member may do so and shall be counted as present for the purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such a time as any Committee member initially appears electronically or telephonically, the chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the Committee who are not at the physical location of the meeting shall be confirmed by the Chair.

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Administrative Services, 3132 State Office Building, Salt Lake City, Utah 84114. The anchor location is the physical location from which the electronic meeting originates or from where the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

KEY: child welfare, parental defense, electronic meetings

Date of Enactment or Last Substantive Amendment: [~~May 13, 2005~~]2011

Notice of Continuation: October 21, 2009

Authorizing, Implemented, or Interpreted Law: 52-4-207; 63A-1-105.5; 63A-11-107

Attorney General, Administration **R105-2** Records Access and Management

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35195

FILED: 08/30/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the rule is to provide information about requests and appeals to the Attorney General's Office under the Government Records Access and Management Act (Sections 63G-2-101 through 63G-2-901). The purpose for this amendment is to update that information to reflect changes in the Attorney General's Office, and to clarify language.

SUMMARY OF THE RULE OR CHANGE: The proposed rule changes the name and address of the GRAMA contact, and changes addresses where an appeal should be directed. It also adds language clarifying that, by statute, a requester must seek certain records from the Attorney General's client agencies. Finally, it eliminates language stating that many records of the Attorney General's Office are private or protected; while that continues to be true, it is unnecessary to have that information in a rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art VII, Sec 1 and Art VII, Sec 16 and Subsection 63A-12-104(2) and Subsection 63G-2-204(2)(d)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no impact on the state budget. This amendment simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

◆ **LOCAL GOVERNMENTS:** There will be no impact on the local government budgets. This amendment imposes no regulatory or other burden on local governments. It simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

◆ **SMALL BUSINESSES:** There will be no impact on the small business. This amendment imposes no regulatory or other burden on small business. It simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no impact on the persons other than small business, business or local government entities. This amendment imposes no regulatory or other burden on any

person. It simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost for compliance for affected persons. This amendment imposes no regulatory or other burden on any person. It simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no cost for compliance for any person because this amendment imposes no regulatory or other burden on any person. It simply provides new contact information, clarifies language, and provides notice of statutory provisions governing the Attorney General's response to GRAMA requests.

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

ATTORNEY GENERAL
ADMINISTRATION
ROOM E320 EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2320
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Laura Lockhart by phone at 801-366-0283, by FAX at 801-366-0292, or by Internet E-mail at llockhart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: John Swallow, Deputy Attorney General

R105. Attorney General, Administration.
R105-2. Records Access and Management.
R105-2-1. Purpose.

This rule ~~establishes procedures regarding operation of the Government Records Access and Management Act within the Office of the Attorney General~~ provides information about submitting requests and appeals to the Attorney General's Office under the Government Records Access and Management Act.

[R105-2-2. Authority.

This rule is authorized by 63-2-204(2) and 63-2-904(2).

]R105-2-[3]2. Requests for Access.

~~Most records of the Office of the Attorney General are classified as protected or private and may only be released to those specified in 63-2-202.~~

All requests for records shall be directed to ~~the Public Information Officer at the following address~~:

TABLE

(If by hand delivery)

~~Public Information Officer
Office of the Attorney General
236 State Capitol Building
Salt Lake City, Utah 84114~~

GRAMA Information Officer
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, Utah 84114

(If by mail)

GRAMA Information Officer
Office of the Attorney General
PO Box 142320
Salt Lake City, Utah 84114-2320

(If by email)

GRAMA Information Officer
AGGIO@utah.gov

~~The Public Information Officer will then direct the request to the division that maintains the requested record. The division chief of such division shall be responsible to respond to the request as required by Section 63-2-204(3).~~

R105-2-[4]3. Appeals.

Appeals regarding questions of access to records shall be directed to ~~as listed below~~.

TABLE

Appeals from:	Directed to:
Appeals Division, Child Protection Division, Child and Family Support Division, Education Division, Litigation Division and Natural Resources Division	Solicitor General Office of the Attorney General 236 State Capitol Building Salt Lake City, Utah 84114
Administration, Children's Justice Division, Consumer Rights Division, Criminal Division, Environment Division, Executive, Financial Crimes Unit, Investigations, Prosecution Council, Public Affairs Division and Tax and Revenue Division	Chief Deputy Attorney General Office of the Attorney General 236 State Capitol Building Salt Lake City, Utah 84114

(If by hand delivery)

GRAMA Appeal
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
SLC UT 84114

(If by mail)

GRAMA Appeal
Office of the Attorney General
PO Box 142320
SLC UT 84114-2320

(If by email)

GRAMA Information Officer
AGGIO@utah.gov

R105-2-4. Records of Client Agencies.

Requesters seeking copies of records of client agencies of the Attorney General's Office must make their request directly to the client agency. See 67-5-15(1).

R105-2-5. Record Sharing.

For the purpose of record sharing between governmental entities as provided in ~~[63-2-206]~~63G-2-206, the Attorney General's Office is one governmental entity and all divisions in the office are part of that entity.

KEY: public records, government documents, records access[*], GRAMA[*]

Date of Enactment or Last Substantive Amendment: ~~[1992]~~2011

Notice of Continuation: June 5, 2007

Authorizing, and Implemented or Interpreted Law: 63-2-204; 63-2-904

Environmental Quality, Water Quality **R317-1-7** TMDLs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35221

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference the completed and recently approved Emigration Creek Total Maximum Daily Load (TMDL) water quality study and determination into the rule.

SUMMARY OF THE RULE OR CHANGE: This section incorporates by reference the completed and approved Emigration Creek TMDL into the rule. This TMDL document has gone through an individual public review process and has been approved by the Water Quality Board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-5-104(1)(f)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The proposed amendment will be addressed using existing resources.

◆ **LOCAL GOVERNMENTS:** No cost impacts to local governments are anticipated. No activities that would result in costs or savings to local governments are mandated by the approved TMDL.

◆ **SMALL BUSINESSES:** No cost impacts to small businesses are anticipated. Strategies and management options for reducing nonpoint sources of pollutants are identified, but are not specifically mandated by the approved TMDL. Any reductions in nonpoint pollutant sources recommended by the TMDL are voluntary. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost impacts to other persons are anticipated. No reductions in water quality pollutants are specifically mandated for other persons in the TMDL. Any reductions in nonpoint pollutant sources recommended by the TMDL are voluntary. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No direct compliance costs are anticipated for affected persons. Strategies and management options for reducing nonpoint sources of pollutants are identified, but are not specifically mandated by the approved TMDL. Any reductions in nonpoint pollutant sources recommended by the TMDL are voluntary. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated as a result of the approved TMDL. No compliance requirements were implemented for point sources of pollutants as a result of the approved TMDL. Strategies and management options for reducing nonpoint sources of pollutants are identified, but are not specifically mandated by the approved TMDL. Implementation projects and strategies will be made available for discussion and comment in a continuing public planning process associated with each TMDL.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-1. Definitions and General Requirements.

R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

- 7.1 Middle Bear River -- February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- September 14, 2010
- 7.7 East Canyon Reservoir -- September 14, 2010
- 7.8 Kents Lake -- September 1, 2000
- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002
- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003
- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004

- 7.40 Upper Bear River -- August 4, 2006
- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010
- 7.58 Pariette Draw -- September 28, 2010
- 7.59 Emigration Creek -- September 1, 2011

KEY: water pollution, waste disposal, industrial waste, effluent standards

Date of Enactment or Last Substantive Amendment:
[November 19, 2010]2011

Notice of Continuation: October 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-5

Environmental Quality, Water Quality
R317-10
Certification of Wastewater Works
Operator

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 35203
FILED: 08/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to modify the reinstatement and renewal requirements and procedures to allow consistency and flexibility in administering the wastewater operator certification program.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) in Section R317-10-6, Table 2, footnote (3), add a missing space; 2) at Subsection R317-10-11(D) reinstatement allowed within one year of expiration of a valid certificate; and 3) add authorization for the Council to consider petitions for exceptions to the reinstatement/renewal rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104 and Section 19-5-105

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Increase of \$100 per application for additional request for reinstatement with renewal that would previously not have been possible due to the maximum time requirement. Increase in mailing costs and staff time for additional reminders sent during the extended time allowed for reinstatement. Decrease of \$14 per exam application that may have been received when the individual was required to retest for certification. Actual overall change will probably be a slight increase in revenue received, however more staff time may be used to manage the records for the additional nine months allowed for reinstatement.

◆ **LOCAL GOVERNMENTS:** Local government will save the cost of providing time (or time off) for preparation and "sitting" for exams, but will have the option of paying the reinstatement fee or requiring operators to cover the costs individually. The saving is dependent upon the actual salaries paid and whether the communities pay for the cost of the exams and renewals.

◆ **SMALL BUSINESSES:** Some small businesses may be affected if they choose to employ certified wastewater operators, however, the rule only applies to political subdivisions of the state.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individual operators could save the cost of time spent away from work in preparation for and "sitting" for exams. However, depending on their level of mastery of certification knowledge and skills, they may still choose to retest rather than pay the reinstatement fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs will essentially be the same as they currently are. The maximum fee for reinstatement will be charged from 3 to 12 months after certificate expiration.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments apply to political subdivisions of the state that operate wastewater treatment works and sanitary sewerage systems. No impacts to businesses are anticipated except where they voluntarily participate in certification of wastewater operators.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Walter Baker, Director

**R317. Environmental Quality, Water Quality.
R317-10. Certification of Wastewater Works Operators.
R317-10-6. Facility Classification System.**

Treatment plants and collection systems shall be classified in accordance with Table 1.

TABLE 1
FACILITY CLASSIFICATION SYSTEM

FACILITY CATEGORY		CLASS			
		I	II	III	IV
Collection (1)	Pop. Served	3,500 and less	3,501 to 15,000	15,001 to 50,000	50,001 and greater
Treatment Plant (2)	Range of Fac. Points	30 and less	31 to 55	56 to 75	76 and greater
Small Lagoon Systems(3)	Pop. Equiv. Served	3,500 and less			

(1) Simple "in-line" treatment (such as booster pumping, preventive chlorination, or odor control) is considered an integral part of a collection system.

(2) Treatment plants shall be assigned "facility points" in accordance with Table 2 "Wastewater Treatment Plant Classification System".

(3) A combined certificate shall be issued for treatment works/collection system operation.

TABLE 2
WASTEWATER TREATMENT PLANT CLASSIFICATION SYSTEM

Each Unit process should have points assigned only once.

Item	Points
SIZE (2 PT Minimum - 20 PT Maximum)	
Max. Population equivalent (PE) served, peak day(1)	1 - 10
Design flow average day or peak month average, whichever is larger(2)	1 - 10
VARIATION IN RAW WASTE (3)	
Variations do not exceed those normally or typically expected	0
Recurring deviations or excessive variations of 100 - 200% in strength and/or flow	2
Recurring deviations or excessive variations of more than 200% in strength and/or flow	4
Raw wastes subject to toxic waste discharges	6
Acceptance of septage or truck-hauled waste	2
PRELIMINARY TREATMENT	
Plant pumping of main flow	3
Screening, comminution	3
Grit removal	3
Equalization	1

PRIMARY TREATMENT		Membrane filter procedures	3
Clarifiers	5	Use of fermentation tubes or any dilution method (or E. coli determination)	5
Imhoff tanks or similar	5	Chemical/physical (10 pt. max.):	
SECONDARY TREATMENT		Lab work done outside the plant	0
Fixed film reactor	10	Push-button, visual methods for simple tests (i.e. pH, settleable solids)	3
Activated sludge	15	Additional procedures (ie, DO, COD, BOD, gas analysis, titrations, solids volatile content)	5
Stabilization ponds w/o aeration	5	More advanced determinations (ie, specific constituents; nutrients, total oils, phenols)	7
Stabilization ponds w/aeration	8	Highly sophisticated instrumentation (i.e., atomic absorption, gas chromatography)	10
TERTIARY TREATMENT		(1) 1 point per 10,000 P.E. or part; maximum of 10 points	
Polishing ponds for advanced waste treatment	2	(2) 1 point per MGD or part	
Chemical/physical advanced waste treatment w/o secondary	15	(3) Key concept is frequency and/or intensity of deviation or excessive variation from normal or typical fluctuations; such deviation may be in terms of strength, toxicity, shock loads, inflow and infiltration, with point values ranging from 0 - 6.	
Chemical/physical advanced waste treatment following secondary	10	(4) Key concept is to credit laboratory analyses done on-site by plant personnel under the direction of the operator in direct responsible charge with point values ranging from 0 - 15.	
Biological or chemical/biological advanced waste treatment	12		
Nitrification by designed extended aeration only	2		
Ion exchange for advanced waste treatment	10		
Reverse osmosis, electrodialysis and other membrane filtration techniques	15		
Advanced waste treatment chemical recovery, carbon regeneration	4		
Media Filtration	5		
ADDITIONAL TREATMENT PROCESSES		R317-10-11. Certificates.	
Chemical additions (2 pts./each for max. of 6 pts.)	2 - 6	A. All certificates shall indicate one of the following grades for which they are issued.	
Dissolved air flotation (for other than sludge thickening)	8	1. Wastewater Treatment Operator - Grades I through IV.	
Intermittent sand filter	2	2. Restricted Wastewater Treatment Operator - Grades I through IV.	
Recirculating intermittent sand filter	3	3. Wastewater Collection Operator - Grades I through IV.	
Microscreens	5	4. Restricted Wastewater Collection Operator - Grades I through IV.	
Generation of oxygen	5	5. Small Lagoon System Operator - Grade I Wastewater Treatment and Collection System Combined.	
SOLIDS HANDLING		6. Restricted Small Lagoon System Operator - Grade I Wastewater Treatment and Collection System Combined.	
Solids conditioning	2	B. An applicant shall have the opportunity to take any grade of examination. A restricted certificate shall be issued if the applicant passes the exam but lacks the experience or education required for a particular grade.	
Solids thickening (based on technology)	2 - 5	An unrestricted certificate shall be issued if the applicant passes the exam and the experience and education requirements appropriate to the particular grade are met. Restricted certificates shall become unrestricted when the appropriate experience and education requirements are met and a change in status fee is paid. A restricted certificate does not qualify a person as a certified operator at the grade level that the restricted certificate is issued, until the limiting conditions are met, except as provided in R317-10-5. Upon application, a restricted certificate may be renewed subject to the conditions in C below. Replacement certificates may be obtained by payment of a duplicate certificate fee.	
Mechanical dewatering	8	C. Certificates shall continue in effect for a period of up to three years unless revoked prior to that time. The certificate must be renewed each three years by payment of a renewal fee and submittal of evidence of required CEUs. The certificates expire on December 31 of the last year of the certificate. Operators considered in DRC must renew by the expiration date in order for the wastewater works to remain in compliance with this rule. Request for renewal shall be made on forms supplied by the Council. It shall be the responsibility of the operator to make application for certificate renewal.	
Anaerobic digestion of solids	10		
Utilization of digester gas for heating or cogeneration	5		
Aerobic digestion of solids	6		
Evaporative sludge drying	2		
Solids reduction (including incineration, wet oxidation)	12		
On-site landfill for solids	2		
Solids composting	10		
Land application of biosolids by contractor	2		
Land application of biosolids under direction of facility operator in DRC	10		
DISINFECTION (10 pt. max.)			
Chlorination or ultraviolet irradiation	5		
Ozonation	10		
EFFLUENT DISCHARGE (10 pt. max.)			
Mechanical Post aeration	2		
Direct recycle and reuse	6		
Land treatment and disposal (surface or subsurface)	4		
INSTRUMENTATION (6 pt. max.)			
Use of SCADA or similar instrumentation systems to provide data with no process operation	0		
Use of SCADA or similar instrumentation systems to provide data with limited process operation	2		
Use of SCADA or similar instrumentation systems to provide data with moderate process operation	4		
Use of SCADA or similar instrumentation systems to provide data with extensive/total process operation	6		
LABORATORY CONTROL (15 pt. max)(4)			
Bacteriological/biological (5 pt. max):			
Lab work done outside the plant	0		

D. An expired certificate may be reinstated within [~~three months~~]one year after expiration by payment of a reinstatement fee. After [~~three months~~]one year, an expired certificate cannot be reinstated, and the operator must retest to become certified. The required CEUs for renewal must be accrued before expiration of the certificate. When unusual circumstances exist, an operator may petition the Council to request additional time to meet the requirements. Each petition will be considered on its own merits.

E. CEUs must be earned during the 3 year period prior to the expiration date of the certificate.

F. The Council may, after appropriate review, waive examination of applicants holding a valid certificate or license issued in compliance with other certification plans having equivalent standards, and issue a comparable Utah certificate upon payment of a reciprocity fee.

If the applicant is working in another state at the time of application, or has relocated to Utah but has not yet obtained employment in the wastewater field in Utah, a letter of intent to issue a certificate by reciprocity may be provided. When the applicant provides proof of employment in the wastewater field in Utah, and meets all other requirements, a certificate may be issued.

G. A grandfather certificate shall be issued, upon application and payment of an administrative fee, to qualified operators who must be certified (chief operators, supervisors, or anyone considered in direct responsible charge). The certificate shall be valid only for the wastewater works at which the operator is employed as that facility existed on March 16, 1991. Operators must obtain initial certification on or before March 16, 1994. The certificate may not be transferred to another facility or person. If the facility undergoes an addition of a new process, even if the facility classification does not change, or the collection system has a change in rating, the respective operator must obtain a restricted or unrestricted certificate within one year as specified in this rule.

Grandfather certificates shall be issued for a period of up to three years and must be renewed prior to the expiration date to remain in effect. Renewal shall include the payment of a renewal fee and submittal of evidence of required CEUs. The renewal fee shall be the same as that charged for renewal of other certificates. If the grandfather certificate is not renewed prior to the expiration date, the wastewater works may be considered to be out of compliance with this rule. The operator would then be required to pass the appropriate certification examination to become a certified operator.

The grandfather certificate shall be issued if the currently employed operator:

1. Was a chief operator or person in direct responsible charge of the wastewater works on March 16, 1991; and
2. Had been employed at least ten years in the operation of the wastewater works prior to March 16, 1991; and
3. Demonstrates to the Council his capability to operate the wastewater works at which he is employed by providing employment history and references.

KEY: water pollution, operator certification, wastewater treatment, renewals

Date of Enactment or Last Substantive Amendment: [~~October 22, 2007~~]2011

Notice of Continuation: October 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-5

**Governor, Economic Development,
Pete Suazo Utah Athletic Commission
R359-1-301
Qualifications for Licensure**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35200

FILED: 08/30/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Several promoters have requested that the commission permit licensed contestants in Utah to also officiate as unarmed combat referees and judges in events in which they are not competing.

SUMMARY OF THE RULE OR CHANGE: The proposed rule would permit licensed contestants in Utah to also officiate as unarmed combat referees and judges in events in which they are not competing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** If adopted, there would likely be a slight increase in the number of licensed unarmed combat judges and referees. This increased number of licenses would result in an estimated \$300 in net annual income to the commission's budget.

♦ **LOCAL GOVERNMENTS:** Since local government does not regulate or issue unarmed combat licenses, there would be no anticipated cost or savings.

♦ **SMALL BUSINESSES:** Since small businesses are not licensed unarmed combat judge or referee licenses, there would be no anticipated cost or savings.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** If a licensed contestant desires to be licensed as a judge or referee, it would cost them the licensing fee, presently \$30 for each license. However, they would earn a commission-established officials fee for each event that they officiate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a licensed contestant desires to be licensed as a judge or referee, it would cost them the licensing fee, presently \$30 for each license. However, they would earn a commission-established officials fee for each event that they officiate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Permitting licensed contestants to function as judges and referees will not have any fiscal impact on businesses.

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

GOVERNOR
ECONOMIC DEVELOPMENT,
PETE SUAZO UTAH ATHLETIC COMMISSION
324 S STATE ST
STE 500
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/25/2011

AUTHORIZED BY: Bill Colbert, Director

R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

R359-1. Pete Suazo Utah Athletic Commission Act Rule.

R359-1-301. Qualifications for Licensure.

(1) In accordance with Section 63C-11-308, a license is required for a person to act as or to represent that the person is a promoter, timekeeper, manager, contestant, second, matchmaker, referee, or judge.

(2) A licensed amateur [~~MMA~~]contestant shall not compete against a professional unarmed combat contestant, or receive a purse, or a percentage of ticket sales, and/or other remuneration (other than for reimbursement for reasonable travel expenses and per diem, consistent with IRS guidelines).

(3) A licensed manager or contestant shall not [~~hold a license as a~~]referee or judge any event or contestant affiliated with a gym or training facility they have been involved with during the past 12 months.

(4) A promoter shall not hold a license as a referee, judge, second or contestant.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [July 26,] 2011

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

Governor, Economic Development,
Pete Suazo Utah Athletic Commission
R359-1-501
Promoter's Responsibilities in
Arranging a Contest

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35199

FILED: 08/30/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove the fee schedule from the rule and clarify requirements for contestant medical insurance coverage and reimbursement.

SUMMARY OF THE RULE OR CHANGE: Change removes fee schedule from the rule and clarifies requirements for contestant medical insurance coverage and reimbursement.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed change removes the fee schedule from rule. This fee schedule is reviewed annually by the commission and legislature and is subject to change. The proposed change will not change the fees currently approved by the legislature and will not result in any anticipated cost or savings to the state budget. The proposed clarification to the contestant medical insurance coverage and reimbursement will also not impact the state budget.

◆ **LOCAL GOVERNMENTS:** Local government is not impacted or affected by the proposed change. Consequently there will not be any anticipated cost or savings to these entities.

◆ **SMALL BUSINESSES:** The proposed change removes the fee schedule from rule. This fee schedule is reviewed annually by the commission and legislature and is subject to change. The proposed change will not change the fees currently approved by the legislature and will not result in any anticipated cost or savings to the small businesses. The proposed clarification to the contestant medical insurance coverage and reimbursement will also not result in any anticipated cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed change removes the fee schedule from rule. This fee schedule is reviewed annually by the commission and legislature and is subject to change. The proposed change will not change the fees currently approved by the legislature and will not result in any anticipated cost or savings to any other persons or entities. The proposed clarification to the contestant medical insurance coverage and reimbursement will also not fiscally impact the other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed change removes the fee schedule from rule. This fee schedule is reviewed annually by the commission and legislature and is subject to change. The proposed change will not change the fees currently approved by the legislature and will not result in any anticipated cost or savings to businesses and promoters. The proposed classification to

the contestant medical insurance coverage and reimbursement will also not fiscally impact businesses or promoters.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed change removes the fee schedule from rule. This fee schedule is reviewed annually by the commission and legislature and is subject to change. The proposed change will not change the fees currently approved by the legislature and will not result in any anticipated cost or savings to businesses and promoters. The proposed clarification to the contestant medical insurance coverage and reimbursement will also not fiscally impact businesses or promoters.

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

GOVERNOR
ECONOMIC DEVELOPMENT,
PETE SUAZO UTAH ATHLETIC COMMISSION
324 S STATE ST
STE 500
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/25/2011

AUTHORIZED BY: Bill Colbert, Director

R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

R359-1. Pete Suazo Utah Athletic Commission Act Rule.

R359-1-501. Promoter's Responsibilities in Arranging a Contest.

(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000, or total sum of the contestant purses, officials fees and estimated commission fees, whichever is greater.

Promoters who have held less than 5 unarmed combat events in the state of Utah shall deposit an additional \$10,000 minimum Cashier's Check or Bank Draft with the commission no later than 7 days prior to the event or the event may be cancelled by the commission.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, ~~ring-~~record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the funds necessary for payment of contestants, referees, judges, timekeeper and the attending physician(s). The designated Commission member shall pay each contestant, referee, and judge in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

(10) The promoter shall be responsible for payment of any commission fee(s) deducted from a contestant's purse, if the fees are not collected directly from the contestant at the conclusion of the bout or if the contestant fails to compete in the event.

(11) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible, for the medical, surgical or hospital care for injuries he sustains while engaged in a contest of exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care for injuries sustained during a contest or exhibition, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter shall also provide life insurance coverage of \$10,000 for each contestant in case of death resulting from injuries sustained during a contest or exhibition.

(d) The required medical insurance and life insurance coverage ~~can-~~shall not be waived by the contestant or any other party.

(e) A contestant seeking medical insurance reimbursement for injuries sustained during an unarmed combat event shall obtain medical treatment for their injuries within 72 hours of their bout and maintain written records of their treatment, expenses and correspondence with the insurance provider and promoter to ensure coverage.

~~(f) The promoter shall not delay or circumvent the timely processing of a claim submitted by a contestant injured during a contest or exhibition.~~

(12) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:

~~(a)(i) The event attendance fee established in the adopted fee schedule on the date of the event. [\$200 for a contest or event occurring in a venue of fewer than 500 attendees;~~

~~(ii) \$300 for a contest or event occurring in a venue of at least 500 attendees but fewer than 1,000 attendees;~~

~~(iii) \$400 for a contest or event occurring in a venue of at least 1,000 attendees but fewer than 3,000 attendees;~~

~~(iv) \$600 for a contest or event occurring in a venue of at least 3,000 attendees but fewer than 5,000 attendees;~~

~~(v) \$1000 for a contest or event occurring in a venue of at least 5,000 attendees but fewer than 10,000 attendees; or~~

~~(vi) \$2000 for a contest or event occurring in a venue of at least 10,000 attendees; and]~~

(b) 3% of the first \$500,000, and one percent of the next \$1,000,000, of the total gross receipts from the sale, lease, or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof, without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges, except in no case shall the fee be more than \$25,000. These fees shall be paid to the commission within 45 days of the event. The promoter shall notify and provide the commission with certified copies of any contracts, agreements or transfers of any internet, broadcasting, television, and motion picture rights for any contest or exhibition within seven days of any such agreements. The commission may require a surety deposit be provided to the commission to ensure these requirements are met.

(c) the applicable fees assessed by the Association of Boxing Commission designated official record keeper, if not previously paid by the promoter.

(d) the commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:

(i) a showcase event promoting a greater interest in contests in the state;

(ii) attraction of the optimum number of spectators;

(iii) costs of promoting and producing the contest or exhibition;

(iv) ticket pricing;

(v) committed promotions and advertising of the contest or exhibition;

(vi) rankings and quality of the contestants; and

(vii) committed television and other media coverage of the contest or exhibition.

(viii) contribution to a 501(c)(3) charitable organization.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [July 26,] 2011

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

Health, Administration **R380-400** Use of Statistical Sampling and Extrapolation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35216

FILED: 09/01/2011

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: The Department proposed an extrapolation rule that was published in February and never made effective. A committee of interested providers, the Department, and the Office of Inspector General of the Medicaid Program have met since that time and this rule is the result of that collaboration. All agree that the rule is much improved. The definitions have greater clarity, as well as the methodology. Extrapolation may only be applied for a maximum period of 36 months and the initial sample must be random. Statistical sampling techniques are authorized when: 1) a pattern of errors are discovered during an audit such that a transaction error rate greater than 10% is discovered or a dollar error rate of 5%; 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. All sampling will be based on a single provider and a single billing code. Detailed provider notification requirements are set forth in Section R380-400-7 of the rule. Section R380-400-8 of the rule sets forth the claims using the rule's statistical methodology which is based on sound scientific statistical principles is sufficient to satisfy the burden of establishing a claim for recovery, unless rebutted by sound statistical evidence by the provider.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Savings are anticipated to the state budget, but the exact amount cannot be predicted.

♦ **LOCAL GOVERNMENTS:** Local governments provide Medicaid services and may be subject to recoveries under this rule.

♦ **SMALL BUSINESSES:** Yes, small business provide Medicaid services and may be subject to recoveries under this rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Yes, businesses provide Medicaid services and may be subject to recoveries under this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Yes, there may be significant costs to Medicaid providers to respond to audits and recoveries performed as a result of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses may have significant costs if audits find they received inappropriate payments, but there would be no fiscal costs to businesses as a result of the rule itself. This rule was developed with the participation of representatives from medical providers who would be affected by the rule in a negotiated rulemaking process. Although medical providers are not in agreement that extrapolation is the best way to determine the amount of recoveries they are agreed on the procedures for using statistical sampling and extrapolation when it would be applied as defined in this rule. The Department appreciate the support of these providers in the negotiated rulemaking process and for their helpful suggestions in improving the 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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: David Patton, PhD, Executive Director

R380. Health, Administration.

R380-400. Use of Statistical Sampling and Extrapolation.

R380-400-1. Purpose and Authority.

This rule governs the methodology for statistical sampling and extrapolation on services covered by Title XIX of the Social Security Act. This rule is authorized by Sections 26-1-5, 26-18-3, and 26-18-605.

R380-400-2. Definitions.

Definitions for the purposes of this rule are as follows:

(1) "Billing Codes" means the current codes that may be billed to the Department and may consist of currently used DRG Codes, CPT Codes, HCPC Codes, or other nationally or locally accepted codes.

(2) "Confidence Interval" means a range of values within which a pattern of error is statistically estimated to lie.

(3) "Confidence Level" means the probability that the value of a parameter falls within a specified range of values.

(4) "Cost Effective" means provides the greatest estimated return of recoveries for overpayments relative to cost considering the available alternatives.

(5) "Diagnostic Related Groups (DRG)" means a group of related medical conditions used to establish reimbursement.

(6) "Dollar Error Rate" means the percentage of the total dollars in the initial sample found to be overpayments to the total dollars in the initial sample.

(7) "Error Types" means overpayments with a similar cause or result. For purposes of this rule, error types are limited to the following:

a. Insufficient or no documentation to support services billed, medical necessity, diagnosis codes, or billing codes.

b. Upcoding.

c. Incorrectly Unbundled services.

d. Incorrect billing code combinations.

(8) "Extrapolation" means an estimate of overpayments in claims that lie beyond the range of observation taken from a universe of records.

(9) "Initial Sample" means a statistically valid random sample of claims from the universe of records from a period not less than three months and not more than eighteen months, used to establish a pattern of error.

(10) "Standard deviation" means a statistical measure of variability that reflects the typical deviation from the mean of a distribution.

(11) "Overpayment" means any amount paid by the Department to a provider which is in excess of the amount allowed either through fraud, waste or abuse; a mistake; the lack of appropriate documentation; billing errors; errors caused either by the department, Reviewing Agency, provider, or a mechanized claims processing system; or payments not allowed under part 1902 of the Social Security Act or in violation of state rules or federal regulations, or Federally published policies.

(12) "Pattern of Error" means a transaction error rate of 10% or more, or a dollar error rate of 5% or more, found in the initial sample.

(13) "Random Sample" means a statistically valid sample drawn from the universe of records by chance; a sample drawn in such a way that every item in the universe of records has an equal and independent chance of being included in the sample.

(14) "Review" means the process in which the Reviewing Agency will select a universe of records to be sampled to determine the appropriateness of a claim. Factors used to assess appropriateness will include medical necessity; appropriate documentation; compliance with department, state and federal program policies, rules, regulations, statutes, and laws; and adherence to contract requirements.

(15) "Reviewing Agency" means any state agency, or other entity acting on behalf of a state agency, authorized by state or federal law to perform reviews, which include samples of claims filed for a public benefit funded with state or federal funds administered by the Department.

(16) "Sampling Methodology" means the use of the sampling tool, by certified users, developed by the Texas Department of Health and Human Services version 2009, which is hereby incorporated by reference, to select a random sample from a universe of records in order to calculate a dollar error rate for means of extrapolating an overpayment in a universe of records.

(17) "Transaction Error Rate" means the percentage of claims in the sample containing overpayments to the total number of claims in the sample.

(18) "Underpayment" means any amount paid by the Department to a provider which is less than the amount allowed under part 1902 of the Social Security Act or state rules or federal regulations, or federally published policies.

(19) "Universe of Records" means the total number of claims based on a single provider and for services for a single billing code, for dates of service up to 36 months prior to the date of the review.

(20) "Risk Assessment" means the identification of the level of risk of overpayments involved with the universe of records.

R380-400-3. Use of Sampling Methodology.

The Reviewing Agencies' procedures for performing reviews include the use of the sampling methodology.

R380-400-4. Initial Review to Determine Dollar and Transaction Error Rates and Need for Extrapolation.

(1) The Reviewing Agency, based on a review, of the initial sample of claims, will determine whether a pattern of error is present.

(2) Following a review of the initial sample, if a pattern of error was found and the Reviewing Agency, at its sole discretion, concludes it is cost effective, and that the error rate lies within 2.5 standard deviations of the mean, the Reviewing Agency may proceed with extrapolation based on reviewing the results from a random sample. If the error rate of the random sample lies outside 2.5 standard deviations of the mean of the initial sample and the error rate is lower than 2.5 standard deviations from the mean of the initial sample, extrapolation shall not be applied and only those errors discovered will be considered as overpayment.

(3) When extrapolation is applied, sampling methodology will be used to extrapolate the dollar and transaction error rate within the universe of records. The statistical random sample will be of sufficient size to achieve a confidence interval of 95% and a confidence level of plus or minus 5%. The dollar and transaction error rates will be determined based on the results of the statistical sample.

R380-400-5. Initial Sample Size Determination.

(1) Referrals will be processed through any federally-approved fraud and abuse detection software (FADS) tool, when access to such a tool is available.

(2) The Risk Assessment will be considered "moderate" unless the risk assessment is determined to be either "high" or "low."

(3) The Risk Assessment will be considered "high" when any of the following are true:

a. The claims being considered for review are indicated to be aberrant by the use of a FADS tool, when access to such a tool is available, or by the use of any data-mining analysis.

b. The applicable provider type is classified, as of the date of the review, as "high" risk in the CFR for initially categorizing provider risk. See Federal Register/Vol. 76, No. 22/Wednesday, February 2, 2011/ Rules and Regulations, pages 5895-5896, which is incorporated by reference.

c. The provider is operating during the first 12 months after signing a provider agreement.

If the provider is considered "high" risk during any period of a review, then the provider is considered "high" risk during the entire period of the review.

(4) The Risk Assessment will be considered "low" when the risk assessment has not been determined to be "high" and when all of the following are true:

a. The applicable provider type is classified, as of the date of the review, as "low" risk in the Federal Register for initially categorizing provider risk.

b. The Reviewing Agency, based on any previous review of the same provider, assumes both the dollar and transaction errors in the initial sample are likely to be below the pattern of error.

c. The Reviewing Agency, based on any previous reviews involving the same provider type, assumes both the dollar and transaction errors in the initial sample are likely to be below the pattern of error.

(5) The statistically valid sample size table for initial samples is as follows in Table 1:

TABLE 1

Risk Assessment	Universe of Records	
	> = 250 Claims	< 250 Claims
High	100	80
Moderate	75	60
Low	50	40

R380-400-6. Overpayments and Underpayments.

The dollar amount of the extrapolated overpayment will be computed by applying the dollar error rate of the statistical random sample to the total dollar amount actually paid the provider as documented from the universe of records. If the review establishes that any claims from the universe of records should have been paid at a lesser amount, then only the difference between the total amount actually paid to the provider and the lesser amount that should have been paid to the provider will be used to calculate the dollar error rate. Any underpayments discovered during a review will offset the final total dollar amount of the overpayment. The final total dollar amount of the overpayment will constitute a debt by the provider to the Department.

R380-400-7. Provider Notification Requirements.

(1) When extrapolation is not applied after the initial sample, notice will be sent to the provider of the following:

- a. The opportunity to request a hearing.
- b. The criteria used to determine the initial sample.
- c. The dollar and transaction error rates.
- d. The size of the sample.

- _____ e. The specific claims sampled.
_____ f. The reason(s) for the overpayments.
_____ g. The actual total dollar amount of the total overpayments specifically identified to be recovered.
(2) When a statistical sample has been reviewed and extrapolation has been applied, notice will be sent to the provider of the following:
_____ a. Items (1) a. through f. above in R380-400-7 as applied to the initial sample and the statistical sample.
_____ b. Total underpayments noted.
_____ c. The final total dollar amount of the overpayment based on extrapolation.

R380-400-8. Administrative Hearing Appeals and Burden of Proof.

If a provider appeals an action of the Department or Reviewing Agency regarding a claim based on statistical sampling using this rule's methodology, the action shall be deemed to satisfy the Department's or Reviewing Agency's burden of providing evidence sufficient to establish the claim, unless rebutted by the provider.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2011

Authorizing, Implemented or Interpreted Law: 26-1-5; 26-18-3

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-3A-2
Definitions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35207

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify that the Department uses Medicare's payment methodology for outpatient hospital services.

SUMMARY OF THE RULE OR CHANGE: This amendment removes language that defines outpatient hospital services to be less than 24 hours and clarifies that these services are defined by Medicare's payment methodology.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.20 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because this change only clarifies that the

Department uses Medicare's payment methodology for outpatient hospital services.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide outpatient hospital services to Medicaid recipients.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this change only clarifies that the Department uses Medicare's payment methodology for outpatient hospital services.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this change only clarifies that the Department uses Medicare's payment methodology for outpatient hospital services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this change only clarifies that the Department uses Medicare's payment methodology for outpatient hospital services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Use of Medicare payment methodology for outpatient hospital services should provide standardization in the marketplace and be positive for providers.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
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:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-3A. Outpatient Hospital Services.

R414-3A-2. Definitions.

(1) "Allowed charges" mean actual charges submitted by the provider less any charges for non-covered services.

(2) "CHEC" means Child Health Evaluation and Care and is the Utah specific term for the federally mandated program of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for children under the age of 21.

(3) "Clinical Laboratory Improvements Act" (CLIA) is the Centers for Medicare and Medicaid Services (CMS) program that limits reimbursement for laboratory services based on the equipment and capability of the physician or laboratory to provide an appropriate, competent level of laboratory service.

(4) "Hyperbaric Oxygen Therapy" is therapy that places the patient in an enclosed pressure chamber for medical treatment.

(5) "Other Practitioner of the Healing Arts" means a doctor of dental surgery or a podiatrist.

(6) "Outpatient" ~~is defined in 42 CFR 440.20[means professional services provided for less than a 24-hour period regardless of the hour of admission, whether or not a bed is used, or whether or not the patient remains in the facility past midnight].~~

(7) "Prepaid Mental Health Plan" means the prepaid, capitated program through which the Department pays contracted community mental health centers to provide all needed inpatient and outpatient mental health services to residents of the community mental health center's catchment area who are enrolled in the plan.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~September 1,~~ 2011

Notice of Continuation: November 8, 2007

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-2.3; 26-18-3(2); 26-18-4

**Health, Family Health and
Preparedness, Emergency Medical
Services
R426-5**

Statewide Trauma System Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35196

FILED: 08/30/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to simplify and reduce the duplication of survey personnel participating in hospital on-site trauma center designation surveys. In addition, reporting requirements for trauma center is reduced, while still protecting the public.

SUMMARY OF THE RULE OR CHANGE: The rule change eliminates duplication in the present rule which requires a state site designation team for American College of Surgeons (ACS) Verified Trauma Centers and reduces the burden of reporting required for trauma centers already verified by the (ACS).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a-252

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** \$6,000 savings per year by eliminating the expense of two surveyors for ACS verified trauma centers.

◆ **LOCAL GOVERNMENTS:** Local governments do not operate hospitals affected by this rule and no cost is expected.

◆ **SMALL BUSINESSES:** Small businesses do not operate hospitals affected by this rule and no cost is expected.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** \$1,000 savings per year by eliminating the need to file duplicate/separate applications for trauma center designation in Level I and Level II trauma centers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: \$1,000 savings per year by eliminating the need to file duplicate/separate applications for trauma center designation in Level I and Level II trauma centers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will reduce the fees paid by hospitals voluntarily seeking a trauma center designation as well as the reporting requirement while still protecting the public.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
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:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: David Patton, PhD, Executive Director

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-5. Statewide Trauma System Standards.

R426-5-6. Trauma Center Designation Process.

(1) ~~[Hospitals wishing designation recognition shall complete a Department application as outlined in R426-5-7.~~

(2) ~~The Department shall, upon receipt of the completed application and appropriate fees, verify compliance to the~~

designation level sought in accordance with protocols established by the department.

(3) Trauma centers shall be designated for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-5-7.

(4) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, and state EMS agencies, and as appropriate, to hospitals in nearby states which refer patients to Utah hospitals.

R426-5-7. Trauma Center Verification Process.

(1) ~~Hospitals seeking voluntary designation and [AH]all designated Trauma Centers desiring to remain designated, shall apply for [verification]designation by submitting the following information to the Department at least [six months]30 days prior to the [anniversary date of initial designation]date of the scheduled site visit:~~

(a) A completed and signed application and appropriate fees for trauma center verification;

(b) A letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) The data specified under R426-5-8 are current;

(d) ~~[The minutes of pertinent hospital committee meetings for the previous year as specified by the Trauma Review Subcommittee, for example, trauma conferences, surgical morbidity and mortality meetings, emergency department or trauma death audits]Level I and Level II Trauma Centers must submit a copy of the Pre-review Questionnaire (PRQ) from the American College of Surgeons in lieu of the application in 1a above.~~

(e) ~~[A brief narrative report of trauma outreach education activities for the previous year]Level III Level IV and Level V trauma centers must submit a complete Department approved application[;].~~

~~[A brief narrative report of trauma research activities for the previous year including protocols and publications.~~

(2) ~~[All trauma centers desiring to apply for verification shall submit the required application and appropriate fees to the Department no later than January 1]Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification visit.~~

(3) ~~Upon receipt of a verification application from the Department, accompanied by the information specified under R426-5-7(1)(a) through (f), the Trauma Review Committee shall conduct a review and report the results to the Department.] Hospitals desiring to be Level III, Level IV or Level v Trauma Centers must be designated by hosting a formal site visit by the Department.~~

(4) ~~Every three years, the Level I and II Trauma Centers must submit written documentation detailing the results of an American College of Surgeons site visit.~~

(5) ~~Every three years from the date of initial designation or from a date specified by the Department, the Trauma Review Subcommittee shall conduct a formal site visit for each designated Level III, IV, or V trauma center and report the results to the Department.~~

(6) ~~3] The Department and [the Trauma Review Committee]its consultants may conduct observation, review and monitoring activities with any designated trauma center to verify compliance with designation requirements[which may include:].~~

~~[(a) Site visits to observe, unannounced, an actual trauma resuscitation, including the care and treatment of a trauma patient.~~

~~(b) Interview or survey prehospital care providers who frequent the trauma center, to ascertain that the pledged level of trauma care commitment is being maintained by the trauma center.~~

(4) Trauma centers shall be designated for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-5-6 or adjusted to coincide with the American College of Surgeons verification timetable.

(5) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, and state EMS agencies, and as appropriate, to hospitals in nearby states which refer patients to Utah hospitals.

R426-5-8]7. Data Requirements for an Inclusive Trauma System.

(1) All hospitals shall collect, and quarterly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. The inclusion criteria for a trauma patient are as follows:

(a) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); and

(b) At least one of the following patient conditions:
admitted to the hospital for 24 hours or longer; transferred in or out of your hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status; all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

(c) Exclusion criteria are ICD9 Diagnostic Codes:
930-939.9 (foreign bodies)
905-909.9 (late effects of injury)
910-924.9 (superficial injuries, including blisters, contusions, abrasions, and insect bites)

The information shall be in a standardized electronic format specified by the Department which includes:

(i) Demographics:
Database Record Number
Institution ID number
Medical Record Number
Social Security Number
Patient Home Zip Code
Sex
Date of Birth
Age Number and Units
Patient's Home Country
Patient's Home State
Patient's Home County
Patient's Home City
Alternate Home Residence
Race
Ethnicity

- (ii) Injury:
 - Date of Injury
 - Time of Injury
 - Blunt, Penetrating, or Burn Injury
 - Cause of Injury Description
 - Cause of Injury Code
 - Work Related Injury (y/n)
 - Patient's Occupational Industry
 - Patient's Occupation
 - Primary E-Code
 - Location E-Code
 - Additional E-Code
 - Incident Location Zip Code
 - Incident State
 - Incident County
 - Incident City
 - Protective Devices
 - Child Specific Restraint
 - Airbag Deployment
- (iii) Prehospital:
 - Name of EMS Service
 - Transport Origin Scene or Referring Facility
 - Trip Form Obtained (y/n)
 - EMS Dispatch Date
 - EMS Dispatch Time
 - EMS Unit Arrival on Scene Date
 - EMS Unit Arrival on Scene Time
 - EMS Unit Scene Departure Date
 - EMS Unit Scene Departure Time
 - Transport Mode
 - Other Transport Mode
 - Initial Field Systolic Blood Pressure
 - Initial Field Pulse Rate
 - Initial Field Respiratory Rate
 - Initial Field Oxygen Saturation
 - Initial Field GCS-Eye
 - Initial Field GCS-Verbal
 - Initial Field GCS-Motor
 - Initial Field GCS-Total
 - Inter-Facility Transfer
- (iv) Referring Hospital:
 - Transfer from Another Hospital (y/n)
 - Name or Code
 - Arrival Date
 - Arrival Time
 - Discharge Date
 - Discharge time
 - Transfer Mode
 - Admitted or ER
 - Procedures
 - Pulse
 - Capillary Refill
 - Respiratory Rate
 - Respiratory Effort
 - Blood Pressure
 - Eye Movement
 - Verbal Response
 - Motor Response
 - Glasgow Coma Score Total
- Revised Trauma Score Total
- (v) Emergency Department Information:
 - Mode of Transport
 - Arrival Date
 - Arrival Time
 - Discharge Time
 - Discharge Date
 - Initial ED/Hospital Pulse Rate
 - Initial ED/Hospital Temperature
 - Initial ED/Hospital Respiratory Rate
 - Initial ED/Hospital Respiratory Assistance
 - Initial ED/Hospital Oxygen Saturation
 - Initial ED/Hospital Systolic Blood Pressure
 - Initial ED/Hospital GCS-Eye
 - Initial ED/Hospital GCS-Verbal
 - Initial ED/Hospital GCS-Motor
 - Initial ED/Hospital GCS-Total
 - Initial ED/Hospital GCS Assessment Qualifiers
 - Revised Trauma Score Total
 - Alcohol Use Indicator
 - Drug Use Indicator
 - ED Discharge Disposition
 - ED Death
 - ED Discharge Date
 - ED Discharge Time
- (vi) Emergency Department Treatment:
 - Procedures Done (pick list)
 - Paralytics used prior to GCS (y/n)
- (vii) Admission Information:
 - Admit from ER or Direct Admit
 - Admitted from what Source
 - Time of Hospital Admission
 - Date of Hospital Admission
 - Hospital Procedures
 - Hospital Procedure Start Date
 - Hospital Procedure Start Time
- (viii) Hospital Diagnosis:
 - ICD9 Diagnosis Codes
 - Injury Diagnoses
 - Co-Morbid Conditions
 - AIS Score for Diagnosis (calculated)
 - Injury Severity Score
- (ix) Quality Assurance Indicators:
 - Hospital Complications
- (x) Outcome:
 - Discharge Time
 - Discharge Date
 - Total Days Length of Stay
 - Total ICU Length of Stay
 - Total Ventilator Days
 - Disposition from Hospital
 - Destination Facility
- (xi)Charges:
 - Payment Sources

R426-5-[9]8. Trauma Triage and Transfer Guidelines.

The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for

triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.

R426-5-~~10~~9. Noncompliance to Standards.

(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-5.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.

R426-5-~~11~~10. Statutory Penalties.

A person who violates this rule is subject to the provisions of Title 26, Chapter 23.

KEY: emergency medical services, trauma, reporting, trauma center designation

Date of Enactment or Last Substantive Amendment: ~~March 15, 2010~~2011

Notice of Continuation: July 18, 2007

Authorizing, and Implemented or Interpreted Law: 26-8a-252

Human Services, Administration
R495-878
Department of Human Services Civil
Rights Complaint Procedure

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 35178
FILED: 08/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: 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, which provides that no individual be discriminated against because of a disability.

SUMMARY OF THE RULE OR CHANGE: The previous rule refers to the "State ADA Coordinating Committee" in dealing with Civil Rights Complaints. This committee no longer exists and is not a part of the process. Also, there is no longer a Civil Rights Coordinator through the Bureau of Administrative Support. The new rule defines the ADA Coordinator to be assigned by the executive director and is not restricted to a certain person. Definitions were expanded through the Code of Federal Regulations in the new rule. References to offices, addresses, codes, and citations were changed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 28 CFR 35.107 and Section 62A-1-111 and Subsection 63G-3-201(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The changes in the rule are only informational, they do not impact the state budget and do not create additional cost or savings to the current procedure.

◆ **LOCAL GOVERNMENTS:** The changes to this rule are only informational and update names and procedures. This will not impact local government. This rule only applies to grievances within Human Services with the State of Utah.

◆ **SMALL BUSINESSES:** The changes to this rule are informational and update the procedures to file a grievance with Human Services in the State of Utah. This will not affect small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes to this rule are informational and update the procedures to file a grievance with Human Services in the State of Utah. This will have no impact on other persons or other local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule are procedural changes to file a grievance with Human Services. This will not have a fiscal impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this rule are informational and update procedures, names and addresses. This will not have a fiscal impact on business.

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

HUMAN SERVICES
ADMINISTRATION
ROOM DHS ADMINISTRATIVE OFFICE
MULTI STATE OFFICE BUILDING
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jodi Patterson by phone at 801-538-4143, by FAX at 801-538-4317, or by Internet E-mail at jpatters@utah.gov
◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Palmer DePaulis, Executive Director

R495. Human Services, Administration.

~~[R495-878. Department of Human Services Civil Rights Complaint Procedure.~~

~~R495-878-1. Authority and Purpose.~~

~~(1) This rule is authorized by Section 62A-1-111 and the Federal Civil Rights statutes and regulations cited below. The Department of Human Services, (Department) adopts, defines, and publishes within this rule complaint procedures that incorporate due process standards and that provide for the prompt and equitable resolution of complaints filed in accordance with the Civil Rights Act of 1964, 45 CFR 80.4(b)(2); the Rehabilitation Act of 1973, 45 CFR 84.7(b); and the Americans with Disabilities Act (ADA), 28 CFR 35.107.~~

~~R495-878-2. Definitions.~~

- ~~(1) Terms used in this rule with respect to ADA are defined in 28 CFR 35.104.~~
 - ~~(2) Terms used in this rule with respect to the Rehabilitation Act of 1973 are defined in 45 CFR 84.3.~~
 - ~~(3) Terms used in this rule with respect to the Civil Rights Act of 1964 are defined in 45 CFR 80.13.~~
 - ~~(4) "The Civil Rights Coordinator" for the Department is the Director of the Bureau of Administrative Support. The Coordinator has responsibility for investigating and providing prompt and equitable resolution of complaints filed by persons alleging discrimination in the receipt of services due to disabilities, race, color, or national origin.~~
 - ~~(5) The "State ADA Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:

 - ~~(a) Office of Planning and Budget;~~
 - ~~(b) Department of Human Resource Management;~~
 - ~~(c) Division of Risk Management;~~
 - ~~(d) Division of Facilities Construction Management; and~~
 - ~~(e) Office of the Attorney General.~~~~
 - ~~(6) "Disability" means, with respect to an individual with a disability, a physical or mental impairment that substantially limits one or more of the major life activities of such an individual; a record of such an impairment; or being regarded as having such an impairment.~~
 - ~~(7) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~
 - ~~(8) "Qualified Individual with a disability" (individual) means a person who has a disability which limits one of his or her major life activities and who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department of Human Services or who would otherwise be an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position.~~
- ~~R495-878-3. Filing of Complaints.~~**
- ~~(1) An individual shall file the complaint in a timely manner to assure prompt, effective assessment and consideration of the facts, but no later than 180 days from the date of the alleged act of discrimination.~~
 - ~~(2) The complaint may be filed with any division, office or regional office of the Department or directly with the~~

~~Department's Civil Rights Coordinator. Complaints filed locally and not resolved within five working days are to be forwarded to the Coordinator. The complaint shall be in writing or in another accessible format suitable to the individual and delivered or mailed to:~~

- ~~Coordinator, Civil Rights~~
- ~~Bureau of Administrative Support~~
- ~~120 North 200 West, Room 331~~
- ~~Salt Lake City, Utah 84103~~
- ~~(3) Each complaint shall:~~
 - ~~(a) include the individual's name and address;~~
 - ~~(b) include the nature and extent of the individual's disability; (if ADA or Section 504)~~
 - ~~(c) describe the Department's alleged discrimination 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 individual or by his or her legal representative.~~
- ~~(4) Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.~~
- ~~(5) With or without exhausting the Department's procedures, complainants may also file complaints alleging discrimination in employment and in the delivery of services with:~~
 - ~~Office for Civil Rights/Denver~~
 - ~~U.S. Department of Education~~
 - ~~1244 Speer Boulevard~~
 - ~~Cesar E. Chavez Memorial Building~~
 - ~~Suite 310~~
 - ~~Denver, CO 80204~~

~~R495-878-4. Investigation of Complaint.~~

- ~~(1) The Coordinator shall conduct an investigation of each complaint received. The Department of Human Resource Management Field Office-Human Services (DHRM) shall assume lead responsibility in conducting investigations for complaints from employees alleging discrimination under Title I of the ADA. DHRM investigations shall be submitted to the Coordinator to issue a decision. The Bureau of Administrative Support shall assume lead responsibility in conducting all other civil rights investigations. Investigations shall be conducted to the extent necessary to assure all relevant facts are determined and documented. This may include gathering all information listed in R495-878-3(3) if it is not made available by the individual.~~
- ~~(2) When conducting the investigation, the Coordinator may seek assistance from other divisions/offices within the Department and the Office of the Attorney General in determining what action, if any, shall be taken on the complaint. The Coordinator shall consult with the State ADA Coordinating Committee before making any decision that would involve:

 - ~~(a) an expenditure of funds which is not absorbable within the agency or Department's budget and would require appropriation authority;~~
 - ~~(b) facility modification beyond the Department's capability due to the constraint in item (1) above; or~~
 - ~~(c) reclassification or reallocation in merit system grade.~~~~

R495-878-5. Issuance of Decision.

(1) Within 15 working days after receiving the complaint, the Coordinator shall issue a decision outlining in writing or in another accessible format suitable to the individual stating what action, if any, shall be taken on the complaint.

(2) If the Coordinator is unable to reach a decision within the 15 working day period, written notice (or notice in another acceptable format) shall be provided to the complainant explaining the delay and the amount of additional time needed.

R495-878-6. Appeals.

(1) The individual may appeal the decision of the Coordinator by filing an appeal within five working days from the receipt of the decision.

(2) The appeal shall be filed in writing with the Executive Director of the Department of Human Services.

(3) The filing of an appeal shall be considered as authorization by the individual to allow review of all information, including information classified as private or controlled, by the Executive Director or appointed designee.

(4) The appeal shall describe in sufficient detail why the Coordinator's decision is in error, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

(5) The Division Director may also appeal a decision by the Coordinator when the decision is perceived to negatively affect Division operation.

(6) The Executive Director or appointed designee shall review the factual findings of the investigation and the individual's statement regarding the inappropriateness of the Coordinator's decision and arrive at an independent conclusion and recommendation. Additional investigations may be conducted, if necessary, to clarify questions of fact before making any decision that would require:

(a) an expenditure of funds which is not absorbable within the agency or Department's budget and would require appropriation authority;

(b) facility modifications beyond the Department's capability to be absorbed within the budget and would require appropriation authority; or

(d) reclassification or reallocation in merit system grade.

(7) The decision shall be issued within 15 working days after receiving the appeal and shall be in writing or in another accessible format suitable to the individual.

(8) If the Executive Director is unable to reach a decision within the fifteen day working period, he shall notify the individual in writing or in another accessible format suitable to the individual why the decision is delayed and the additional amount of time needed to reach a decision.

R495-878-7. Classification of Records.

(1) The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63G-2-305 until the Coordinator, Executive Director or their designees issue the decision at which time any portions of the record which may pertain to the individual's medical conditions shall remain classified as private as defined under Section 63G-2-302 or controlled as defined in Section 63G-2-304. All other information gathered as part of the complaint record shall be classified as private information. Only

the written decision of the Coordinator, Executive Director or designees shall be classified as public information.

R495-878-8. Relationship to Other Laws.

(1) This rule does not prohibit or limit the use of remedies available to individuals under the State Anti-Discrimination Complaint Procedures, as found in Section 67-19-32; the Federal ADA Complaint Procedures, as found in 28 CFR 35.170, (1992); the Federal Rehabilitation Act procedures as found in 29 U.S.C. 794; or any other Utah State or Federal law that provides equal or greater protection for the rights of individuals with disabilities.]

R495-878. Americans with Disabilities Act Grievance Procedures.**R495-878-1. Authority and Purpose.**

(1) This rule is made under authority of Section 63A-1-111 and Subsection 63G-3-201(3). As required by 28 CFR 35.107, the Utah Department of Human 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.

(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, which provides that no individual shall 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.

R495-878-2. Definitions.

(1) "ADA Coordinator" means the employee assigned by the executive director to investigate and facilitate the prompt and equitable resolution of complaints filed by qualified persons with disabilities.

(2) "Department" means the Department of Human Services created by Section 62A-1-102.

(3) "Designee" means an individual appointed by the executive 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 affected by a complaint filed under this rule.

(5) "Disability" is defined in 28 CFR 35.104.

(6) "Executive Director" means the executive director of the department.

(7) "Major life activities" is defined in 28 CFR 35.104.

(8) "Qualified Individual" is defined in 28 CFR 35.104.

R495-878-3. Filing of Complaints.

(1) Any qualified individual or their authorized representative may file a complaint alleging noncompliance with Title II of the Americans with Disabilities Act, as amended, or the federal regulations promulgated thereunder.

(2) Qualified individuals or their authorized representatives 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.

(3) Qualified individuals or their authorized representatives shall file their complaints within 180 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 180 days after alleged noncompliance.

(4) Each complaint shall:

(a) Be in writing and delivered to:

ADA Coordinator

Department of Human Services

195 North 1950 West

Salt Lake City, Utah 84116

(b) Include the complainant's name and address;

(c) Include the nature and extent of the qualified individual's disability;

(d) Describe the department's alleged discriminatory action in sufficient detail to inform the department of the nature and date of the alleged violation;

(e) Describe the action and accommodation desired; and

(f) Be signed by the complainant or by his legal representative.

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

R495-878-4. 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 R495-878-3(4) of this rule if it is not made available by the complainant.

(a) If the ADA Coordinator requires additional information from the complainant to complete the investigation, the ADA Coordinator shall send the complainant a records release form. This form shall be returned within 10 days of notice.

(2) The ADA coordinator or designee may seek assistance from the Attorney General's staff 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 may be affected by the decision, including the Office of Planning and Budget, 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; or

(b) require facility modifications;

R495-878-5. Recommendation and Decision.

(1) If the ADA coordinator or designee is unable to make a recommendation within the 15 working day period, 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.

(2) Within 30 calendar 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.

(3) The director may confer with the ADA coordinator or designee and the complainant and may accept or modify the recommendation to resolve the complaint. The director or designee shall render a decision within 10 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 the decision. The director's decision shall be in writing, and shall be delivered to the complainant.

R495-878-6. Appeals.

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

(2) The appeal shall be in writing.

(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 appeal the complainant shall describe in sufficient detail why the decision does not effectively address the complainant's needs.

(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 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; or

(b) require facility modifications;

(6) The executive director shall issue a final decision within 15 working days after receiving the complainant's appeal. The decision shall be in writing, and shall be delivered to the complainant.

(7) If the executive director or designee is unable to reach a final decision within the 15 working day period, the complainant shall be notified in writing why the final decision is being delayed and the additional time needed to reach a final decision.

R495-878-7. 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: [developmentally disabled, Americans with Disabilities Act 1992, Rehabilitation Act 1973, Civil Rights Act 1964] grievance procedures, disabled persons~~

~~Date of Enactment or Last Substantive Amendment: [June 13, 2008] 2011~~

Notice of Continuation: February 5, 2007

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 63G-3-201(3); 28 CFR 35.107

Human Services, Child and Family
Services
R512-44
Choose Life Adoption Support
Restricted Account

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35181

FILED: 08/24/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is necessary to bring the Division of Child and Family Services into compliance with H.B. 337, passed during the 2011 General Session.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the requirements for carrying out the purposes of the Choose Life Adoption Support Restricted Account as outlined in Section 62A-4a-608, with the funding specified in Section 41-1a-418.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-418 and Section 41-1a-419 and Section 41-1a-422 and Section 62A-4a-102 and Section 62A-4a-311 and Section 62A-4a-608 and Section 63J-1-504 and Section 63J-1-602.4

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule implements statute, mandating oversight and implementation of the Choose Life Adoption Support Restricted Account. Funding for this account is provided through a restricted account. The amount of funding is unknown at this time. This rule designates responsibilities for a program administrator. Costs for new duties for the program administrator will be absorbed in the existing state budget for the adoption program administrator position.

◆ **LOCAL GOVERNMENTS:** The Choose Life Adoption Support Restricted Account is only available to private, non-profit organizations. Local government will have no role or costs associated with implementing this rule.

◆ **SMALL BUSINESSES:** The Choose Life Adoption Support Restricted Account is only available to private, non-profit organizations, which typically are small businesses. Successful bidders for this funding will be required to provide dollar for dollar match for the funding, half of which can be in-kind. The amount of the financial impact is unknown at this time because the amount of funding is not yet known. This rule will not affect any small businesses other than those that may be awarded contracts through a Request for Proposal process.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Choose Life Adoption Support Restricted Account will not have a fiscal impact on persons. Funding will only be awarded to a private, non-profit agency. Persons who may participate in programs operated by agencies receiving these funds will not incur a cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individual persons are not directly affected by this rule; therefore there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Choose Life Adoption Support Restricted Account does not have a fiscal impact on businesses in general. Private, non-profit organizations that successfully bid for a contract with this funding will be required to meet statutory match requirements.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.**R512-44. Choose Life Adoption Support Restricted Account.****R512-44-1. Purpose and Authority.**

(1) The purpose of this rule is to specify the requirements for carrying out the purposes of the Choose Life Adoption Support Restricted Account as outlined in Section 62A-4a-608, with the funding specified in Section 41-1a-418.

(2) This rule is authorized by Section 62A-4a-102.

R512-44-2. Definitions.

(1) For the purposes of this Rule:

(a) "Administrator" means the employee of Child and Family Services appointed by the Director to administer the Choose Life Adoption Support.

(b) "Child and Family Services" means the Division of Child and Family Services.

(c) "Director" means the Director of Child and Family Services.

(d) "RFP" means Request for Proposal.

R512-44-3. Scope.

(1) Funds from the Choose Life Adoption Support Restricted Account shall be used for charitable organizations that support, promote, and provide education about adoption. This may occur by producing and distributing educational and promotional materials on adoption, conducting educational courses on adoption, and providing other programs that support adoption as specified in Section 62A-4a-608.

R512-44-4. Responsibilities of the Director.

(1) In addition to the responsibilities defined in Section 62A-4a-608, the Director shall:

(a) Designate a staff member to serve as the Administrator of the Choose Life Adoption Support Restricted Account.

(2) Approve policies of the Choose Life Adoption Support Restricted Account.

R512-44-5. Funding Limitations and Requirements.

(1) Child and Family Services shall distribute the funds in the Choose Life Adoption Support Restricted Account to one or more charitable organizations that:

(a) Qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) As part of their primary mission, include the support, promotion, and education of adoption programs; and

(c) Are licensed or registered to do business within the state in accordance with Utah state law.

(2) Funding for individual projects shall be based on yearly revenues available in the restricted account. If unobligated account revenues for a given year are less than \$50,000, Child and Family Services may forego the RFP process for that year.

(3) Each program or project funded through the Choose Life Adoption Support Restricted Account shall provide a dollar-for-dollar match from private, non-government sources.

(a) In-kind contributions may be used as part of the match requirement. No more than 50 percent of the match requirement may be in-kind.

(b) Items that may be used as in-kind match are contributed services of support personnel, office space, furniture and equipment, utility costs, donated printing, vehicles, and contributed services of professional personnel including physicians, nurses, social workers, psychologists, educators, public accountants, and lawyers who are performing services for which they would normally be paid. The source of original funding for this in-kind match shall not be state or federal monies.

(4) Of the total monies available for allocation in the Choose Life Adoption Support Restricted Account, awards shall be granted according to the allocation plan approved by the Director.

R512-44-6. Proposal Requirements.

(1) A RFP shall be developed by the Administrator based upon the approved allocation plan and adoption support priorities, and in accordance with State Purchasing Guidelines. The RFP shall specify the purposes and eligibility requirements for projects or programs to be funded through the Choose Life Adoption Support Restricted Account. The proposal requirements may vary from year to year.

(2) The RFP shall be disseminated through the online State Purchasing Bid Program. Project or program proposals shall be submitted as specified in the RFP.

R512-44-7. Procedures in Selecting Programs or Projects to be Supported by the Choose Life Adoption Support Restricted Account.

(1) Proposals received by Child and Family Services in response to the RFP shall be reviewed according to the criteria specified in the RFP, consistent with Section 62A-4a-608.

(2) The Administrator or Child and Family Services contract specialists shall negotiate contracts with successful offerors, based on State Purchasing Guidelines.

R512-44-8. Research.

(1) Choose Life Adoption Support Restricted Account funds may be used for research programs consistent with Section 62A-4a-608 at funding levels deemed appropriate. Basic or applied research programs or projects that provide empirical data that help support adoption or inform adoption education may be funded.

R512-44-9. Evaluation.

(1) Each program or project funded through the Choose Life Adoption Support Restricted Account shall be evaluated by Child and Family Services at least once each year to determine if the purposes and goals of the project have been met.

KEY: adoption, Choose Life Adoption Support
Date of Enactment or Last Substantive Amendment: 2011
Authorizing, Implemented, or Interpreted Law: 41-1a-418; 41-1a-419; 41-1a-422; 62A-4a-102; 62A-4a-311; 62A-4a-608; 63J-1-504; 63J-1-602.4

**Human Services, Substance Abuse
and Mental Health
R523-24
Off Premise Retailer (Clerk, Licensee
and Manager) Alcohol Training and
Education Seminar Rules of
Administration**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 35191
FILED: 08/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add fraud prevention measures to the provider responsibilities.

SUMMARY OF THE RULE OR CHANGE: The division has received input regarding the potential for fraud in the Off Premise Retailer Training and Seminar certification process. As a result, the division has sought public input from a steering committee and is now amending the rule to include requirements for fraud prevention measures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-401 and Subsection 62A-15-105(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will not be any cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** There will be minimal cost to local governments for them to program some changes into their trainings. It is anticipated that these minimal costs will be passed on to the customer in the form of a minimally increased cost to take the classes.
- ◆ **SMALL BUSINESSES:** There will be minimal cost to small business for them to program some changes into their trainings. It is anticipated that these minimal costs will be passed on to the customer in the form of a minimally increased cost to take the classes.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be minimal cost to other persons for them to program some changes into their trainings. It is anticipated that these minimal costs will be passed on to the customer in the form of a minimally increased cost to take the classes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be minimal compliance costs to affected persons for them to program some changes into their trainings. The costs will be for them to program some changes into their trainings. It is anticipated that these minimal costs will be passed on to

the customer in the form of a minimally increased cost to take the classes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to this rule will have a minimal fiscal impact on businesses that will ultimately be passed to the customer. The benefits of the change to increase fraud prevention outweigh any minimal costs that will be incurred.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
- ◆ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Lana Stohl, Director

**R523. Human Services, Substance Abuse and Mental Health.
R523-24. Off Premise Retailer (Clerk, Licensee and Manager)
Alcohol Training and Education Seminar Rules of
Administration.**

R523-24-1. Authority, Intent, and Scope.

(1) These rules are adopted under the authority of Section 62A-15-401 authorizing the Division of Substance Abuse and Mental Health to administer the Alcohol Training and Education Seminar Program.

(2) The intent of statute and rules is to require every person to complete the Seminar who sells or furnishes alcoholic beverages to the public for off premise consumption in the scope of the person's employment with a general food store or similar business.

(3) These rules include:

- (a) curriculum content standards,
- (b) seminar provider standards,
- (c) provider certification process;
- (d) the ongoing activities of providers, and
- (e) the process for approval, denial, suspension and revocation of provider certification.

R523-24-2. Definitions.

(1) "Approved Curriculum" means a provider's curriculum which has been approved by the Division in accordance with these rules.

(2) "Certification" means written approval from the Division stating a person or company has met the requirements to become a seminar provider.

(3) "Director" means the Director of the Division of Substance Abuse and Mental Health.

(4) "Division" means the Division of Substance Abuse and Mental Health.

(5) "Manager" means a person chosen or appointed to manage, direct, or administer the operations at the premises of a licensee. A manager may also be a supervisor.

(6) "Provider" means an individual or company who has had their curriculum approved and certified by the Division.

(7) "Seminar" means the Off Premise Alcohol Training and Education Seminar.

(8) "Supervisor" means an employee who, under the direction of a manager as defined above if the business establishment employees a manager, or under the direction of the owner or president of the corporation if no manager is hired, directs or has the responsibility to direct, transfer, or assign duties to employees who actually sell or furnish alcoholic beverages to customers for off premise consumption.

(9) "Retail employee" (clerk or supervisor) means any person employed by a general food store or similar business and who is engaged in the sale of or directly supervises the sale of beer to consumers for off premise consumption.

R523-24-3. Provider Certification Application Procedure.

(1) A provider seeking first-time certification shall make application to the Division at least 30 days prior to the first scheduled seminar date. A provider seeking recertification to administer the seminar shall make application to the Division at least 30 days prior to expiration of the current certification.

(2) Any seminar conducted by a non-certified provider shall not meet the retailer training requirements authorized under Section 62A-15-401.

(3) All application forms shall be reviewed by the Division. The Division shall determine if the application is complete and in compliance with Section 62A-15-401 and these rules. If the Division approves the application and curriculum, and determines the provider has met all other requirements, the Division shall certify the provider.

(4) Within 30 days after the Division has taken action, the Division shall officially notify the applicant of the action taken: denial, approval, or request for further information, and notification of the action taken shall be forwarded in writing to the applicant. If an application for recertification requires additional information or corrective action, a provider may continue to conduct seminars for 30 days from the date of notification. If the provider has not resolved the action required with the Division by that date, the provider is no longer certified to provide the seminar and must cease until all actions are approved by the Division.

R523-24-4. Provider Responsibilities.

(1) For each person completing the seminar, the provider shall electronically submit to the Division the name, last four digits of the person's social security number, ~~[expiration date and test results indicating pass or fail,]~~ and the required fee, within 30 days of the completion of the seminar.

(2) Each person who has completed the seminar and passed the provider-administered and Division-approved examination shall be approved as a retail employee for a period which begins at the completion of the seminar and expires five years from that date.

(3) The provider shall issue a certification card to the retail employee. The card shall contain at least the name of the retail employee and the expiration date. The provider shall be responsible for issuing any duplicates for lost cards.

~~(4) The Provider shall implement at least three of the following measures to prevent fraud:~~

~~(a) Authentication that accurately identifies the individual taking the online course or test;~~

~~(b) Measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;~~

~~(c) Measures to track the actual time an individual taking the online course or test is actively engaged online;~~

~~(d) Provide technical support, such as a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;~~

~~(e) A test to meet quality standards, including randomization of test questions and maximum time limits to take a test;~~

~~(f) Issue a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;~~

~~(g) Measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;~~

~~(h) Track the internet protocol address or similar electronic location of an individual who takes an online course or test;~~

~~(i) Provide an individual who takes an online course or test the opportunity to use an e-signature; or~~

R523-24-5. Retail Employee Responsibilities.

(1) A retail employee is required within 30 days of employment by a general food store or similar business to complete and pass the Seminar.

~~[(2) For retail employees who have been certified prior to the implementation of SB 58 Substitute Alcoholic Beverage Amendments — Eliminating Sales to Youth — Knudson 2006, Certification will remain in effect until January, 2008 under the following stipulations:~~

~~(a) the provider under which the retailer was trained must submit their curriculum to the Division and obtain certification for the program;~~

~~(b) the provider must submit a plan to educate those previously trained about the new administrative penalties outlined in the legislation, and the plan is to be approved by the Division.~~

R523-24-6. Division Responsibilities.

The Division shall maintain the ~~[list]~~database of retail employees who have completed the Seminar ~~[and provide this information to licensing agencies and licensed general food stores of similar businesses.]~~

R523-24-7. Approved Curriculum.

(1) Each provider must have a curriculum approved by the Division. This curriculum must provide at least sixty minutes of [classroom-]instruction both for original certification and for any and all re-certifications. The contents of an approved curriculum shall include the following components:

- (a) alcohol as a drug;
- (b) alcohol's effect on the body and behavior including education on the effects of alcohol on the developing youth brain, which information shall be provided by the Division;
- (c) recognizing the problem drinker or signs of intoxication;
- ~~[(d) an overview of state laws related to responsible beverage sale as determined in consultation with the Department of Alcoholic Beverage Control, which information shall be provided by the Division;~~
- (e) statistics identifying the underage drinking problem, which information provided by the Division;
- (f) discussion of criminal and administrative penalties for salesclerks and retail stores for selling beer to underage and intoxicated persons;
- (g) strategies commonly used by minors to gain access to alcohol;
- (h) process for checking ID, for example the FLAG system: Feel Look, Ask, Give Back);
- (i) policies and procedures to prevent beer purchases by intoxicated individuals;
- (j) techniques for declining a sale including rehearsal and practice of these techniques using face-to-face role play; and
- (k) recognition of beverages containing alcohol including examples of such beverages.

R523-24-8. Examination.

The examination shall include questions from each of the curriculum components identified in Section R523-24-7. The examination will be submitted for approval with the rest of the provider application.

R523-24-9. Alcohol Training and Education Seminar Provider Standards.

- (1) The Division may certify a provider applicant who:
 - (a) identifies all program instructors and instructor trainers and certifies in writing that they:
 - (i) have been trained to present the course material, and
 - (ii) that they have not been convicted of a felony or of any violation of the laws or ordinances concerning alcoholic beverages, within the past five years;
 - (b) agrees to notify the Division in writing of any changes in instructors and submit the assurances called for in Subsection R523-24-9(a) for all new instructors;
 - ~~[(c) can show adequate facilities, instructional equipment and materials, personnel, and financial resources to provide a successful program for the length of time the license is in effect; and~~
 - (c) Allow the Division to audit all online courses or tests at any time the Division requests;
 - (d) agrees to invalidate a course completion certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test;

(d) will establish and maintain course completion records.

(2) All online training courses shall be provided on a secure website.

R523-24-10. Grounds For Denial, Corrective Action, Suspension, and Revocation.

- (1) The Division may deny, suspend or revoke certification if:
 - (a) the provider or applicant violates these rules, or
 - (b) the applicant fails to correctly complete all required steps of the application process as determined by these rules or other rules or statutes referenced in these rules; or
 - (c) a provider whose certification has been previously denied, suspended or revoked and has reapplied without correcting the problem that resulted in the denial, suspension or revocation.

R523-24-11. Corrective Action.

- (1) If the Division becomes aware that a provider is in violation of these rules or other rules or statutes referenced in these rules:
 - (a) within 30 days after becoming aware of the violation, the Division shall identify in writing the specific areas in which the provider is not in compliance and send written notice to the provider.
 - (b) within 30 days of notification of noncompliance, the provider shall submit a written plan for achieving compliance. The provider may be granted an extension.

R523-24-12. Suspension and Revocation.

- (1) The Director or designee may suspend the certification of a provider as follows:
 - (a) When a provider fails to respond in writing to address areas of noncompliance identified in writing by the Division within the defined period. The defined period is 30-days plus any extensions granted by the Division.
 - (b) When a provider fails to take corrective action as agreed upon in its written response to the Division.
 - (c) When a provider fails to allow the Division access to information or records necessary to determine the provider's compliance under these rules and referenced rules and statutes.
- (2) The Director or designee may revoke certification of a provider as follows:
 - (a) A provider or its authorized instructors continue to provide the Seminar while the provider is under a suspended certification.
 - (b) A provider fails to comply with corrective action while under a suspension.
 - (c) A program has committed a second violation which constitutes grounds for suspension when a previous violation resulted in a suspension during the last 24 months.

R523-24-13. Procedure for Denial, Suspension, or Revocation.

- (1) If the Division has grounds for action under these rules, or as required by law, and intends to deny, suspend or revoke certification of a provider, the steps governing the action are as follows:
 - (a) The Division shall notify the applicant or provider by personal service or by certified mail, return receipt requested, of the

action to be taken. The notice shall contain reasons for the action, to include all statutory or rule violations, and a date when the action shall become effective.

(b) The provider may request an informal hearing with the Director, or the Director's designee, within ten calendar days. The request shall be in writing. Within ten days following the close of the hearing, the Director or designee shall inform the provider or applicant in writing as required under Section 63G-4-203. The provider may appeal to the Department of Human Services Office of Administrative Hearing as provided for under Section 63G-4-203.

KEY: off-premises, training, seminars, alcohol
Date of Enactment or Last Substantive Amendment:
[September 10, 2009]2011
Notice of Continuation: July 13, 2011
Authorizing, and Implemented or Interpreted Law: 62A-15-105(5); 62A-15-401

**Human Services, Services for People
with Disabilities
R539-9
Supported Employment Pilot Program**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 35176
FILED: 08/18/2011**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The state-supported employment program received ongoing funding beginning in FY 2012 and is connected to Section 62A-5-103.1.

SUMMARY OF THE RULE OR CHANGE: Occurrences of "supported employment pilot" and "pilot" have been removed and replaced with "state supported employment program" and "program." References to support coordinators have been changed to refer to division representatives.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103.1

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No cost or savings are expected to the state budget due to the rule amendments because these amendments are nonsubstantive changes in terminology used in the rule. The changes in terminology refer only to the division and will not have any effect on state budget. The division will not be doing any other work than they are already doing.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings are expected to the local government due to the rule amendments because these amendments are nonsubstantive changes in

terminology used in the rule. The changes in terminology refer only to the division and will not have any effect on local government budgets. The division will not be doing any other work than they are already doing.

- ◆ **SMALL BUSINESSES:** No cost or savings are expected to small business due to the rule amendments because these amendments are nonsubstantive changes in terminology used in the rule. The changes in terminology refer only to the division and will not have any effect on small business budgets. The division will not be doing any other work than they are already doing.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule amendments are not expected to affect other persons or result in additional costs or savings because these amendments are nonsubstantive changes in terminology used in the rule. The changes in terminology refer only to the division and will not have any effect on other persons. The division will not be doing any other work than they are already doing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are expected because these amendments are nonsubstantive changes in terminology used in the rule and relate to a voluntary program that is free to citizens who meet eligibility requirements. The program is an existing program that will continue providing employment services to people with severe intellectual disabilities. The changes in terminology refer only to the division and will not have any affect on other persons, businesses or local or state budgets.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No compliance costs are expected because these amendments are nonsubstantive changes in terminology used in the rule and relate to a voluntary program that is free to citizens who meet eligibility requirements. The program is an existing program that will continue providing employment services to people with severe intellectual disabilities. The changes in terminology refer only to the division and will not have any effect on other persons, businesses or local or state budgets.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
195 N 1950 W
THIRD FLOOR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Paul Day by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Paul Smith, Acting Director

R539. Human Services, Services for People with Disabilities.

R539-9. State Supported Employment [~~Pilot~~] Program.

R539-9-1. Purpose and Authority.

- (1) The purpose of this rule is to provide:
 - (a) procedures and standards for the determination of eligibility for the Division's [~~pilot program to provide~~]state supported employment [~~services~~]program for Persons on the Division's Waiting List as specified in R539-2-4.
 - (b) This rule is authorized by Section 62A-5-103.1

R539-9-2. Definitions.

- (1) Terms used in this rule are defined in Section 62A-5-101, and
- (2) "Supported Employment" means "competitive work" in integrated work settings or employment in "integrated work" settings where individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities.
- (3) "Competitive Work" means employment in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.
- (4) "Integrated Work" means job sites where most employees are not disabled, where a client interacts on a regular basis, in the performance of job duties, with employees who are not disabled. If a client is part of a distinct work group of only individuals with disabilities, the work group should consist of no more than eight individuals.
- (5) "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and Plan for Achieving Self Support or Impairment Related Work Expense.

(6) "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and Plan for Achieving Self Support or Impairment Related Work Expense.

R539-9-3. Eligibility.

- (1) A Person who meets the eligibility requirements listed in Section 62A-5-103.1 may participate in the state supported employment [~~pilot~~]program provided that:
 - (2) the Person agrees to enter services under the conditions listed in Section 62A-5-103.1,
 - (3) the Person agrees not to use any other Home and Community Based Medicaid Waiver service operated by the Division while participating in the Supported Employment Pilot, (but may use Service Brokering services, if appropriate),

(4) if the person has a Medicaid Card the person may continue to access State Plan, E-Pass and other Medicaid services operated separately from the Division during participation in the [~~pilot~~]program,

(5) the person agrees to move off the immediate needs waiting list for supported employment,

(6) the person is found eligible for Division of Rehabilitation Services, Supported Employment funding,

(7) the person agrees to use an approved provider,

(8) the person signs the State Supported Employment Program[~~Pilot~~] Participant Agreement and agrees to follow through with instructions from rehabilitation counselors, services for people with disabilities support coordinators and service brokers and private provider staff,

(9) the person has an Office of Education, Rehabilitation Services, Referral and Services Report form 58 completed, signed by a rehabilitation counselor and a Division representative[~~support coordinator~~],

(10) the person agrees that the person's need for extended supported employment services will be met solely by the provision of state supported employment [~~services for the duration of the pilot~~]program, and

(11) the person agrees to provide information needed by the person's employer to obtain the tax incentive through 26 U.S. Code 44, Federal Welfare to Work, Internal Revenue Service, IRS Form 8850 or Section 59-7-608 or Credit for Employers Who Hire Persons with Disabilities, Form TC-40HD.

R539-9-4. Priority.

(1) First priority will be given to Persons on the waiting list for supported employment services who currently receive Division of Rehabilitation Services funding.

(2) Second priority will be given to Persons on the waiting list for supported employment services and no other services.

(3) Third priority will be given to Persons waiting for supported employment and other services.

KEY: disabilities, supported employment program

Date of Enactment or Last Substantive Amendment: [~~May 22, 2008~~]**2011**

Notice of Continuation: August 10, 2011

Authorizing, and Implemented or Interpreted Law: 62A-5-103.1

Insurance, Administration
R590-195
Rental Car Related Licensing Rule

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 35175
FILED: 08/18/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the revision is to make corrections to the language of the rule to be consistent with language used in the insurance statute, to correct code citations, and to make some format changes to be consistent with other department rules.

SUMMARY OF THE RULE OR CHANGE: Corrections are being made to the language of the rule to be consistent with language used in the insurance statute and to make some format changes to be consistent with other department rules. More specifically: citations in the Authority Section have been corrected; in Section R590-195-4 a definition for "Car Rental Related License" has been added; "persons" and "personnel" are being changed to "individual"; and an Enforcement Date Section has been added to the rule making the enforcement date the same as the effective date of the rule changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-23a-106 and Section 31A-23a-110 and Section 31A-23a-111

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The changes to this rule will have no impact on department revenue, workload or number of employees. The changes correct citations, grammar and are for clarification purposes.
- ◆ **LOCAL GOVERNMENTS:** The changes to this rule will have no impact on local government since the rule deals solely with the relationship between the department and their licensees.
- ◆ **SMALL BUSINESSES:** The changes to this rule are being made to clarify language and correct errors. They will have no procedural or fiscal impact on agents, agencies or rental car businesses affected by this rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes to this rule are being made to clarify language and correct errors. They will have no procedural or fiscal impact on agents, agencies or rental car businesses affected by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule are being made to clarify language and correct errors. They will have no procedural or fiscal impact on agents, agencies, rental car businesses or its customers affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on businesses. Changes correct errors and clarify the language of the rule.

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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-195. ~~Rental~~ Car Rental Related Licensing Rule.****R590-195-1. ~~Purpose.~~**

~~This rule establishes uniform criteria and procedures for the initial and renewal licensing of rental car related insurance agents and agencies, and sets standards of licensing and conduct for those in the rental car related insurance business in the State of Utah.~~

R590-195-2. ~~Authority.~~

This rule is promulgated ~~[by the insurance commissioner]~~ pursuant to:

~~(1) [the] Subsection[s] 31A-2-201(3) [authorizing] that authorizes the commissioner to adopt rules to implement the provisions of the Utah Insurance Code[;];~~

~~(2) Subsection 31A-23a-106(2)[(d)](b) [authorizing] that authorizes car rental related insurance as a [type limited lines insurance], limited line of authority of a limited line producer license type;~~

~~(3) Subsection 31A-23a-110(1) [gives] that authorizes the commissioner [the authority] to prescribe the form in which licenses covered under Chapter 23a are to be issued[, and 31A-23a-113(3) gives the commissioner the authority]; and~~

~~(4) Subsection 31A-23a-111(10) that authorizes the commissioner to prescribe by rule the license renewal and reinstatement procedures for licenses covered under Chapter 23a.~~

R590-195-2. Purpose and Scope.

~~(1) The purpose of this rule is to establish uniform criteria and procedures for the initial and renewal licensing of car rental related insurance limited line producer individuals and agencies, and to set standards of licensing and conduct for those in the car rental related insurance business in the State of Utah.~~

~~R590-195-3. Scope and Applicability.~~

~~(2) This rule applies to all [persons] individuals and entities engaged in the issuance of [rental] car rental related insurance contracts or policies.~~

R590-195-~~4~~3. Definitions.

For the purpose of this rule the commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-23a-102, and the following:

(1) ~~"[ear]Car rental related insurance"~~ means any contract of insurance issued as a part of an agreement of rental of passenger automobiles and trucks to a gross vehicle weight of 45,000 pounds, for a period of 30 days or less. ~~For the purposes of this rule, definitions contained in chapters 1 and 23a of Title 31A are applicable]; and~~

(2) "Car rental related license" means a limited line producer license type with a car rental related insurance limited line of authority.

R590-195-~~5~~4. Agency License and Renewal.

(1) ~~[Rental car related licenses are limited lines licenses. These licenses are]~~ A car rental related license is issued for a two year license period and requires no examination or continuing education.

(2) ~~[Rental]~~ A car rental related license[s] must be renewed at the end of the two year licensing period in accordance with ~~[e]~~Chapter 23a of ~~[t]~~Title 31A and any applicable department rule[s] regarding license renewal.

(3) Licensing is applicable to ~~[all persons and entities]~~ an individual or entity involved in the soliciting, quoting, marketing, ~~[and]~~or issuing of car rental related insurance and must be licensed in accordance with Chapter 23a of Title 31A and applicable department rules regarding individual and agency licensing.

(a) ~~[Rental]~~ A car rental related license[s] may be held ~~[either]~~ by:

(i) an individual[s]; or

(ii) ~~[entities (agencies)]~~ an entity.

(b) ~~[Licensed individuals]~~ An individual licensed under this rule must be ~~[either]~~:

(i) appointed by ~~[insurers]~~ an insurer underwriting ~~[the]~~ a car rental related insurance ~~[policies they sell]~~ policy that the individual sells; or

(ii) ~~[be]~~ designated to act by an agency licensed under this rule.

(c) ~~[Licensed agencies]~~ An agency licensed under this rule must:

(i) be appointed by ~~[insurers]~~ an insurer underwriting ~~[the]~~ a car rental related insurance ~~[policies they sell]~~ policy that the agency sells; and;

(ii) ~~[must]~~ have ~~[one]~~ a designated responsible licensed individual at each location at which the agency is soliciting, quoting, marketing or selling car rental related insurance.

(4) ~~[Agencies]~~ An agency licensed under the terms of this rule may employ a non-licensed ~~[personnel]~~ individual employed as a rental counter sales representative[s] in soliciting, quoting, ~~[and]~~ marketing or selling ~~[of]~~ car rental related insurance. Such non-licensed ~~[personnel]~~ individual must be:

(i) trained and supervised in the sale of ~~[rental]~~ car rental related insurance products; and

(ii) ~~[must be]~~ responsible to a licensed individual designated by the agency at each location where ~~[these]~~ a car rental related insurance product ~~[s are]~~ is sold.

R590-195-~~6~~5. Penalties.

~~[Violations of this rule are punishable pursuant to]~~ A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-195-6. Enforcement Date.

The commissioner will begin enforcing this rule on the effective date of the rule.

R590-195-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held to be invalid, ~~[such]~~ that invalidity ~~[will]~~ 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: insurance licensing

Date of Enactment or Last Substantive Amendment: ~~[April 22, 1999]~~ 2011

Notice of Continuation: March 11, 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201; ~~31A-23-204~~ 31A-23a-106; 31A-23a-110; 31A-23a-111

Insurance, Administration **R590-244** Individual and Agency Licensing Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35179

FILED: 08/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the revision is to establish minimum limits for the new Errors and Omissions (E&O) requirement resulting from H.B. 43 of the recent 2011 General Session, to correct the expiration date for bail bond agency licenses to be consistent with the date as changed in H.B. 19 of the 2011 General Session, and to add clarity to the definition of SIRCON, and to allow for opening up the application process via National Insurance Producer Registry (NIPR) as they become available with regard to resident license types that currently may only be applied for via SIRCON.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made to the rule: 1) a new citation is being added to the Authority section authorizing the commissioner to adopt a rule prescribing terms and conditions of legal liability insurance coverage to be maintained by an individual resident producer licensee; 2) Section R590-244-5 sets the minimum coverage amount for legal liability errors and omissions insurance coverage required to be maintained by individual resident producer licensees as per H.B. 43 passed this year; 3) allows resident licensees to apply for issuance or renewal of their insurance

license through either Sircon Corporation (SIRCON) or National Insurance Producer Registry (NIPR), licensing vendors for the department; and 4) Section R590-244-7 changed the expiration date for a bail bond agency license from July 15 to August 14, as per the passage this year of H.B. 19.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-35-104 and Subsection 31A-23a-104(2) and Subsection 31A-23a-110(1) and Subsection 31A-23a-111(10) and Subsection 31A-23a-115(1) and Subsection 31A-23a-203.5(3) and Subsection 31A-23a-302(2) and Subsection 31A-25-201(1) and Subsection 31A-25-208(9) and Subsection 31A-26-202(1) and Subsection 31A-26-210(1) and Subsection 31A-26-213(10) and Subsection 31A-35-301(1) and Subsection 31A-35-401(2) and Subsection 31A-35-406(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no change in fees or workload for the department. There will be no change in filings received by the department or revenues. This rule will impact the department's licensing vendors, Sircon and NIPR as well as residents seeking a new insurance license and producers renewing existing licensees.

◆ **LOCAL GOVERNMENTS:** This rule will not affect local government since it deals solely with the relationship between the department and its licensees.

◆ **SMALL BUSINESSES:** H.B. 43 authorizes the department to set terms and conditions for the errors and omissions coverage to be maintained by Utah resident individual producer insurance licensees. Currently this E and O requirement focuses on the 18,476 resident licensees in Utah. The rule requires a resident producer to either purchase an E and O policy, be covered under their agency's policy, or be covered under a written agreement with an insurer on whose behalf they are working. E and O coverage is handled differently by lines of insurance. Property and casualty insurance companies or agencies generally provide the coverage for producers who work for them; life and health insurance producers are generally required by the insurance company they represent to obtain their own coverage and often at much higher limits than that required now by the law, those affiliated with an insurance association can often obtain it from them at a reduced price.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Regarding E and O coverage, insurance companies are not mandated to provide E and O coverage to their producers but it has been a common practice for property and casualty companies and agencies to provide it for their producers. Cost varies greatly based upon the agency's premium volume or number of producers working for them, as well as experience. In regards to obtaining or renewing an insurance license through the two vendors associated with the department, SIRCON and NIPR; in the past resident licensees have been limited to doing business with SIRCON. As a result of the change they will also have the option of purchasing the license from NIPR. To satisfy the Dodd-Frank

Wall Street Reform and Consumer Protection Act of 6-29-2010, surplus lines brokers can now be licensed through NIPR also. Even though the rule opens the possibility for those seeking licensure as a resident licensee or to renew an existing license, the opportunity to do so will be made available gradually to allow time for NIPR to make sure they can provide the fingerprinting services and background checks resident licensees are required to have before obtaining an insurance license. As more and more resident licensees are allowed to choose between NIPR and Sircon to handle their licensing needs Sircon could find their Utah business reduced, thus reducing their revenues and NIPR could find the reverse true. NIPR and SIRCON licensing processing fees are similar for both vendors charging under \$10 for a new and renewal license. NIPR may be \$1 to \$2 less in certain circumstances. On a monthly basis an average of 270 individuals apply for a new resident license and 535 renew their licenses, about half of those licensed fail to renew each year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individual life and health insurance producers that have not had E and O coverage in the past are now required to obtain it at a minimum limit of \$250,000/\$500,000. Since most life and health insurers have not generally obtained this coverage the producer will likely be required to pay this cost themselves. The cost range is wide depending on experience, coverage limits, and premium volume. As far as licensing goes, the individual resident licensee will have two instead of one licensing vendor to choose from. This will have minimal financial impact on the licensee. Initially it will have little impact on the two providers. Once all resident insurance licensees are allowed to choose from both vendors they will be impacted by an increase or decrease in their business from Utah resident licensees. It should be noted that both vendors do a new and renewal resident licensing processing business in other states, NIPR in all 50 states and SIRCON in around 20 states.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Sircon and NIPR will ultimately be affected by the change in law allowing resident licensees a choice between the two vendors. In addition, the requirement for all resident producers to be covered by E&O coverage will mostly impact health and life producers who have not traditionally been required to have this coverage by the insurer or agency for whom they work. The new requirement will have little impact, if any, on property and casualty producers who generally are required to have this coverage already. Service and reliability will be key to getting and keeping resident licensee business.

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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-244. Individual and Agency Licensing Requirements.

R590-244-1. Authority.

This rule is promulgated pursuant to:

(1) Subsection 31A-2-201(3) that authorizes the commissioner to adopt rules to implement the provisions of the Utah Insurance Code;

(2) Subsections 31A-23a-104(2), 31A-23a-110(1), 31A-25-201(1), 31A-26-202(1), 31A-35-104, 301(1) and 401(2) that authorize the commissioner to prescribe the forms and manner in which an initial or renewal individual or agency license application under Chapters 23a, 25, 26 and 35 is to be made to the commissioner;

(3) Subsections 31A-23a-111(10), 31A-25-208(9), 31A-26-213(10), and 31A-35-406(1) that authorize the commissioner to adopt a rule prescribing license renewal and reinstatement requirements for individual and agency licensees under Chapters 23a, 25, 26, and 35;

(4) Subsection 31A-23a-115(1) that authorizes the commissioner to adopt a rule prescribing reporting requirements to be utilized by an insurer for the initial appointment or the termination of appointment of a person authorized to act on behalf of the insurer under Chapter 23a; ~~and~~

(5) Subsection 31A-23a-203.5(3) that authorizes the commissioner to adopt a rule prescribing the terms and conditions of any required legal liability insurance coverage to be maintained by or on behalf of a licensed resident individual producer ;and

(6) Subsections 31A-23a-302(2) and 31A-26-210(1) that authorize the commissioner to adopt a rule prescribing reporting requirements to be utilized by an agency for the initial designation or the termination of designation of a person authorized to act on behalf of the agency under Chapters 23a and 26.

R590-244-2. Purpose and Scope.

(1) The purpose of this rule is to provide standards for:

(a) an individual or agency licensee for:

- (i) obtaining, renewing or reinstating a license; and
- (ii) making other miscellaneous license amendments;

(b) an insurer for the initial appointment or the termination of an appointment of an individual or agency licensee; and

(c) an agency for the initial designation or the termination of a designation of an individual licensee to the agency's license.

(2) Scope.

(a) This rule applies to all individuals and agencies licensed under Chapters 23a, 25, 26 and 35.

(b) This rule applies to all admitted insurers doing business in Utah.

R590-244-3. Definitions.

For the purpose of this rule the commissioner adopts the definitions as set forth in Subsections 31A-1-301, 31A-23a-102, 31A-26-102, and 31A-35-102 and the following:

(1) "Active license" means a license under which a licensee has been granted authority by the commissioner to engage in some activity that is part of or related to the insurance business.

(2) "Inactive license" means a formerly active license where a licensee is no longer authorized by the commissioner to engage in some activity that is part of or related to the insurance business.

(3) "Lapse" means the inactivation of an active license by expiration of the period for which the license was issued or by operation of law.

(4) "License application" means information submitted by a license applicant to provide information about the license applicant that is used by the commissioner to evaluate the applicant's qualifications and decide whether to:

(a) issue or decline to issue a license;

(b) add or decline to add an additional line of authority to an active license;

(c) renew or decline to renew an active license; or

(d) reinstate or decline to reinstate an inactive license.

(5) "Line of authority" means a line of insurance of a particular subject matter area within a license type for which the commissioner may grant authority to do business.

(6) "License type" means a category of license identifying a specific functional area of insurance activity for which the commissioner may grant authority to do business.

(7) "NIPR" means an electronic application software provided by the National Insurance Producer Registry (NIPR).

(8) "Reinstate" means the activation of an inactive license within 365 days of the inactivation date.

(9) "Renewal" means the continuation of an active license from one two-year licensing period to another, except that the licensing period for a bail bond agency is one year.

(10) "SIRCON" means an electronic application software provided by [~~SIRCON~~]Sircon Corporation or its acquiring parent company, Vertafore, Inc.

(11) "Termination for cause" means

(a) an insurer or an agency has ended its relationship with a licensee or has cancelled the licensee's authority to act on behalf of the insurer or agency for one of the reasons identified in 31A-23a-111(5); or

(b) a licensee has been found to have engaged in any of the activities identified in 31A-23a-111(5) by a court, government body, or self-regulatory organization authorized by law.

R590-244-4. Requirement to Electronically Submit License Applications, Appointments, Designations, and License Amendments.

(1) Except as otherwise provided in this rule the following shall be submitted electronically to the department using

[<http://www.sircon.com/utah>] (SIRCON[]) or [<http://www.nipr.com/>] (NIPR[]):

(a) all individual and agency license applications under chapters 23a, 25, 26, and 35 as prescribed in R590-244-6, 7, and 8 for:

- (i) a new license;
- (ii) an additional license type or line of authority;
- (iii) a license renewal; or
- (iv) a license reinstatement;

(b) all appointments, termination of appointments, designations, and terminations of designations as prescribed in R590-244-9 and 10;

(c) all miscellaneous license amendments pertaining to individual and agency licenses under Chapters 23a, 25, 26 and 35 as prescribed in R590-244-11;

(d) all documents related to reporting to the commissioner of criminal prosecution or administrative action taken against a licensee as required under Chapters 23a, 25, 26 and 35; and

(e) any additional documentation required in connection with an application, except as shown in (iv) below, including but not limited to:

(i) written explanation and documentation for positive responses to background questions on a license application;

(ii) evidence of meeting specific experience, bonding, or other requirements for certain license types or lines of authority; or

(iii) evidence of meeting continuing education requirements for a renewal or reinstatement application when there is a question regarding the number of course hours completed.

(iv) If an electronic attachment of a document required in connection with an application is not available in the attachment utility from SIRCON or NIPR, the document shall be submitted electronically via a facsimile or as a PDF attachment to an email, until such time that an electronic attachment of the document to the application becomes available from SIRCON or NIPR.

(2) Attestation. Submission of an electronic application or other form under this Rule constitutes the applicant's or submitter's attestation under penalties of perjury that the information contained in the application or form is true and correct.

(3) Any submission subject to this rule that does not comply with this rule, including an application that remains incomplete for a period of 30 days following the initial submission, may be rejected as incomplete and returned to the submitter without being processed, with any paid fees forfeited to the State.

R590-244-5. Requirement of an Active License to Sell, Solicit, or Negotiate Insurance.

(1) A person must have the following to sell, solicit, or negotiate insurance:

(a) an active license matching the type and line of insurance being sold, solicited, or negotiated; and

(b) if the person is an agency, an appointment from an insurer ~~or a designation from an agency~~; or

(c) if the person is an individual:

(i) an appointment from an insurer or a designation from an agency; and

(ii) if the individual is a resident producer, legal liability errors and omissions insurance coverage in an amount not less than

\$250,000 per claim and \$500,000 annual aggregate limit, as applicable in accordance with Section 31A-23a-203.5.

(2) A licensee whose license is inactivated for any reason shall not sell, solicit, or negotiate insurance from the date the active license is inactivated until the date the inactive license is reactivated.

R590-244-6. New License Application.

(1) ~~[A resident license application for a new license, or for the addition of an additional license type or line of authority, shall be submitted using SIRCON.~~

~~_____ (2) [A resident or non-resident license application for a new license, or for the addition of an additional license type or line of authority, shall be submitted using either SIRCON or NIPR, except as stated in (3)](2) below.~~

~~[(3)](2)~~ A non-resident license application for a license type or line of authority not offered in the person's home state shall be submitted to the commissioner via facsimile or as a PDF attachment to an email using a form available through the Department's website, until such time that an electronic application becomes available from SIRCON or NIPR.

R590-244-7. Renewal and Non-renewal of an Active License.

(1) An active license shall be renewed on or before the license expiration date ~~[as shown below:~~

~~_____ (a) A resident license renewal application shall be submitted online via SIRCON.~~

~~_____ (b) A [by submitting a resident or non-resident license renewal application [shall be submitted] online via SIRCON or NIPR.~~

(2) A new individual license shall expire on the last day of the licensee's birth month following the two-year anniversary of the license issue date, unless renewed.

(3) A renewed individual license shall expire on the last day of the licensee's birth month every two years, unless renewed.

(4) An agency license shall expire on the last day of the month every two years from the most recent license issue or renewal date, unless renewed, except as shown in (5) below.

(5) A bail bond agency license shall expire annually on ~~July 15th~~ August 14th, unless renewed.

(6) Renewal Notice.

(a) Prior to the license expiration date, the commissioner may, as a courtesy, send a renewal notice to the licensee's business email address as shown on the records of the Department.

(b) A renewal notice sent by the commissioner to the business email address, as shown on the records of the department, shall be considered received by the licensee.

(c) A licensee who fails to properly submit to, and maintain with, the commissioner a valid business email address may be subject to administrative penalties.

(7) A license shall non-renew effective the license expiration date if it is not renewed on or before the expiration date, and:

(a) the non-renewed license shall be inactivated;

(b) all agency designations and insurer appointments shall be terminated; and

(c) a lapse license notice will be sent to the affected licensee.

(8) An active licensee who fails to renew a license shall not engage in the business of insurance during the period of time from the expiration date of the license until the date the inactive license is reinstated or a new license is issued.

R590-244-8. Reinstatement of Inactive License.

(1) An inactive license that has been inactive for a period of one year or less following the license expiration date can be reinstated as stated in (3) through (7) below.

(2) An inactive license that has not been reinstated within one year following its expiration date shall not be reinstated and the inactive licensee shall apply as a new license applicant.

(3) A reinstatement applicant shall:

(a) comply with all requirements for renewal of a license, including any applicable continuing education requirements if the reinstatement applicant is an individual; and

(b) pay a reinstatement fee as shown in R590-102.

~~[(4) A resident license application for reinstatement of an inactive license shall be submitted using SIRCON, except as shown in (6) below.~~

~~(5)~~(4) A resident or non-resident license application for reinstatement of an inactive license shall be submitted using either SIRCON or NIPR, except as stated in ~~[(6)]~~(5) below.

~~[(6)]~~(5) The following license applications for reinstatement of an inactive license must be submitted to the department via facsimile or as a PDF attachment to an email using a form available through the department's website, until such time that an electronic application becomes available from SIRCON or NIPR:

(a) a non-resident reinstatement application for a person whose license has been inactivated for failure to maintain an active license in the person's home state;

(b) a resident or non-resident reinstatement application for a person whose license has been voluntarily surrendered; and

(c) a resident or non-resident reinstatement application for a person whose license has been inactivated due to an incomplete renewal application, except as stated in (i) below.

(i) If a resident license has been inactivated due to a renewal application that was incomplete solely for failure to meet the continuing education requirements, a resident reinstatement application must be submitted to the department:

(A) during the first 30 days after a license expiration date as a facsimile or as a PDF attachment to an email using a form available through the department's website; or

(B) 31 days to one year after a license expiration date through SIRCON or NIPR.

(7) A license that has been voluntarily surrendered:

(a) may be reinstated:

(i) during the license period in which the license was surrendered; and

(ii) no later than one year from the date the license was surrendered; and

(b) must comply with the reinstatement requirements stated in (3) above, except that no continuing education requirement will apply for an individual license applicant because the reinstatement is within the current license period.

(8) A reinstated license shall expire on the same date it would have expired had the license not become inactive.

(9) A person with a reinstated license must complete any required new contracts and appointments with insurers or new agency designations before the reinstated licensee can resume doing business.

R590-244-9. Appointments and Termination of Appointments by Insurers.

(1) Initial Appointments.

(a) An insurer shall electronically appoint an individual or agency licensee with whom the insurer has a contract.

(b) Appointments are continuous until terminated by the insurer or canceled by the department.

(c) It is not necessary for an insurer to appoint an individual who is listed as a designee on an appointed agency's license.

(d) To appoint a person, an insurer shall:

(i) identify the date the appointment is to be effective; and

(ii) submit the electronic appointment to the commissioner no later than 15 days after the identified effective date of appointment or receipt of the first insurance application, using SIRCON or NIPR, except as stated in (iii) below.

(iii) A motor club insurer must submit the appointment to the commissioner via facsimile or as a PDF attachment to an email using a form available through the department's website, until such time that an electronic appointment becomes available from SIRCON or NIPR.

(2) Termination of Appointment.

(a) An insurer shall electronically terminate the appointment of any previously appointed individual or agency no longer authorized to conduct business on behalf of the insurer in this state.

(b) To terminate a person's appointment an insurer shall:

(i) identify the date the termination of appointment is to be effective; and

(ii) submit the termination of appointment to the department no later than 30 days after the identified effective date of termination, using SIRCON or NIPR, except as stated in (iii) below.

(iii) A motor club insurer must submit the termination of appointment as a facsimile or as a PDF attachment to an email using a form available through the department's website, until such time that an electronic termination of appointment becomes available from SIRCON or NIPR.

(3) Termination for Cause.

(a) In addition to electronically terminating the individual or agency licensee's appointment, an insurer that terminates an individual or agency licensee for cause must send the following information to the department via facsimile or as a PDF attachment to an email:

(a) the insurer must state that the termination was for cause; and

(b) provide the specific circumstances causing the termination for cause.

R590-244-10. Designations and Termination of Designations by Agencies.

(1) Designations.

(a) An agency shall electronically designate a licensed individual to the agency license to do business on behalf of the agency in this state.

(b) Designations are continuous until terminated by the agency or canceled by the department.

(c) To designate an individual on its license, an agency shall:

(i) identify the date the designation is to be effective; and

(ii) submit the designation to the commissioner no later than 15 days after the identified effective date of designation using SIRCON or NIPR.

(2) Termination of designations.

(a) An agency shall electronically terminate the designation of any previously designated individual no longer authorized to conduct business on behalf of the agency in this state.

(b) To terminate an individual's designation an agency shall:

(i) identify the date the termination of designation is to be effective; and

(ii) submit the termination of designation to the department no later than 30 days after the identified effective date of termination using SIRCON or NIPR.

(3) Termination for Cause.

(a) In addition to electronically terminating the individual licensee's designation, an agency that terminates an individual licensee for cause must send the following information to the department via facsimile or as a PDF attachment to an email:

(a) the agency must state that the termination was for cause; and

(b) provide the specific circumstances causing the termination for cause.

R590-244-11. Miscellaneous License Amendments and Changes to an Agency's Employer Identification Number (EIN).

(1) All miscellaneous license amendments shall be submitted electronically.

(2) The following four miscellaneous license amendments shall be submitted via SIRCON or NIPR:

(a) a change of residence, business, or mailing address within the same state;

(b) a change of email address;

(c) a change of telephone number; or

(d) a change of an individual licensee's name.

(3) The following six miscellaneous license amendments shall be submitted electronically via facsimile or as a PDF attachment to an email, except that a license amendment identified in (d), (e) and (f) shall be submitted via SIRCON or NIPR once the amendment becomes available electronically from SIRCON or NIPR:

(a) a voluntary surrender of a license or line or authority;

(b) a clearance letter request;

(c) a change of an agency name;

(d) a change of residence, business, or mailing address from one state to another state;

(e) a change of position or title of an owner, partner, officer, or director of an agency; or

(f) a change of the licensed individual designated as the person responsible for the regulatory compliance of the agency.

(4) A miscellaneous license amendment submitted in accordance with this section shall contain:

(a) the name and title of the individual submitting the amendment;

(b) the relationship to the licensee of the individual submitting the amendment; and

(c) the following attestation made by the individual submitting the amendment: "I hereby attest that all of the information submitted is true and correct, and that I am the individual licensee for whom the requested change is being submitted, or an authorized responsible representative of the individual or agency licensee for whom the requested change is being submitted."

(5) A change of Employer Identification Number (EIN):

(a) cannot be processed as a miscellaneous license amendment; and

(b) the entity must apply as a new license applicant.

R590-244-12. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-244-13. Enforcement Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R590-244-14. 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: insurance licensing requirements

Date of Enactment or Last Substantive Amendment:
[November 9, 2010]2011

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-104; 31A-23a-110; 31A-23a-111; 31A-23a-115; 31A-23a-302; 31A-25-201; 31A-25-208; 31A-26-202; 31A-26-210; 31A-26-213; 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406

Insurance, Administration

R590-262

**Health Data Authority Health Insurance
Claims Reporting**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35201

FILED: 08/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule coordinates requirements for health insurers that pay for health care to submit claim and medical

data electronically to the Utah Department of Health and allows the data then to be shared with the state's designated secure health information master index person, "master index person index," Clinical Health Information Exchange (cHIE), to be used in compliance with data security standards. It should be noted that insurers already file much of this information with the Department of Health but as a result of this law and rule will increase the amount of information they already share.

SUMMARY OF THE RULE OR CHANGE: This rule coordinates requirements for health insurers that pay for health care to submit claim and medical data electronically to the Utah Department of Health and allows the data then to be shared with the state's designated secure health information master index person, "master index person index," Clinical Health Information Exchange (cHIE), to be used in compliance with data security standards. It should be noted that insurers already file much of this information with the Department of Health but as a result of this law and rule will increase the amount of information they already share.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-22-614.5(3)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The rule coordinates requirements for health insurers that pay for health care to submit data to the Department of Health and allow the data to be shared with state designated entities. This rule will require no additional work or filings for the department to handle and will have no impact on revenues and expenses.

◆ **LOCAL GOVERNMENTS:** The rule should have no impact on local governments since it deals with the relationship between the department and its insurers and the state Health Department.

◆ **SMALL BUSINESSES:** There should be no impact on small businesses since the rule regulates large insurance companies doing business in Utah only.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule allows information from health care entities and those paying for health care benefits to form a protected master index file for the state of Utah connecting medical records to people.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule allows information from health care entities and those paying for health care benefits, in the case of this rule, health insurance companies, to form a protected master index file for the state of Utah connecting medical records to people.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. Money to create this data base has been provided through federal grants. Insurers are already sending this information to the Health Department.

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 10/17/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 10/11/2011 03:00 PM, State Office Building, 450 N State Street, Room 3112, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590 . Insurance, Administration.

R590-262. Health Data Authority Health Insurance Claims Reporting.

R590-262-1. Authority.

This rule is promulgated pursuant to Subsection 31A-22-614.5(3)(a) to coordinate with the provision of Subsection 26-1-37(2)(b) and Utah Department of Health rules R428-1 and R428-15.

R590-262-2. Purpose and Scope.

(1) This rule establishes requirements for certain entities that pay for health care to submit data to the Utah Department of Health and allows the data to be shared with the state's designated secure health information master index person index, Clinical Health Information Exchange (cHIE), to be used:

(a) in compliance with data security standards established by:

(i) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936; and
(ii) the electronic commerce agreements established in a business associate agreement; and

(b) for the purpose of coordination of health benefit plans.

(2) An insurer that covers fewer than 2500 individual Utah residents is exempt from all requirements of this rule.

R590-262-3. Definitions.

In addition to the definitions in Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Claim" means a request or demand on an insurer for payment of a benefit.

(2) "Health care claims data" means information consisting of, or derived directly from, member enrollment, medical claims, and pharmacy claims that this rule requires an insurer to report.

(3) "Health Insurance" has the same meaning as found in Subsection 31A-1-301(76).

(4) "Insurer" means:

(a) a commercial insurance company engaged in the business of health care insurance in the state of Utah, as defined in Subsection 31A-1-301 (92), including a business under an administrative services organization or administrative services contract arrangement;

(b) a third party administrator, as defined in Subsection 31A-1-301 (161), licensed by the Utah Insurance Department, and that collects premiums or settles claims of residents of the state, for health care insurance policies or health benefit plans, as defined in Subsection 31A-1-301 (74)

(c) a governmental plan as defined in Section 414 (d), Internal Revenue Code;

(d) a non-electing church plan as described in Section 410 (d), Internal Revenue Code; or

(e) a licensed professional employer organization acting as an administrator of a health care insurance policy under Title 31A, Chapter 40 or health benefit plan funded by a self-insurance arrangement.

(5) "Office" means the Office of Health Care Statistics within the Utah Department of Health, which serves as staff to the Utah Health Data Committee.

(6) "Technical specifications" means the technical specifications document published by the Health Data Committee describing the variables and formats of the data that are to be submitted as well as submission directions and guidelines.

R590-262-4. Reporting Requirements.

Each insurer shall submit enrollment, medical claims, and pharmacy data described in R590-262-5 where Utah is the patient's primary residence and enrollment, medical claims, and pharmacy data for services provided in or out of state to Utah residents.

R590-262-5. Reporting Process.

(1) Submission procedures and guidelines are described in detail in the technical specifications published by the Health Data Committee. The health care claims data shall be either X12 format, or flat text files formatted according to the technical specifications.

(2) All medical claims shall be submitted to the Office through the Utah Health Information Network (UHIN) in X12 format.

(3) All enrollment and pharmacy data files shall be submitted to the Office in flat text files using either UHIN or FTP Secure.

R590-262-6. Required Data Elements.

(1) The enrollment, medical claims, and pharmacy data elements are described in detail in the technical specifications published by the Health Data Committee. Each insurer shall submit data for all fields contained in the submission specifications if the data are available to the insurer.

(a) Each insurer must submit enrollment files as a flat file.

(b) Each insurer must submit medical claims as X12 messages as modified by this rule. All X12 format messages must contain all the necessary segments for processing through UHIN. This includes ISA/IEA segments, GS and GE segments, Segment Qualifier codes, etc., as specified in the X12 implementation guides. If a segment or qualifier is required for X12 format, it is required for all submissions under this rule. If a segment or qualifier is not required for X12 format, but is required by this rule, it must be submitted as required by this rule. Submitted files must be in the ASC X12 4010A1 x098 for a Professional Claim and in the ASC X12 4010A1 x096 for an Institutional Claim.

(c) Each insurer must submit pharmacy claims as a flat file.

(2) Each insurer must submit the enrollment files data elements as required in R428-15.

R590-262-7. Third-party Contractors.

The Office may contract with a third party to collect and process the health care claims data and will prohibit it from using the data in any way but those specifically designated in the scope of work.

R590-262-8. Insurer Registration.

Each insurer shall register with the Office by completing the registration online at: <http://health.utah.gov/hda/apd/> and annually thereafter by September 1 of each year.

R590-262-9. Testing of Files.

Insurers that become subject to this rule shall submit to the Office a dataset for determining compliance with the standards for data submission no later than 90 days after the first date of becoming subject to the rule.

R489-262-10. Rejection of Files.

The Office or its designee may reject and return any data submission that fails to conform to the submission requirements. Paramount among submission requirements are: First Name, Last Name, Member ID, Relationship to Subscriber, Date of Birth, Address, City, State, Zip Code, Sex, which are key data fields that the insurer must submit for each enrolled member and claim. An insurer whose submission is rejected shall resubmit the data in the appropriate, corrected format to the Office, or its designee within 10 state business days of notice that the data does not meet the submission requirements.

R590-262-11. Replacement of Data Files.

An insurer may replace a complete dataset submission if no more than one year has passed since the end of the month in which the file was submitted. However, the Office may allow a later submission if the insurer can establish exceptional circumstances for the replacement.

R590-262-12. Limitation of Liability.

A person furnishing information of the kind described in this rule is immune from liability and civil action if the information is furnished to or received from:

(a) the commissioner of insurance or the executive director of the Department of Health or their employees or representatives;

(b) federal, state, or local law enforcement or regulatory officials or their employees or representatives; or

(c) the insurer that issued the policy connected with the data set.

R590-262-13. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided in Section 31A-2-308.

R590-262-14. Enforcement Date.

The commissioner will begin enforcing this rule upon the rule's effective date.

R590-262-15. 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: health insurance claims reporting

Date of Enactment or Last Substantive Amendment: 2011

Authorizing, and Implemented or Interpreted Law: 31A-22-614.5(3)(a)

Insurance, Administration
R590-263
 Commonly Selected Health Benefit
 Plans

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35202

FILED: 08/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide the standard for a carrier to determine the most commonly selected small employer group health benefit plans.

SUMMARY OF THE RULE OR CHANGE: The 2011 Legislature passed H.B. 128 in the General Session. It added Subsection 31A-30-205(1)(d)(iii) requiring the department to set a standard by rule for the "most commonly selected plans." The law reduced the required number of most commonly selected health plans from 5 to 4 available to consumers to choose from at all times. The department has taken comments from the four largest health insurers doing business in Utah to create the wording for this rule. Subsection R590-263-3(1) defines "most commonly selected plans," Subsection R590-263-3(2) clarifies that as soon as a carrier drops one of the four plans they are to "again determine the four most commonly selected...plans currently marketed" by them. Subsection R590-263-3(3) requires

insurers to maintain documentation to back up how they determined the four most commonly selected plans and make the documentation available for review by the department.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-30-205(1)(d)(iii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The changes to this rule will not impact the department. No new filings will be required to be sent to the department. No additional workload will be required of the department. The rule just sets a standard for insurers issuing small employer group health insurance plans on the Utah Health Exchange to follow in offering four commonly selected health plans for the public to choose from. The rule will may make it easier for the department to verify that an insurer has selected their four most common plans.

◆ **LOCAL GOVERNMENTS:** This rule will have no effect on local governments since it deals with state insurance law and the relationship between the department and their licensees.

◆ **SMALL BUSINESSES:** The only small businesses affected by this rule are small employer groups seeking to purchasing health insurance plans for their employees in the Utah Health Exchange. The rule emphasizes the code requirement that they always have four of the most selected health plans available for small employer groups to choose from. By always having four insurance health plans available to choose from gives small employer groups the broadest choice of commonly selected insurance coverage and cost available under the law.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Insurers selling small employer health plans will need to re-assess their procedures for selecting the four health plans and making sure there are always four available. They will also need to make sure they retain their documentation of this selection process for three years. A minimal amount of filing space or computer space should be needed for such documentation. The major health insurers are already following this law.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only small businesses affected by this rule are small employer groups seeking to purchasing health insurance plans for their employees. The rule emphasizes the code requirement that they always have four of the most selected health plans available for small employer groups to choose from. By always having four insurance health plans available to choose from gives small employer groups the broadest choice of commonly selected insurance coverage and cost available under the law. Insurers selling small employer health plans will need to re-assess their procedures for selecting the four health plans and making sure there are always four available. They will also need to make sure they save their documentation of this selection process for three years. A minimal amount of filing space or computer space should be needed for such documentation. The major health insurers are already following this law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule is primarily to define procedure for a health insurer in the offering of their small employer health insurance plans to the public. Most, if not all, health insurers are already following the law and so would have no impact on them. The only area an insurer may be out of compliance in is that of keeping documentation so would have to reconstruct that for the four required plans. This would be considered a "cost of doing business."

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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-263. Commonly Selected Health Benefit Plans.

R590-263-1. Authority.

This rule is promulgated pursuant to Subsection 31A-30-205(1)(d)(iii) wherein the commissioner is directed to adopt a rule.

R590-263-2. Purpose and Scope.

(1) The purpose of this rule is to provide the standard for a carrier to determine the most commonly selected small employer group health benefit plans.

(2) This rule applies to all carriers that offer a health benefit plan to a small employer in the defined contribution market.

R590-263-3. Most Commonly Selected.

(1) As used in Subsection 31A-30-205(1)(d), the four most commonly selected small employer group health benefit plans to be offered as of January 1 each year are the carrier's four plans that are currently marketed to small employer groups that have the largest number of covered individuals as of the preceding July 1.

(2) If a carrier removes one of the four most commonly selected plans from the market, the carrier shall again determine the four most commonly selected small employer group health benefit plans currently marketed by the carrier so that there are four plans at all times.

(3) The carrier shall:

(a) maintain the documentation used to determine the four plans in Subsection (1) for a period of the current calendar year plus three years; and

(b) make the documentation available for review upon the commissioner's request.

R590-263-4. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-263-5. Enforcement Date.

The commissioner will begin enforcing this rule January 1, 2012.

R590-263-6. Severability.

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

KEY: insurance health benefit plans

Date of Enactment or Last Substantive Amendment: 2011

Authorizing, and Implemented or Interpreted Law: 31A-30-205(1)(d)(iii)

Money Management Council,
Administration
R628-13
Collateralization of Public Funds

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35204

FILED: 08/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The definition of deposits in this rule is being changed to remove repurchase agreements with qualified depositories as deposits if the repurchase contract and confirmation meet FDIC criteria that put them in the category of investments rather than deposits.

SUMMARY OF THE RULE OR CHANGE: The definition of deposits has been changed to allow for repurchase agreements with qualified depositories to not be considered to be deposits of a qualified depository if the repurchase agreement meets FDIC requirements to not be considered as such.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-7-18.1(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no costs or savings to the state in the implementation of this change.
- ◆ **LOCAL GOVERNMENTS:** This rule affects qualified depositories and not local governments so there are no costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** This rule affects qualified depositories and not small businesses, so there are no costs or savings for small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Most qualified depositories do not use repurchase agreements however, if they do, their confirmation and contract procedures should already meet FDIC criteria. If a qualified depository should need to change their confirmation, costs should be minimal to do so.

COMPLIANCE COSTS FOR AFFECTED PERSONS:
Compliance costs would be none to minimal if a qualified depository needs to change their confirmation or contract.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
There should be no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
MONEY MANAGEMENT COUNCIL
ADMINISTRATION
ROOM 180 UTAH STATE CAPITOL COMPLEX
350 N STATE ST
STE 180
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: William Wallace, Chair

R628. Money Management Council, Administration.**R628-13. Collateralization of Public Funds.****R628-13-1. Authority.**

This rule is issued pursuant to Sections 51-7-18.1(5).

R628-13-2. Scope.

This rule applies to all qualified depositories required to pledge collateral security for public funds.

R628-13-3. Purpose.

The purpose of this rule is to establish the requirements for pledging of collateral security to insure that public treasurers have a perfected security interest in the collateral security pledged, to define the conditions under which the Council may require the pledging of collateral security in lieu of relinquishment of deposits in excess of the maximum amount a qualified depository may hold under the Money Management Act and the rules of the Council, and to impose restrictions on a qualified depository which is required to pledge collateral security for the public deposits which it holds.

R628-13-4. Definitions.

A. Deposits means balances due to persons having an account at the qualified depository institution whether in the form of a transaction account, savings account, share account, or certificate of deposit and repurchase agreements, unless the repurchase agreement contract and confirmation fully meet the FDIC criteria as described in 12 CFR Part 360. [~~other than~~] Q[~~u~~]alifying repurchase agreements as defined in Section 51-7-3 are not deposits of a qualified depository institution.

B. Designated trustee means the trustee selected to serve as the agent of the State Treasurer to hold and administer collateral security pledged for public funds.

C. Eligible collateral means obligations of or fully guaranteed by the United States or its agencies as to principal and interest, a segregated earmarked deposit account, or notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a federal reserve bank, obligations of the State of Utah or any of its political subdivisions, and readily marketable bonds, notes or debentures.

D. Excess deposit means that portion of the public funds held on deposit with a qualified depository by public treasurers which exceeds the most recently adopted maximum amount of public funds allowed pursuant to the Money Management Act and the rules of the Money Management Council as of the effective date of an order issued by the Commissioner of Financial Institutions pursuant to Section 51-7-18.1(6).

E. Market value means the bid or closing price listed for financial instruments in a regularly published listing or an electronic reporting service or, in the case of obligations which are not regularly traded, the bid price received from at least one registered securities broker/dealer.

F. Readily marketable bonds, notes or debentures means obligations in the form of a bond, note, or debenture rated in one of the three highest ratings of a nationally recognized rating agency; it does not include investments which are predominantly speculative in nature.

R628-13-5. General Rule.**A. Conditions Under Which Collateral Will Be Allowed**

(1) The Money Management Council may vote to allow collateral security to be pledged to secure excess deposits when a qualified depository has accepted and holds public funds in excess of its public funds allotment.

(2) If the public funds allotment is reduced to one times capital, the Money Management Council may vote to allow

collateral security to be pledged to secure excess deposits. The qualified depository will not be precluded or prohibited from accepting, renewing or maintaining deposits of public funds if the total amount of deposits from each public treasurer does not exceed the applicable federal deposit insurance limit.

(3) If the public funds allotment is reduced to zero, the qualified depository will be required to pledge sufficient eligible collateral with the state treasurer's designated trustee for all uninsured deposits. The qualified depository is not precluded or prohibited from accepting, renewing or maintaining deposits of public funds when the total amount of all deposits from each public treasurer does not exceed the applicable federal deposit insurance limit.

After the effective date of any order requiring the pledging of collateral, the qualified depository may not accept, receive or renew uninsured deposits of public funds.

(4) If the amount of capital as defined in R628-11-4-A. is zero or less, the institution is no longer a qualified depository and must relinquish all deposits of public funds within 15 days of the effective date of any order issued by the Commissioner of Financial Institutions requiring relinquishment.

(5) The requirements for pledging of collateral set forth in this rule shall remain in effect until the public funds allotment has been increased to the statutory maximum or 12 months, whichever occurs first. If at the end of the 12 month period the qualified depository institution's public funds allotment has not been increased to the statutory maximum, the qualified depository shall immediately relinquish all excess deposits.

B. Delivery of Collateral

Within 15 days of the effective date of an order requiring collateralization of excess deposits in accordance with the provisions of this rule, a qualified depository shall deliver to the state treasurer or the designated trustee eligible collateral sufficient to meet the statutory collateralization requirements and shall execute a pledge agreement and trust indenture as required by the state treasurer. Collateral delivered to the state treasurer or the designated trustee may not be released until the state treasurer has received written confirmation from the Commissioner of Financial Institutions that the excess deposits have been surrendered or that the qualified depository is eligible to accept, receive and hold public funds without collateralization.

KEY: public investments, collateral, trustees, financial institutions

Date of Enactment or Last Substantive Amendment: ~~August 10, 2010~~ 2011

Notice of Continuation: November 7, 2010

Authorizing, and Implemented or Interpreted Law: 51-7-18.1(5)

Natural Resources; Oil, Gas and Mining; Non-coal **R647-1-106** Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35185

FILED: 08/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish definitions of terms utilized within the Title R647 Minerals Program rules. The rule change will amend three definitions as a result of S.B. 282 which passed during the Legislature's 2011 General Session.

SUMMARY OF THE RULE OR CHANGE: Section R647-1-106 establishes definitions for terms used within the Title R647 Minerals Program rules. The change amends the definition for "small mining operations" to include up to 10 surface acres if in unincorporated areas of a county. The definitions for "disturbed area" and "large mining operations" are correspondingly amended.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-8-4

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Minerals Program is expected to encounter small savings in staff time from review of several permit applications that are reduced in length for small operations versus large operations for proposals between 5 and 10 acres on unincorporated land. The program will need to take an additional step to determine if the application is on incorporated or unincorporated land. In summary, no material budget impact.

◆ **LOCAL GOVERNMENTS:** No local government costs or savings are anticipated, since this rule impacts mineral mining applicants and the Division.

◆ **SMALL BUSINESSES:** Small businesses who operate a mineral mining operation will utilize a larger maximum acreage for a future small mining operation, resulting in reduction of some expenses related to the small mine application. This reduction is due to more information being required for a large mining permit.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities would not be impacted by this rule since it pertains to companies who conduct mineral mining in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be added compliance costs for companies who are mineral mining operators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will not encounter a negative fiscal impact from this rule amendment. Small mineral mine operations between 5 and 10 acres on unincorporated land should have cost savings in comparison to the prior statute and rule.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 10/17/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC
HEARING REGARDING THIS RULE:

♦ 09/29/2011 09:00 AM, UBATC, 450 N 2000 W, Vernal, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/26/2011

AUTHORIZED BY: John Baza, Director

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-1. Minerals Regulatory Program.

R647-1-106. Definitions.

"Act" means the Utah Mined Land Reclamation Act, enacted in 1975, as amended. (Section 40-8-1, et seq., UCA).

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of all of such actions. Those matters not governed by Title 63G, Chapter 4, Administrative Procedures Act, of the Utah Code annotated (1953, as amended) shall not be included within this definition.

"Agency" means a board, commission, department, division, officer, council, office, committee, commission, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, any political subdivision of the state, or any administrative unit of a political subdivision of the state.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Amendment" is an insignificant change in the approved notice of intention.

"Approved Notice of Intention" means a formally filed notice of intention to commence mining operations, including any amendments or revisions thereto that is determined to be complete and contains a mining and reclamation plan, which has been approved by the Division. A notice of intention for exploration having a disturbed area of five acres or less, or a small mining

operation must be determined complete in writing by the Division, but does not require a mining and reclamation plan.

"Board" means the Utah Board of Oil, Gas and Mining. The Board shall hear all appeals of adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings and other proceedings which commence before the Board. The Board may appoint a Hearing Examiner for its hearings in accordance with the Rules of Practice and Procedure before the Board of Oil, Gas and Mining.

"Deleterious Materials" means earth, waste or introduced materials exposed by mining operations to air, water, weather or microbiological processes, which would likely produce chemical or physical conditions in the soils or water that are detrimental to the biota or hydrologic systems.

"Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated materials, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any useful product may be produced, extracted or obtained, or which is extracted by underground mining methods for underground storage. "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water, geothermal steam, and oil and gas, but includes oil shale and bituminous sands extracted by mining operations.

"Development" means the work performed in relation to a deposit following its discovery, but prior to and in contemplation of production mining operations. Development includes, but is not limited to, preparing the site for mining operations; further defining the ore deposit by drilling or other means; conducting pilot plant operations; and constructing roads or ancillary facilities.

"Disturbed Area" means the surface land disturbed by mining operations. The disturbed area for small mining operations shall not exceed five acres in an incorporated area of a county or ten acres in an unincorporated area of a county. The disturbed area for large mining operations shall not exceed the acreage described in the approved notice of intention.

"Division" means the Utah Division of Oil, Gas and Mining. The Division Director or designee is the Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with Rule R647-5.

"Exempt Mining Operations" means those mining operations which were previously exempt from the Act because less than 500 tons of material was mined in a period of twelve consecutive months or less than two acres of land was excavated or used as a disposal site in a period of twelve consecutive months. These exemptions were eliminated by statutory amendments in 1986 and are no longer available.

"Exploration" means surface disturbing activities conducted for the purpose of discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist. "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 2mm and 10mm, which has been deposited by sedimentary processes.

"Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) on-site private ways, roads, and railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; (f) evaporation or settling ponds; (g) stockpiles; (h) leaching dumps; (i) placer areas; (j) tailings ponds or dumps; (k) work, parking, storage, or waste discharge areas, structures, and facilities. Land affected does not include: (x) lands which have been reclaimed in accordance with an approved plan or as otherwise approved by the Board, (y) lands on which mining operations ceased prior to July 1, 1977, or (z) lands on which previously exempt mining operations ceased prior to April 29, 1989.

"Large Mining Operations" means mining operations which have a disturbed area of more than five surface acres at any time in an incorporated area of a county or more than ten surface acres at any time in an unincorporated area of a county.

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.

"Mining operations" means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; reconnaissance activities; or activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

"Notice of Intention" means a notice of intention to commence mining operations, that provide the complete information required for authorization to conduct mining operations, and includes any amendments or revisions thereto.

"Off-site" means the land areas that are outside of or beyond the on-site land.

"On-site" means the surface lands on or under which surface or underground mining operations are conducted. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.

"Operator" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mining operation or proposed mining operation.

"Owner" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mineral deposit or the surface of lands employed in mining operations.

"Party" means the Board, Division or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the Board to intervene in the proceeding, and all persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.

"Permit" means a notice to conduct mining operations issued by the Division. A notice to conduct mining operations is issued by the Division when either a notice of intention for a small mining operation or exploration is determined to be complete and includes a surety approved by the Division, or a notice of intention for a large mining operation or exploration with a plan of operations and surety approved by the Division.

"Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. For the purpose of these rules, the Board, or its appointed Hearing Examiner, shall be considered the Presiding Officer of all appeals of informal adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings which commence before the Board. The Division Director or his/her designee shall be considered a Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with this Rule R647-5. If fairness to the parties is not compromised, an agency may substitute one Presiding Officer for another during any proceeding.

"Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected in order to achieve a safe and ecologically stable condition and use which will be consistent with local environmental conditions and land management practices.

"Regrade or Grade" means to physically alter the topography of any land surface.

"Respondent" means any person against whom an adjudicative proceeding is initiated, whether by an agency or any other person.

"Revision" means a change to an approved Notice of Intention to Conduct Mining Operations, which will increase or decrease the amount of land affected, or alter the location and type of on-site surface facilities, such that the nature of the reclamation plan will differ substantially from that in the approved Notice of Intention.

"Rock Aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit, that were created by alluvial sedimentary processes. The definition of rock aggregate specifically excludes any solid rock in the form of bedrock which is exposed at the surface of the earth or overlain by unconsolidated material.

"Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 1/16mm to 2mm, which has been deposited by sedimentary processes.

"Small Mining Operations" means mining operations which have a disturbed area of five or less surface acres at any time in an incorporated area of a county or ten or less surface acres at any time in an unincorporated area of a county.

"Surface Mining" means mining conducted on the surface of the land including open pit, strip, or auger mining; dredging; quarrying; leaching; surface evaporation operations; reworking abandoned dumps and tailings and activities related thereto.

"Underground Mining" means mining carried out beneath the surface by means of shafts, tunnels or other underground mine openings.

KEY: minerals reclamation

Date of Enactment or Last Substantive Amendment: ~~February 23, 2006~~ **2011**

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

Natural Resources; Oil, Gas and Mining; Non-coal **R647-2-111** Surety

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 35184
FILED: 08/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish requirements for mineral mine operators to post a reclamation surety before commencing exploration operations. The rule change will add a required step for the Board to annually approve an average reclamation rate per acre as a result of S.B. 15 which passed during the Legislature's 2011 General Session.

SUMMARY OF THE RULE OR CHANGE: Section R647-2-111 establishes requirements for a mineral mining operation to post a reclamation surety with the Division prior to commencement of exploration operations. The change adds a requirement upon the Board to annually approve an average reclamation rate per acre after a Division presentation and public comment opportunity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 40-8-14(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The statute and rule change codify the existing Division practice of reporting to the Board during the prior two years, so no cost or savings impact to the state budget.

◆ **LOCAL GOVERNMENTS:** No local government costs or savings are anticipated, since this rule impacts only the Division and the Board.

◆ **SMALL BUSINESSES:** Small businesses who conduct exploration for minerals would not incur a cost or savings, since the burden for this rule change is upon the Division to present to the Board for approval.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities would not be impacted by this rule since it requires the Division to report to the Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for mineral mining operators since the rule requirement is for the Division to report to the Board for approval. The Division has presented the information to the Board for the past two years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will not be fiscally impacted by this rule amendment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/29/2011 09:00 AM, UBATC, 450 N 2000 W, Vernal, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/26/2011

AUTHORIZED BY: John Baza, Director

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-2. Exploration.

R647-2-111. Surety.

1. After receiving notification that the notice of intention is approved or complete, but prior to commencement of operations, the operator must post a reclamation surety with the Division.

1.11. Failure to furnish and maintain reclamation surety may, after notice and opportunity for a Board hearing, result in a withdrawal of the notice of intention as provided for in Section 40-8-16.

2. The Division will not require a separate surety where a reclamation surety in a form and amount acceptable to the Division is held by other governmental entities, provided that the cost estimate is accurate and the Division is named as co-beneficiary. Cooperative Agreements may be developed and entered into according to Section 40-8-22.

3. As part of the review of the notice of intention, the Division shall determine the required surety amount based on:

3.11. Site-specific calculations or estimates by the Division reflecting the cost the Division or a third party would incur to reclaim the site;

3.12. Site-specific calculations or estimates by the operator reflecting the cost the Division or a third party would incur to reclaim the site, if accurate and verifiable by the Division; or

3.13. The average dollars per acre costs for reclamation for similar operations, as determined by the Division, based upon approved surety amounts for current large mining operations.

3.14. In determining or verifying the amount of surety under ~~[Sections]~~Subsections 3.11 or 3.12, the Division shall use cost data from current sureties for large mining operations, adjusted as necessary to reflect the nature and scope of operations and reclamation under the notice of intention.

3.15. For the average dollars per acre in Subsection 3.13, the Board will annually approve the figure after a formal presentation from the Division and an opportunity for public comment.

4. The operator shall submit a completed Reclamation Contract (FORM MR-RC) with the required surety. The form and amount of the reclamation surety must be approved by the Division. Acceptable forms may include:

4.11. A corporate surety bond from a surety company that is licensed to do business in Utah, that is listed in "A.M. Best's Key Rating Guide" at a rating of A- or better or a Financial Performance Rating (FPR) of 8 or better, according to the "A.M. Best's Guide". All surety companies also will be continuously listed in the current issue of the U.S. Department of the Treasury Circular 570. Operators who do not have a surety bond with a company that meets the standards of subsection 4.11 will have 120 days from the date of Division notification after enactment of the changes to subsection 4.11 to achieve compliance or face enforcement action. When the Division in the course of examining surety bonds, notifies an operator that a surety company guaranteeing its performance does not meet the standards of subsection 4.11., the operator has 120 days after notice from the Division by mail to correct the deficiency, or face enforcement action;

4.12. Federally-insured certificate of deposit payable to the State of Utah, Division of Oil, Gas and Mining;

4.13. Cash;

4.14. An irrevocable letter of credit issued by a bank organized to do business in the United States;

4.15. Escrow accounts; and

4.16. The Board may accept a written self-bonding agreement in the case of operators showing sufficient financial strength.

5. Surety shall be required until such time as reclamation is deemed complete by the Division. The Division shall promptly conduct an inspection when notified by the operator that reclamation is complete. The full release of surety shall be evidence that the operator has reclaimed as required by the Act.

5.11. A partial release of surety can be made by the Division if it determines that a substantial phase or segment of reclamation such as demolition, backfilling or regrading has been successfully performed and the residual amount of retained surety is determined to be adequate to insure completion of reclamation.

KEY: minerals reclamation

Date of Enactment or Last Substantive Amendment: ~~May 25, 2011~~2011

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

Natural Resources; Oil, Gas and Mining; Non-coal

R647-3

Small Mining Operations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35186

FILED: 08/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to establish requirements for small mineral mining operations within Utah to protect the public. The rule change will amend three sections of the rule as a result of S.B. 282 and S.B. 15 being passed during the Legislature's 2011 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R647-3 establishes requirements for the permitting, reporting and reclamation of small mineral mines within Utah. The rule changes include the Board requirement to annually approve a reclamation rate per acre after a Division presentation, the modified definition of a small mining operation which impacts mine enlargements, and permit revisions if lands are annexed into an incorporated area of a county.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-8-4 and Subsection 40-8-14(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will be required to present an average reclamation rate per acre to the Board for approval, but the Division conducted such presentations for the last two years. The Minerals Program will process mineral mine enlargements according to the new small mining definition. In summary, there is no material budget impact.

◆ **LOCAL GOVERNMENTS:** No local government costs or savings are anticipated, since this rule affects mineral mining applicants and the Division.

◆ **SMALL BUSINESSES:** Small businesses who operate a small mineral mine will utilize a new mine size definition if applying for enlargements. If the mine is located on 5 to 10 acres of unincorporated land, the small mine operator will not need to apply for a large mine operation, resulting in some savings since more information is required for a large mine permit.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities would not be impacted by this rule since it pertains to companies who conduct small mineral mining in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No added compliance costs are expected from this rule change for mineral mine operators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will not encounter a negative fiscal impact by this rule amendment. Small mineral mine operations who wish to expand to 10 acres on unincorporated land should have cost savings in comparison to the prior statute and rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 OIL, GAS AND MINING; NON-COAL
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/29/2011 09:00 AM, UBATC, 450 N 2000 W, Vernal, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/26/2011

AUTHORIZED BY: John Baza, Director

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-3. Small Mining Operations.

R647-3-111. Surety.

1. After receiving notification that the notice of intention is complete, but prior to commencement of operations, the operator must post a reclamation surety with the Division.

1.11. Failure to furnish and maintain reclamation surety may, after notice and opportunity for Board hearing, result in a withdrawal of the notice of intention as provided for in Section 40-8-16.

2. The Division will not require a separate surety where a reclamation surety in a form and amount acceptable to the Division is held by other governmental entities, provided that the cost estimate is accurate and the Division is named as co-beneficiary.

Cooperative Agreements may be developed and entered into according to Section 40-8-22.

3. As part of the review of the notice of intention, the Division shall determine the required surety amount based on:

3.11. Site-specific calculations or estimates by the Division reflecting the cost the Division or a third party would incur to reclaim the site;

3.12. Site-specific calculations or estimates by the operator reflecting the cost the Division or a third party would incur to reclaim the site, if accurate and verifiable by the Division; or

3.13. The average dollars per acre costs for reclamation of similar operations, as determined by the Division, based upon approved surety amounts for current large mining operations.

3.14. In determining or verifying the amount of surety under [Section]Subsections 3.11 or 3.12, the Division shall use cost data from current sureties for large mining operations, adjusted as necessary to reflect the nature and scope of operations and reclamation under the notice of intention.

3.15. For the average dollars per acre in Subsection 3.13, the Board will annually approve the figure after a formal presentation from the Division and an opportunity for public comment.

4. The operator shall submit a completed Reclamation Contract (FORM MR-RC) with the required surety. The form and amount of the surety must be approved by the Division, except as provided in subpart 4.16. Acceptable forms may include:

4.11. A corporate surety bond from a surety company that is licensed to do business in Utah, that is listed in "A.M. Best's Key Rating Guide" at a rating of A- or better or a Financial Performance Rating (FPR) of 8 or better, according to the "A.M. Best's Guide". All surety companies also will be continuously listed in the current issue of the U.S. Department of the Treasury Circular 570. Operators who do not have a surety bond with a company that meets the standards of subsection 4.11 will have 120 days from the date of Division notification after enactment of the changes to subsection 4.11 to achieve compliance or face enforcement action. When the Division in the course of examining surety bonds, notifies an operator that a surety company guaranteeing its performance does not meet the standards of subsection 4.11, the operator has 120 days after notice from the Division by mail to correct the deficiency, or face enforcement action;

4.12. Federally-insured certificate of deposit payable to the State of Utah, Division of Oil, Gas and Mining;

4.13. Cash;

4.14. An irrevocable letter of credit issued by a bank organized to do business in the United States;

4.15. Escrow accounts; and

4.16. The Board may approve a written self-bonding agreement in the case of operators showing sufficient financial strength.

5. Surety shall be required until such time as the Division deems reclamation complete. The Division will promptly conduct an inspection when notified by the operator that reclamation is complete. The full release of surety shall be evidence that the operator has reclaimed as required by the Act.

5.11. A partial release of surety can be made by the Division if it determines that a substantial phase or segment of reclamation such as demolition, backfilling, regrading, or vegetation establishment has been successfully performed and the residual

amount of retained surety is determined adequate to insure completion.

6. The amount of reclamation surety may be adjusted:

6.11. As required by a revision in the Notice of Intention under R647-3-115;

6.12. As a result of a periodic review by the Division conducted no more frequently than at 3 year intervals unless agreed to by the operator, which shall take into account inflation/deflation based upon an acceptable Costs Index; or

6.13. At the request of the operator.

7. Notwithstanding any other provision of these rules, for operations where the surety is in the form of a Board-approved agreement under Section 40-8-14(3), the Board shall retain the sole authority over the release, partial release, revision or adjustment of the surety amount, if any, which shall be in accordance with the agreement and the Act.

R647-3-114. Mine Enlargement.

Before enlarging a small mining operation beyond five ~~[(5)]~~ acres of surface disturbance in an incorporated area of a county or ten acres in an unincorporated area of a county, the operator must file a Notice of Intention to Commence Large Mining Operations (FORM MR-LMO) and receive Division approval.

R647-3-115. Revisions.

1. Small mining operators are required to submit a revision to the complete notice of intention when a significant change(s) in the small mining operation occurs. A revision can be made by submitting a revised FORM MR-SMO (or similar form) and indicating the portion(s) of the operation which is being revised.

2. Division approval of a revision of small mining operations is not required but the operational change may not be implemented until the Division determines that the revised NOI is complete.

3. In the event the Division or the operator determine at the time a revision is submitted that the amount of the current surety does not accurately reflect the potential cost to complete reclamation at any point in time during the revised small mining operations, the Division may undertake a recalculation of the surety amount as provided in R647-3-111.3. If the recalculated amount is greater than the amount of the existing surety, the revised operations may not be implemented until a revised surety is approved by the Division.

4. If the acreage within an approved small mining operation is later annexed into an incorporated area of a county, the permit may continue as a small mining operation. If the operator of such small mining operation subsequently proposes an increase of the disturbed acres, the current definitions for small or large mining operations would apply as appropriate.

KEY: minerals reclamation

Date of Enactment or Last Substantive Amendment: ~~May 25, 2011~~ **2011**

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

Natural Resources; Oil, Gas and Mining; Non-coal **R647-4-118** Revisions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 35187

FILED: 08/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule's purpose is to establish the process for submitting revisions to large mineral mining operations. The rule change will amend a provision for revising a large mine operation to a small mine operation, as a result of S.B. 282 which passed during the Legislature's 2011 General Session.

SUMMARY OF THE RULE OR CHANGE: Section R647-4-118 establishes the process for submitting revisions to large mineral mining operations. This proposal amends the disturbed acres provision for a large mining operation to be modified to a small mining operation, due to the definition change of small mining operations in S.B. 282.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-8-4

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division's Minerals Program may receive requests from a few large mining operations that desire to refile as a small mining operation, but the impact is not significant for the program's current level of 667 permits.

♦ **LOCAL GOVERNMENTS:** No local government costs or savings are anticipated, since this rule applies to mineral mining companies.

♦ **SMALL BUSINESSES:** Small businesses who operate a mineral mine of up to 10 acres in an unincorporated area of a county may refile as a small mining operation, but such refiling is not required upon the small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities would not be impacted by this rule since it pertains to companies who conduct mineral mining in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Mineral mines up to 10 acres in an unincorporated area of a county may refile as a small mining operation, but such refiling is not required, thus no compliance costs from this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will not be fiscally impacted by this rule

amendment. Large mineral mines may refile as a small mining operation but are not required.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/29/2011 09:00 AM, UBATC, 450 N 2000 W, Vernal, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/26/2011

AUTHORIZED BY: John Baza, Director

R647. Natural Resources; Oil, Gas and Mining; Non-Coal.

R647-4. Large Mining Operations.

R647-4-118. Revisions.

1. In order to revise a notice of intention, an operator shall file a Notice of Intention to Revise Large Mining Operations (FORM MR-REV). This notice of intention will include all information concerning the revision that would have been required in the original notice of intention.

2. A Notice of Intention to Revise Large Mining Operations (FORM MR-REV) will be processed and considered for approval by the Division in the same manner as an original notice of intention. The operator will be authorized and bound by the requirements of the existing approved notice until the revision is acted upon and any revised surety requirements are satisfied. Those portions of the approved notice of intention not subject to the revision will not be subject to review under this provision.

3. Large mining operations which have a disturbed area of five [~~5~~]-acres or less in an incorporated area of a county or ten acres or less in an unincorporated area of a county may refile as a small mining operation. Reclaimed areas must meet full bond release requirements before they can be excluded from the disturbed acreage.

KEY: minerals reclamation

Date of Enactment or Last Substantive Amendment: [~~May 25, 2011~~]**2011**

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: 40-8-1 et seq.

**Natural Resources, Wildlife Resources
R657-9
Taking Waterfowl, Common Snipe and
Coot**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35213

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the division's waterfowl program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule add definitions for "Dark geese" and "Light geese". The amendment also changes "proclamation" to "guidebook" to be consistent with other division rules.

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 only adds definitions and clarifies text, it does not make any changes to the process therefore, the Division of Wildlife Resources (DWR) determines that these amendments do 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 clarifies terms and therefore does not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment clarifies terms and therefore does not have the potential to generate a cost or savings impact to sportsmen or the 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 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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-9. Taking Waterfowl, Common Snipe and Coot.

R657-9-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 2004 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Common snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

R657-9-2. Definitions.

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

(2) In addition:

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

(b) "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory games birds to, on, or over any areas where hunters are attempting to take them.

(c) "CFR" means the Code of Federal Regulations.

(d) "Daily Bag Limit" means the maximum number of migratory games birds of a single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(e) "Dark geese" means the following species: cackling Canada, white-fronted and brant.

(f) "Light geese" means the following species: snow, blue and Ross.

(g) "Live decoys" means tame or captive ducks, geese or other live birds.

([f]h) "Off-highway vehicle" means any motor vehicle designed for or capable of travel over unimproved terrain.

([g]i) "Permanent waterfowl blind" means any waterfowl blind that is left unattended overnight and that is not a portable structure capable of immediate relocation.

([h]j) "Possession limit" the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

([i]k) "Sinkbox" means any type of low floating device, having a depression, affording the hunter a means of concealment beneath the surface of the water.

([j]l) "Transport" means to ship, export, import or receive or deliver for shipment.

([k]m) "Waterfowl" means ducks, mergansers, geese, brant and swans.

([H]n) "Waterfowl blind" means any manufactured place of concealment, including boats, rafts, tents, excavated pits, or similar structures, which have been designed to partially or completely conceal a person while hunting waterfowl.

R657-9-4. Permit Applications for Swan.

(1) Swan permits will be issued pursuant to R657-62-[22]23.

R657-9-12. Motorized Vehicle Access.

(1) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

(2) Off-highway vehicles are not permitted on state waterfowl management areas, except as marked and posted open.

(3) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

(4) Motorized boat use is restricted on waterfowl management areas as specified in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

R657-9-29. Season Dates and Bag and Possession Limits.

(1) Season dates and bag and possession limits are specified in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

(2) A youth duck hunting day may be allowed for any person 15 years of age or younger as provided in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

R657-9-31. Shooting Hours.

(1) A person may not hunt, pursue, or take wildlife, or discharge any firearm or archery tackle on state-owned lands adjacent to the Great Salt Lake, on division-controlled waterfowl management areas, or on federal refuges between official sunset and one-half hour before official sunrise.

(2) Legal shooting hours for taking or attempting to take waterfowl, Common snipe, and coot are provided in the

[proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

R657-9-32. Falconry.

(1) Falconers must obtain a valid hunting or combination license, a federal migratory bird stamp and a falconry certificate of registration to hunt waterfowl.

(2) Areas open and bag and possession limits for falconry are specified in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot.

R657-9-33. Migratory Game Bird Harvest Information Program (HIP).

(1) A person must obtain an annual Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds.

(2)(a) A person must call the telephone number published in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot, or register online at the address published in the [proclamation]guidebook of the Wildlife Board for taking waterfowl, Common snipe and coot to obtain their HIP registration number.

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

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

- (a) hunting license number;
- (b) hunting license type;
- (c) name;
- (d) address;
- (e) phone number;
- (f) birth date; and
- (g) information about the previous year's migratory bird hunts.

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

(5) Any person hunting migratory birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

KEY: wildlife, birds, migratory birds, waterfowl
Date of Enactment or Last Substantive Amendment: [~~October 25, 2010~~2011
Notice of Continuation: August 16, 2011
Authorizing, and Implemented or Interpreted Law: 23-14-19; 23-14-18; 50 CFR part 20

Natural Resources, Wildlife Resources
R657-10
Taking Cougar

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 35208
 FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the division's cougar program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) add definitions for "Cougar Management Area", "Harvest-objective hunt", "Harvest-objective permit"; 2) set harvest quota regulations for Cougar Management areas; and 3) replace "proclamation" with "guidebook" throughout.

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 definitions and sets the harvest quota regulations for Cougar Management areas, therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment only adds definitions and harvest quota regulations for Cougar Management areas this should have no effect on the local government. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments

◆ **SMALL BUSINESSES:** None--The amendments do not impose any additional requirements on small businesses, nor generate a cost or savings impact to other persons.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will not create additional costs for sportsmen wishing to hunt cougar in Utah. Therefore, the rule amendments do not create a cost or savings impact to individuals who participate in hunting cougar.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 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

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THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-10. Taking Cougar.

R657-10-1. Purpose and Authority.

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

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

R657-10-2. Definitions.

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

(2) In addition:

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

(b) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a dog handler for or in consideration of pursuing cougar for any purpose.

(c) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

(d) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(e) "Cougar Management Area" means a group of units under the same cougar harvest quota.

(f) "Dog handler" means the person in the field that is responsible for transporting, releasing, tracking, controlling, managing, training, commanding and retrieving the dogs involved in the pursuit. The owner of the dogs is presumed the dog handler when the owner is in the field during pursuit.

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

(h) "Green pelt" means the untanned hide or skin of any cougar.

(i) "Harvest-objective hunt" means any hunt that is identified as harvest-objective in the hunt table of the guidebook for taking cougar.

(j) "Harvest-objective permit" means any permit valid on harvest-objective units, including limited-entry permits for split units after the split-unit transition date.

(k) "Kitten" means a cougar less than one year of age.

(l) "Kitten with spots" means a cougar that has obvious spots on its sides or its back.

(m) "Limited entry hunt" means any hunt listed in the hunt tables of the [proclamation]guidebook of the Wildlife Board for taking cougar, which is identified as limited entry and does not include harvest objective hunts.

(n) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits and sportsman permits.

(o) "Private lands" means any lands that are not public lands, excluding Indian trust lands.

(p) "Public lands" means any lands owned by the state, a political subdivision or independent entity of the state, or the United States, excluding Indian trust lands, that are open to the public for purposes of engaging in pursuit.

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

(r) "Split unit" means a cougar hunting unit that begins as a limited entry unit then transitions into a harvest objective unit.

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

(t) "Written permission" means written authorization from the owner or person in charge to enter upon private lands and must include:

- (i) the name and signature of the owner or person in charge;
- (ii) the address and phone number of the owner or person in charge;
- (iii) the name of the dog handler given permission to enter the private lands;
- (iv) a brief description of the pursuit activity authorized;
- (v) the appropriate dates; and
- (vi) a general description of the property.

R657-10-3. Permits for Taking Cougar.

(1)(a) To harvest a cougar, a person must first obtain a valid limited entry cougar permit or a harvest objective cougar permit for the specified management units as provided in the [proclamation]guidebook of the Wildlife Board for taking cougar.

(b) Any person who obtains a limited entry cougar permit or a harvest objective cougar permit may pursue cougar on the unit for which the permit is valid.

(2) A person may not apply for or obtain more than one cougar permit for the same season, except:

(a) as provided in Subsection R657-10-25(3); or

(b) if the person is unsuccessful in the limited entry drawing, the person may purchase a harvest objective permit.

(3) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(4) To obtain a cougar limited entry permit, harvest objective permit, or pursuit permit, a person must possess a Utah hunting or combination license.

R657-10-4. Permits for Pursuing Cougar.

(1)(a) To pursue cougar without a limited entry cougar permit, the dog handler must:

- (i) obtain a valid cougar pursuit permit from a division office; or
- (ii) possess the documentation and certifications required in R657-10-25(2) to pursue cougar for compensation.
- (b) A cougar pursuit permit or exemption therefrom does not allow a person to kill a cougar.
- (2) Residents and nonresidents may purchase cougar pursuit permits consistent with the requirements of this rule and the [proclamations]guidebooks of the Wildlife Board.
- (3) To obtain a cougar pursuit permit, a person must possess a Utah hunting or combination license.

R657-10-9. Prohibited Methods.

- (1) Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the [proclamation]guidebook of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.
- (2) After a cougar has been pursued, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.
- (3) A person may not engage in a canned hunt.
- (4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.
- (5) Electronic locating equipment may not be used to locate cougars wearing electronic radio devices.

R657-10-12. Use of Dogs.

- (1) Dogs may be used to take or pursue cougar only during open seasons as provided in the [proclamation]guidebook of the Wildlife Board for taking cougar.
- (2) A dog handler may pursue cougar provided he or she possesses:
 - (a) a valid limited entry cougar permit issued to the dog handler;
 - (b) a valid cougar pursuit permit; or
 - (c) the documentation and certifications required in R657-10-25(2) to pursue cougar for compensation.
- (3) When dogs are used in the pursuit of a cougar, the licensed hunter intending to take the cougar must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.
- (4) When dogs are used to take a cougar and there is not an open pursuit season, the dog handler must have:
 - (a) a limited entry cougar permit issued to the dog handler for the unit being hunted;
 - (b)(i) a valid cougar pursuit permit; and
 - (ii) be accompanied, as provided in Subsection (3), by a hunter possessing a limited entry cougar permit for the area; or
 - (c)(i) the documentation and certifications required in R657-10-25(2) to pursue cougar for compensation and
 - (ii) be accompanied, as provided in Subsection (3), by a paying client possessing a limited entry cougar permit for the area.
- (5) A dog handler may pursue cougar under:

- (a) a cougar pursuit permit only during the season and in the areas designated by the Wildlife Board in [proclamation]guidebook open to pursuit;
- (b) a limited entry cougar permit only during the season and in the area designated by the Wildlife Board in [proclamation]guidebook for that permit; or
- (c) the pursuit for compensation provisions in this rule only during the seasons and in the areas designated by the Wildlife Board in [proclamation]guidebook open to pursuit.
- (6) When dogs are used to take cougar and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Subsection (3), or have a cougar permit.

R657-10-23. Taking Cougar.

- (1)(a) A person may take only one cougar during the season and from the area specified on the permit.
- (b) Limited entry permits may be obtained by following the application procedures provided in this rule and the [proclamation]guidebook of the Wildlife Board for taking cougar.
- (c) Harvest objective permits may be purchased on a first-come, first-served basis as provided in [proclamation]guidebook of the Wildlife Board for taking cougar.
- (2) A person may not:
 - (a) take or pursue a female cougar with kittens or kittens with spots; or
 - (b) repeatedly pursue, chase, tree, corner, or hold at bay, the same cougar during the same day after the cougar has been released.
- (3) Any cougar may be taken during the prescribed seasons, except a kitten with spots, or any cougar accompanied by kittens, or any cougar accompanied by an adult.
- (4) A person may not take a cougar wearing a radio collar from any areas that are published in the [proclamation]guidebook of the Wildlife Board for taking cougar.
- (5) The division may authorize hunters who have obtained a limited entry cougar permit to take cougar in a specified area of the state in the interest of protecting wildlife from depredation.
- (6) Season dates, closed areas, harvest objective permit areas and limited entry permit areas are published in the [proclamation]guidebook of the Wildlife Board for taking cougar.
- (7)(a) A person who obtains a limited entry cougar permit on a split unit may hunt on all harvest objective units after the date split units transition into harvest objective units. The split unit transition date is provided in the [proclamation]guidebook of the Wildlife Board for taking cougar.
- (b) A person who obtains a limited entry cougar permit on a split unit and chooses to hunt on any harvest objective unit after the transition date is subject to all harvest objective unit closure requirements provided in Sections R657-10-34 and 657-10-35.

R657-10-25. Cougar Pursuit.

- (1)(a) Except as provided in rule R657-10-3(1)(b) and Subsection (2), cougar may be pursued only by persons who have obtained a cougar pursuit permit.

(b) The cougar pursuit permit does not allow a person to:

- (i) kill a cougar; or
- (ii) pursue cougar for compensation.

(c) A person may pursue cougar for compensation only as provided in Subsection (2).

(d) To obtain a cougar pursuit permit, a person must possess a Utah hunting or combination license.

(2)(a) A person may pursue cougar on public lands for compensation, provided the dog handler:

- (i) receives compensation from a client or customer to pursue cougar;
- (ii) is a licensed hunting guide or outfitter under Title 58, Chapter 79 of the Utah Code and authorized to pursue cougar;
- (iii) possesses on his or her person the Utah hunting guide or outfitter license;
- (iv) possesses on his or her person all permits and authorizations required by the applicable public lands managing authority to pursue cougar for compensation; and
- (v) is accompanied by the client or customer at all times during pursuit.

(b) A person may pursue cougar on private lands for compensation, provided the dog handler:

- (i) receives compensation from a client or customer to pursue cougar;
- (ii) is accompanied by the client or customer at all times during pursuit; and
- (iii) possesses on his or her person written permission from all private landowners on whose property pursuit takes place.

(c) A person who is an employee or agent of the Division of Wildlife Services may pursue cougar on public lands and private lands while acting within the scope of their employment.

(3) A pursuit permit is not required to pursue cougar under Subsection (2).

(4)(a) A person pursuing cougar for compensation under subsections (2)(a) and (2)(b) shall comply with all other requirements and restrictions in statute, rule and the ~~[proclamations]~~ guidebooks of the Wildlife Board regulating the pursuit and take of cougar.

(b) Any violation of, or failure to comply with the provisions of Title 23 of the Utah Code, this rule, or the ~~[proclamations]~~ guidebooks of the Wildlife Board may be grounds for suspension of the privilege to pursue cougar for compensation under this subsection, as determined by a division hearing officer.

(5) A cougar pursuit permit authorizes the holder to pursue cougar with dogs on any unit open to pursuing cougar during the seasons and under the conditions prescribed by the Wildlife Board in ~~[proclamation]~~ guidebook.

(6) A person may not:

- (a) take or pursue a female cougar with kittens or kittens with spots;
- (b) repeatedly pursue, chase, tree, corner or hold at bay, the same cougar during the same day; or
- (c) possess a firearm or any device that could be used to kill a cougar while pursuing cougar.

(i) The weapon restrictions set forth in the subsection do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing or attempting to utilize the concealed weapon to injure or kill cougar.

(7) If eligible, a person who has obtained a cougar pursuit permit may also obtain a limited entry cougar permit or harvest objective cougar permit.

(8) Cougar may be pursued only on limited entry units or harvest objective units during the dates provided in the ~~[proclamation]~~ guidebook of the Wildlife Board for taking cougar.

(9) A cougar pursuit permit is valid on a calendar year basis.

(10) A person must possess a valid hunting or combination license to obtain a cougar pursuit permit.

R657-10-26. Limited Entry Cougar Permit Application Information.

(1) Limited entry cougar permits are issued pursuant to R657-62-~~[23-]~~24.

R657-10-27. Harvest Objective General Information.

(1) Harvest objective permits are valid only for the open harvest objective management units and for the specified seasons published in the ~~[proclamation]~~ guidebook of the Wildlife Board for taking cougar.

(2) Harvest objective permits are not valid in a specified management unit after the harvest objective has been met for that specified ~~[management unit]~~ Cougar Management Area.

R657-10-28. Harvest Objective Permit Sales.

(1) Harvest objective permits are available on a first-come, first-served basis beginning on the date published in the ~~[proclamation]~~ guidebook of the Wildlife Board for taking cougar.

(2) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(3) A person must possess a valid hunting or combination license to obtain a Harvest objective permit.

R657-10-29. Harvest Objective Unit Closures.

(1) To hunt in a harvest objective unit, a hunter must call 1-888-668-LION or visit the division's website to verify that the cougar management ~~[unit]~~ area is still open. The phone line and website will be updated each day by 12 noon. Updates become effective the following day thirty minutes before official sunrise.

(2) Harvest objective units are open to hunting until:

(a) the cougar harvest objective for that ~~[unit]~~ cougar management area is met and the division closes the area; or

(b) the end of the hunting season as provided in the ~~[proclamation]~~ guidebook of the Wildlife Board for taking cougar.

(3) Upon closure of a harvest objective unit, a hunter may not take or pursue cougar except as provided in Section R657-10-25.

R657-10-32. Poaching-Reported Reward Permits.

(1) For purposes of this section, "successful prosecution" means the screening and filing of charges for the poaching incident.

(2) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a cougar on a limited entry cougar unit, under Section 23-20-4, may receive a permit from the division to hunt cougar on the same limited-entry cougar unit where the reported violation occurred, as provided in Subsection (3).

(3)(a) The division may issue poaching-reported reward permits only in limited-entry cougar units that have more ~~that~~than 10 total permits allocated.

(b) The division may issue only one poaching-reported reward permit per limited-entry cougar unit per year.

(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 cougar poaching-reported reward permit shall be issued to any one person in any one cougar season.

(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 a Utah hunting or combination license and otherwise be eligible to hunt and obtain cougar permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

KEY: wildlife, cougar, game laws

Date of Enactment or Last Substantive Amendment: [~~October 25, 2010~~2011]

Notice of Continuation: August 16, 2011

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Natural Resources, Wildlife Resources R657-11 Taking Furbearers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35212

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the division's furbearer program.

SUMMARY OF THE RULE OR CHANGE: The amendment to this rule changes "proclamation" to "guidebook".

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments are technical in nature, therefore, the Division of Wildlife Resources (DWR) determines that these amendments do 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 done with existing budget.

◆ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment makes a word change, therefore the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment makes a word change, therefore the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment changes wording for clarification and consistency with other division rules. Therefore, the Division of Wildlife Resources determines that there is no additional compliance costs associated with the amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-11. Taking Furbearers.****R657-11-1. Purpose and Authority.**

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

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

R657-11-3. License, Permit and Tag Requirements.

(1) A person who has a valid, current furbearer license may take furbearers during the established furbearer seasons published in the [proclamation]guidebook of the Wildlife Board for taking furbearers.

(2) A person who has a valid, current furbearer license and valid bobcat permits may take bobcat during the established bobcat season published in the [proclamation]guidebook of the Wildlife Board for taking furbearers.

(3) A person who has a valid, current furbearer license and valid marten trapping permit may take marten during the established marten season published in the [proclamation]guidebook of the Wildlife Board for taking furbearers.

(4) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing furbearers.

R657-11-4. Bobcat Permits.

(1) Bobcat permits can only be obtained and are only valid with a valid, current furbearer license.

(2) A person may obtain up to the number of bobcat permits authorized each year by the Wildlife Board. Permit numbers shall be published in the [proclamation]guidebook of the Wildlife Board for taking furbearers.

(3) Bobcat permits will be available during the dates published in the [proclamation]guidebook of the Wildlife Board for taking furbearers and may be obtained by submitting an application through the division's Internet address.

(4) Bobcat permits are valid for the entire bobcat season.

R657-11-7. Permanent Possession Tags for Bobcat and Marten.

(1) A person may not:

(a) possess a green pelt or unskinned carcass from a bobcat or marten that does not have a permanent tag affixed after the Saturday following the close of the bobcat trapping season and marten seasons;

(b) possess a green pelt or the unskinned carcass of a bobcat with an affixed temporary bobcat possession tag issued to another person, except as provided in Subsections (5) and (6); or

(b) buy, sell, trade, or barter a green pelt from a bobcat or marten that does not have a permanent tag affixed.

(2) Bobcat and marten pelts must be delivered to a division representative to have a permanent tag affixed and to surrender the lower jaw.

(3) Bobcat and marten pelts may be delivered to the following division offices, by appointment only, during the dates published in the [proclamation]guidebook of the Wildlife Board for taking furbearers:

(a) Cedar City - Regional Office;

(b) Ogden - Regional Office;

(c) Price - Regional Office;

(d) Salt Lake City - Salt Lake Office;

(e) Springville - Regional Office; and

(f) Vernal - Regional Office.

(4) There is no fee for permanent tags.

(5) Bobcat and marten which have been legally taken may be transported from an individual's place of residence by an individual other than the fur harvester to have the permanent tag affixed; bobcats must be tagged with a temporary possession tag and accompanied by a valid furbearer license belonging to the fur harvester.

(6) Any individual transporting a bobcat or marten for another person must have written authorization stating the following:

(a) date of kill;

(b) location of kill;

(c) species and sex of animal being transported;

(d) origin and destination of such transportation;

(e) the name, address, signature and furbearer license number of the fur harvester;

(f) the name of the individual transporting the bobcat or marten; and

(g) the fur harvester's marten permit number if marten is being transported.

(7) Green pelts of bobcats and marten legally taken from outside the state may not be possessed, bought, sold, traded, or bartered in Utah unless a permanent tag has been affixed or the pelts are accompanied by a shipping permit issued by the wildlife agency of the state where the animal was taken.

(8)(a) Fur harvesters taking marten are requested to present the entire skinned carcass intact, including the lower jaw, to the division in good condition when the pelt is presented for tagging.

(b) "Good condition" means the carcass is fresh or frozen and securely wrapped to prevent decomposition so that the tissue remains suitable for lab analysis.

R657-11-10. Traps.

(1) All long spring, jump, or coil spring traps must have spacers on the jaws which leave an opening of at least 3/16 of an inch when the jaws are closed, except;

(a) rubber-padded jaw traps,

(b) traps with jaw spreads less than 4.25 inches, and

(c) traps that are not completely submerged under water when set.

(2) All snares, except those set in water or with a loop size less than 3 inches in diameter, must be equipped with a breakaway lock device that will release when any force greater than 300 lbs. is applied to the loop. Breakaway snares must be fastened to an immovable object solidly secured to the ground. The use of drags is prohibited.

(3) On the middle section of the Provo River, between Jordanelle Dam and Deer Creek Reservoir, the Green River, between Flaming Gorge Dam and the Utah Colorado state line; and the Colorado River, between the Utah Colorado state line and Lake Powell; and the Escalante River, between Escalante and Lake Powell, trapping within 100 yards of either side of these rivers,

including their tributaries from the confluences upstream 1/2 mile, is restricted to the following devices:

(a) Nonlethal-set leg hold traps with a jaw spread less than 5 1/8 inches, and nonlethal-set padded leg hold traps. Drowning sets with these traps are prohibited.

(b) Body-gripping, killing-type traps with body-gripping area less than 30 square inches (i.e., 110 Conibear).

(c) Nonlethal dry land snares equipped with a stop-lock device that prevents it from closing to less than a six-inch diameter.

(d) Size 330, body-gripping, killing-type traps (i.e. Conibear) modified by replacing the standard V-trigger assembly with one top side parallel trigger assembly, with the trigger placed within one inch of the side, or butted against the vertical turn in the Canadian bend.

(4) A person may not disturb or remove any trapping device, except:

(a) a person who possesses a valid, current furbearer license, the appropriate permits or tags, and who has been issued a trapper registration number, which is permanently marked or affixed to the trapping device; or

(b) peace officers in the performance of their duties; or

(c) as provided in Subsection (6).

(5) A person may not kill or remove wildlife caught in any trapping device, except:

(a) a person who possesses a valid, current furbearer license, the appropriate permits or tags, and who has been issued a trapper registration number, which is permanently marked or affixed to the trapping device; or

(b) as provided in Subsection (6).

(6) For the purposes of this section, "owner" means the person who has been issued a trap registration number, which is permanently marked or affixed to the trapping device.

(7) A person, other than the owner, may possess, disturb or remove a trapping device; or possess, kill or remove wildlife caught in a trapping device provided:

(a) the person possesses a valid, current furbearer license, the appropriate permits or tags; and

(b) has obtained written authorization from the owner of the trapping device stating the following:

(i) date written authorization was obtained;

(ii) name and address of the owner;

(iii) owner's trap registration number;

(iv) the name of the individual being given authorization;

(v) signature of owner.

(8) The owner of any trapping device, providing written authorization to another person under Subsection (6), shall be strictly liable for any violations of this [proclamation]guidebook resulting from the use of the trapping device by the authorized person.

(9) The owner of any trapping device, providing written authorization to another person under Subsection (6), must keep a record of all persons obtaining written authorization and furnish a copy of the record upon request from a conservation officer.

(10)(a) A person may not set any trap or trapping device on posted private property without the landowner's permission.

(b) Any trap or trapping device set on posted property without the owner's permission may be sprung by the landowner.

(c) Wildlife officers should be informed as soon as possible of any illegally set traps or trapping devices.

(11) Peace officers in the performance of their duties may seize all traps, trapping devices, and wildlife used or held in violation of this rule.

(12) A person may not possess any trapping device that is not permanently marked or tagged with that person's registered trap number while engaged in taking wildlife.

(13) All traps and trapping devices must be checked and animals removed at least once every 48 hours, except;

(a) killing traps striking dorso-ventrally,

(b) drowning sets, and

(c) lethal snares that are set to capture on the neck, that have a nonrelaxing lock, without a stop, and are anchored to an immoveable object; which must be checked every 96 hours.

(14) A person may not transport or possess live protected wildlife. Any animal found in a trap or trapping device must be killed or released immediately by the trapper.

R657-11-26. Season Dates and Bag Limits.

Season dates, bag limits, and areas with special restrictions are published annually in the [proclamation]guidebook of the Wildlife Board for taking furbearers.

R657-11-27. Applications for Trapping on State Waterfowl Management Areas.

(1)(a) Applications for trapping on state waterfowl management areas are available at the division's internet address, and must be completed and submitted online by the date prescribed in the respective [proclamation]guidebook of the Wildlife Board.

(i) Applicants submitting more than one application per calendar year will be rejected.

(b) Applicants must meet all age requirements, proof of hunter education and furharvester requirements, and youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.

(c) Applicants may select up to two WMA choices on the application.

(d) Hunt choices must be listed in order of preference.

(e) Up to three trappers may apply as a group for a single permit.

(f) A person who applies for or obtains a permit must notify the division of any change in mailing address, residency, telephone number, email address, and physical description.

(g) If the number of applications received for a WMA exceeds the number of permits available, a drawing will be held. This drawing will determine successful or unsuccessful applicants.

(i) each application will be assigned a computerized random drawing number.

(ii) a drawing order will be established by arranging applications beginning with the lowest random drawing number.

(iii) in sequence of the drawing order, the applicant's first selection will be considered. If a permit is not available for that selection, that applicant's second selection will be considered.

(iv) remaining permits will be offered to the alternate list beginning with the first eligible alternate.

(A) the alternate list is comprised of unsuccessful applicants.

(B) the alternate list is arranged in order beginning with the lowest drawing number.

(2) Permits, trapping dates and boundaries

(a) Open areas, trapping dates, allowable species, fees, and number of permits shall be determined by the waterfowl management area superintendent.

(b) Superintendents of waterfowl management areas offering more than one trapping permit will determine the trapping boundaries of each permit.

(c) Only the trapper or trappers listed on the permit may trap on the waterfowl management area.

(d) All trappers must trap under the supervision of the waterfowl management area superintendent. Permits are not valid until signed by the superintendent in charge of the area to be trapped.

(e) Violation of this section is cause for forfeiture of all trapping privileges on management areas for that trapping year.

(f) Applicants may be notified of drawing results by the date prescribed in the respective ~~[proclamation]~~ guidebook of the Wildlife Board.

R657-11-32. Closed Area.

Davis County - Trapping is allowed only on the dates published in the ~~[proclamation]~~ guidebook of the Wildlife Board for taking furbearers, on those lands administered by the state lying along the eastern shore of the Great Salt Lake, commonly known as the Layton-Kaysville marshes. In addition, there may be a portion of the above stated area that is closed to trapping. This area will be posted and marked.

KEY: wildlife, furbearers, game laws, wildlife law
Date of Enactment or Last substantive Amendment: [~~October 25, 2010~~]**2011**
Notice of Continuation: August 16, 2010
Authorizing, and Implementing or Interpreted Law: 23-14-18; 23-14-19; 23-13-17

Natural Resources, Wildlife Resources
R657-17
Lifetime Hunting and Fishing License

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 35209
 FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's big game program, which directly affects the Lifetime Hunting and Fishing License program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) change "region" to "unit" for clarification purposes; 2) remove "proclamation" and replaces it with "guidebook"; 3) require current Lifetime License holders to initially select a general season hunting

unit during the Big Game application period; and 4) make technical corrections for consistency and accuracy.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-17.5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The reason for this rule amendment is to maintain consistency with all division application processes and changes wording to be consistent with other rules, so the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget. Although there may be some additional programming costs the amendments will not create any cost or savings impact to the state budget or DWR's budget. Any additional work will be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment simply addresses a change in the process by which a lifetime license holder chooses their region, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** Since Lifetime Licenses are no longer available for purchase, DWR determines that this amendment does not create a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since Lifetime Licenses are no longer available for purchase, DWR determines that this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment removes obsolete language relating to the application and questionnaire process for a lifetime license holder and enables the division to use electronic forms of communication. DWR determines that there are no additional compliance costs for affected persons associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-17. Lifetime Hunting and Fishing License.

R657-17-1. Purpose and Authority.

(1) Under authority of Section 23-19-17.5, this rule provides the requirements and procedures applicable to lifetime hunting and fishing licenses.

(2) In addition to the provisions of this rule, a lifetime licensee is subject to:

(a) the provisions set forth in Title 23, Wildlife Resources Code of Utah; and

(b) the rules and proclamations of the Wildlife Board, including all requirements for hunting permits and fishing licenses.

(3) Unless specifically stated otherwise, lifetime licensees shall be subject to any amendment to this rule or any amendment to Section 23-19-17.5.

R657-17-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and Rule R657-5.

(2) In addition:

(a) "Lifetime Questionnaire" means a list of questions, accessible by a lifetime licensee at the division's website, used to identify the lifetime licensee's preferred choice of a general season deer permit [region]unit and hunt type.

(b) "Recent Lifetime Licensee Record" means the most recent general deer permit issued within the immediately preceding 3 years.

(c) "Application Deadline" means the close of the annual Big Game application period, as established ~~[by]in the guidebook of the Wildlife Board [in the Big Game Guidebook]for taking big game.~~

R657-17-3. Lifetime License Entitlement.

(1)(a) A permanent lifetime license card shall be issued to lifetime licensees in lieu of an annual hunting, and fishing license.

(b) The issuance of a permanent lifetime license card does not authorize a lifetime licensee to all hunting privileges. The lifetime licensee is subject to the requirements in Subsection R657-17-1(2).

(2)(a) Each year, a lifetime licensee who is eligible to hunt big game may receive without charge, a permit for the [region]unit of their choice for one of the following general deer hunts:

- (i) archery buck deer;
- (ii) any weapon buck deer; or
- (iii) muzzleloader buck deer.

(b) Effective January 1, 2012 all lifetime license holders must initially select a general season hunting unit during the Big Game application period as established in the guidebook of the Wildlife Board for taking big game.

(3) Sales of lifetime hunting and fishing licenses may not be refunded, except as provided in Section 23-19-38.

(4) Lifetime hunting and fishing licenses are not transferable.

(5) Lifetime hunting and fishing licenses are no longer for sale as of March 1, 1994.

(6)(a) Lifetime license holders may participate in the Dedicated Hunter Program.

(b) Upon entering the Dedicated Hunter Program, the lifetime license holder agrees to forego 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 during enrollment in the Dedicated Hunter Program.

R657-17-4. General Deer Permits.

(1) The [d]Division will issue a general buck deer permit to each lifetime licensee prior to the big game general hunting season, provided:

(a) a current Lifetime Questionnaire has been completed prior to the application deadline, identifying the lifetime licensee's general season [region]unit and hunt type choice, or according to the recent lifetime licensee record; and

(b) provided the lifetime licensee does not apply for a general deer permit in the big game drawing.

(2) A lifetime licensee may change their previous year's [region]unit choice, prior to the application deadline by completing the online Lifetime Questionnaire through the division's website.

(3) Lifetime licensees must notify the division of any change in mailing address, email address, residency, address, telephone number, physical description, or driver's license number.

(4) If a general buck deer permit is not issued to a lifetime licensee during the preceding 3 years, the lifetime licensee must complete and submit the Lifetime Questionnaire on the division's website prior to the application deadline.

(i) Effective January 1, 2012 all lifetime license holders must initially select a general season hunting unit during the Big Game application period as established in the guidebook of the Wildlife Board for taking big game.

(5) If a lifetime licensee fails to submit a current year Lifetime Questionnaire and does not have a recent lifetime licensee record by the application deadline, the lifetime licensee may only obtain a remaining general deer permit when remaining drawing permits are made available to the public over-the-counter. If no general deer permits are remaining after the drawing, the lifetime licensee shall not be issued a permit.

(6)(a) Lifetime licensees may apply for any general deer permit in the big game drawing.

(b) Drawing applications are subject to the established application fee.

(c) A lifetime licensee that applies for a general deer permit in the drawing waives the opportunity to be issued a general deer permit according to the recent lifetime licensee record or the current Lifetime Questionnaire excluding applications for dedicated hunter deer permits. Lifetime licensees may apply for dedicated hunter deer permits pursuant to R657-17-5(5).

(7) Lifetime licensees may apply for general deer preference points through the big game general buck deer drawing as provided in Rule R657-62 and the guidebooks of the Wildlife Board for taking big game, provided the lifetime licensee waives

their opportunity to be issued a general buck deer permit that year according to the recent lifetime licensee record or the current Lifetime Questionnaire.

R657-17-5. Applying for Big Game Permits.

(1) A lifetime licensee may apply for a limited entry permit offered through the big game drawing using a bucks, bulls and once-in-a-lifetime application.

(2) Limited entry permit species and application procedures are provided in Rule R657-62 and the ~~proclamation~~ guidebook of the Wildlife Board for taking big game.

(3)(a) If the lifetime licensee applies for and is successful in obtaining a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the big game drawing, a general deer permit will not be issued.

(b) If the lifetime licensee does not draw a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the big game drawing, the general deer permit requested on the Lifetime Questionnaire or the recent lifetime licensee record shall be issued.

(4) Applying for or obtaining an antlerless deer, antlerless elk, or doe pronghorn permit does not affect eligibility for obtaining a general buck deer permit.

(5)(a) A lifetime licensee may apply for a dedicated hunter deer permit through the big game drawing.

(b) If the lifetime licensee applies for and is successful in obtaining a dedicated hunter deer permit in the big game drawing, a general deer permit will not be issued.

(c) If the lifetime licensee does not draw a dedicated hunter deer permit in the big game drawing, the general deer permit requested on the Lifetime Questionnaire or the recent lifetime licensee record shall be issued.

([5]6) All rules established by the Wildlife Board regarding the availability of big game permits in relation to obtaining general deer permits shall apply to lifetime licensees.

R657-17-6. Hunter Education Requirements -- Minimum Age for Hunting.

(1) The division shall issue a lifetime licensee only those licenses, permits, and tags for which that person qualifies according to the hunter education requirements, age restrictions specified in this Section and Title 23, Wildlife Resources Code of Utah, and suspension orders of a division hearing officer.

(2)(a) Lifetime licensees born after December 31, 1965, must be certified under Section 23-19-11 to engage in hunting.

(b) Proof of hunter education must be provided to the division by the lifetime licensee.

(3) Age requirements to engage in hunting are as follows:

(a) A lifetime licensee must have completed a valid ~~hunters~~ hunter education course to hunt.

(b) A lifetime licensee must be 12 years of age or older to hunt big game.

KEY: wildlife, game laws, hunting and fishing licenses

Date of Enactment or Last Substantive Change: [~~August 9, 2010~~2011]

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-19-17.5; 23-19-40; 23-19-11

**Natural Resources, Wildlife Resources
R657-38
Dedicated Hunter Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35211

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's Dedicated Hunter Program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) eliminate the Dedicated Hunter Limited-entry permit drawing; 2) change "loyalty" to "preference"; 3) change "region" to "unit"; 4) remove an additional suspension time period to suspended dedicated hunter certificate of registrations; 5) require all current dedicated hunters to select a unit; 6) change the required service hours from 40 to 32; 7) change the reporting date from January 1 to March 15; and 8) make technical corrections for consistency and accuracy.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These amendments can be implemented with relatively few programming changes and thus the Division of Wildlife Resources (DWR) determines that these amendments do 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 these amendments will impact individual participants in the dedicated hunter program and not the local governments, this should have no effect on them. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment requires the participant to provide less hours of service to the division and may result in a potential to generate a cost savings to them. Therefore, the division determines that the amendments do not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment requires the participant to provide less hours of service to the division and may result in a potential to generate a cost savings to them. Therefore, the division

determines that the amendments have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments are program changes that will create additional savings for those who wish to participate in the program. Participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who do not participate in the dedicated hunter program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-38. Dedicated Hunter Program.

R657-38-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program provides the opportunity for participants to:

(a) increase the opportunity for recreational general deer hunting, while the division regulates harvest;

(b) increase participation in wildlife ~~management decisions;~~

~~(c) increase participation in wildlife conservation projects that are beneficial to wildlife conservation and the division; and~~

(~~d~~)c) complete the wildlife conservation and ethics course to learn about hunter ethics, public input processes and wildlife conservation philosophies and strategies.

R657-38-2. Definitions.

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

(2) In addition:

(a) "Dedicated Hunter Program ~~Orientation~~orientation course" means a course of instruction provided by the division outlining the organization, structure and requirements of the Dedicated Hunter Program.

(b) "Dedicated Hunter Permit" means a general buck deer permit issued to a participant in the Dedicated Hunter Program, which authorizes the participant to hunt general archery, general muzzleloader and general any weapon in the ~~region~~unit specified on the permit.

~~(c) "[Dedicated Hunter Limited Entry Permit" means a limited entry deer permit or limited entry elk permit, for use in an area selected by the Division, which shall be offered through the Dedicated Hunter Program Drawing.~~

~~(d) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general muzzleloader and general any weapon deer hunting is open to permit holders for taking deer.~~

(~~e~~)d) "Participant" means a person who has remitted the appropriate fee and has been issued a certificate of registration for the Dedicated Hunter Program.

(~~f~~)e) "Program" means the Dedicated Hunter Program, a program administered by the division as provided in this rule.

(~~g~~)f) "Program harvest" means tagging a deer with a Dedicated Hunter ~~Permit or Dedicated Hunter Limited Entry Deer Permit~~permit or failing to return the Dedicated Hunter ~~Permit or Dedicated Hunter Limited Entry Deer Permit with an~~permit with the attached, unused tag, while enrolled in the program.

(~~h~~)g) "Program requirements" mean the Dedicated Hunter Program orientation course as provided in Section R657-38-9, the wildlife conservation and ethics course as provided in Section R657-38-10, wildlife conservation projects as provided in Section R657-38-11, and returning an unused Dedicated Hunter ~~Permit~~permit and attached tag as provided in Subsection R657-38-13(1).

(~~i~~)h) "Wildlife ~~e~~)Conservation and Ethics course" means a course of instruction provided by the division on hunter ethics, public input processes and wildlife conservation philosophies and strategies.

(~~j~~)i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, that provides wildlife habitat protection or enhancement, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division.

(~~k~~)j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and participating volunteers, and maintaining and reporting records of service hours to the division.

R657-38-3. Certificate of Registration Required.

(1)(a) To participate in the program a person must apply for, obtain and sign a certificate of registration issued by the division through the Big Game Application as prescribed in the guidebook of the Wildlife Board for taking big game.

(b) ~~No more than ten thousand~~ Each unit may not exceed the specified percentage of certificates of registration for the program ~~may be in effect~~ at any given time. The percentages shall be prescribed by the Wildlife Board in the guidebook for taking big game.

(c) Certificates of registration are issued through a division drawing.

(d) Each prospective participant must submit an online application provided by the division after completing the Dedicated Hunter Program ~~Orientation~~ orientation course before the division may issue the certificate of registration for the program.

(e) A certificate of registration to participate in the program shall only be issued during the application period as prescribed in the ~~proclamation~~ guidebook of the Wildlife ~~Board~~ Board for taking big game.

(2) The division may deny issuing a ~~D~~ Dedicated ~~H~~ Hunter certificate of registration to a person for any of the following reasons:

(a) The application is incomplete or contains false information.

(b) The person, at the time of application, is under a judicial or administrative order suspending any wildlife hunting or fishing privilege within Utah or elsewhere;

(c) The person has violated the terms of any certificate of registration issued by the division or an associated agreement.

(d) The person has ever had a ~~D~~ Dedicated ~~H~~ Hunter certificate of registration suspended by the division.

(3) Prospective participants who have been under any wildlife suspension may not apply for the program until:

~~(a) their suspension period has ended; and~~
~~(b) an additional length of time equivalent to the original suspension has passed].~~

(4) Each certificate of registration is valid for three consecutive general deer hunting seasons, except as provided in subsections (13) and (14).

(5)(a) Any person who is 12 years of age or older may obtain a certificate of registration. A person 11 years of age may obtain a certificate of registration if the date of that person's 12th birthday ~~is before the end of the any weapon general buck deer hunt~~ falls in the calendar year the certificate of registration is issued. A person may not use a permit to hunt big game before their 12th birthday.

(b) Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.

(c) Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.

(6) A certificate of registration authorizes the participant an opportunity to receive annually a Dedicated Hunter ~~P~~ permit to hunt during the general archery, general muzzleloader and general any weapon deer hunts. The Dedicated Hunter ~~P~~ permit may be used during the dates and within the hunt area boundaries established by the Wildlife Board.

(7)(a) Except as provided in Subsections (b), R657-38-12(3)(a), and R657-38-12(6), a participant using a Dedicated Hunter ~~P~~ permit may take two deer within three years of enrollment, and only one deer in any one year as provided in Rule R657-5.

(b) Participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in this rule during the three-year term of enrollment, unless a variance is authorized by the division.

(c) The harvest of an antlerless deer using a Dedicated Hunter ~~P~~ permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.

(8) The certificate of registration must be signed by the participant. The certificate of registration is not valid without the required signature.

(9) The participant and holder of the certificate of registration must have a valid Dedicated Hunter ~~Permit~~ permit in possession while hunting. A participant is not required to have the Dedicated Hunter ~~Certificate of Registration~~ certificate of registration in possession while hunting.

(10) The division may issue a duplicate Dedicated Hunter ~~Certificate~~ certificate of ~~Registration~~ registration pursuant to Section 23-19-10.

(11) Certificates of registration are not transferable and shall expire at the end of a participant's third consecutive general deer hunting season.

(12)(a) The program requirements set forth in Sections R657-38-10, and R657-38-11 may be waived annually if the participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for religious or educational purposes.

(b) If the participant requests that the program requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter ~~P~~ permit for the year in which the program requirements were waived.

(13)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that their enrollment in the program be suspended for the period of their mobilization or deployment.

(14)(a) A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-10, R657-38-11, ~~and~~ be extended or satisfied as provided in Subsections (b) through (d).

(b) The program requirement set forth in Section R657-38-10 may be extended to the second or third year of their program enrollment.

(i) extended to the third year in the program if the participant is currently in the second year of the program; and

(ii) waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.

(c) The program requirement set forth in Section R657-38-11 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.

(d) A participant must provide evidence of the mobilization or deployment.

(15) A refund for the Dedicated Hunter [€]certificate of [R]registration may not be issued, except as provided in Section 23-19-38.2. Any refund will be issued pro rata based on the number of hunting seasons actually participated in during the three-year enrollment period.

R657-38-4. Dedicated Hunter Drawing.

(1) Applications are available through the division's Internet site.

(2) A person may not submit more than one application in the Dedicated Hunter drawing in any one year.

(3)(a) Applications must be submitted online by the date prescribed in the [bucks, bulls and once-in-a-lifetime proclamation]guidebook of the Wildlife Board for taking big game.

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

(4) Only a resident may apply for or obtain a resident certificate of registration and only a nonresident may apply for or obtain a nonresident certificate of registration.

(5) To apply for a resident certificate of registration, a person must establish residency at the time of purchase.

(6) The posting date of the drawing shall be considered the purchase date of a certificate of registration.

(7) Applicants shall be notified by [mail and e-mail]email of drawing results by the date published in the [bucks, bulls and once-in-a-lifetime proclamation]guidebook of the Wildlife Board for taking big game.

(8) Group applications are accepted. Up to four applicants may apply as a group.

(9)(a) An applicant may withdraw their application for the Dedicated Hunter Program drawing by the date published in the [bucks, bulls and once-in-a-lifetime proclamation]guidebook of the Wildlife Board for taking big game.

(b) Handling fees will not be refunded.

(10) An applicant may withdraw and resubmit their application for the Dedicated Hunter Program certificate of registration drawing by the date published in the [bucks, bulls and once-in-a-lifetime proclamation]guidebook of the Wildlife Board for taking big game.

(11)(a) Effective January 1, 2012 all current Dedicated Hunter Program participants must select a general season hunting unit prior to the Big Game application period as established by the Wildlife Board in the guidebook for taking big game.

(b) Any current Dedicated Hunter Program participant who fails to select a general season hunting unit prior to the Big Game application period as established by the Wildlife Board in the guidebook for taking big game will be assigned a unit in the participants region of choice from the previous year.

(i) The division shall make every reasonable attempt to contact each current Dedicated Hunter Program participant for the purpose of selecting a general season hunting unit.

R657-38-7. Dedicated Hunter [Loyalty]Preference Point System.

(1) [Loyalty]Preference points are used in the [dedicated hunter]Dedicated Hunter certificate of registration drawing to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.

(2)(a) ~~A loyalty~~ A preference point is awarded for:

(i)a) each valid unsuccessful application;

(ii)b) each valid application when applying only for a [loyalty]preference point in the dedicated hunter drawing.

~~_____ (iii) each applicant who successfully completes a three-year enrollment in the dedicated hunter program.~~

(3)(a) A person may not apply in the drawing for both a [loyalty]preference point and a certificate of registration.

(b) A person may not apply for a [loyalty]preference point if that person is ineligible to apply for a certificate of registration.

~~_____ (c) Loyalty points shall not be used when obtaining remaining certificates of registration after the dedicated hunter drawing.~~

(4)~~_____ Loyalty~~ Preference points are forfeited if a person obtains a certificate of registration through the drawing.

(5)(a)~~_____ Loyalty~~ Preference points are not transferable.

(b)~~_____ Loyalty~~ Preference points shall only be applied to the Dedicated Hunter drawing.

(c) A person may ~~not have more than one loyalty point at any time.~~

~~_____ (d) Loyalty points are only valid through the end of the following application period~~ accumulate preference points.

(6)~~_____ Loyalty~~ Preference points are averaged and rounded down to the nearest whole point when two or more applicants apply together on a group application.

(7)(a)~~_____ Loyalty~~ Preference points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain copies of electronic applications from [2009]2011 to the current [Dedicated Hunter]applicable drawing for the purpose of researching [loyalty]preference point records.

(c) Any requests for researching an applicant's [loyalty]preference point records must be requested within the time frames provided in Subsection (b).

(d) Any [loyalty]preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may eliminate any [loyalty]preference points earned that are obtained by fraud, deceit or misrepresentation.

R657-38-8. Dedicated Hunter Permits.

(1)(a) Participants may hunt during the general archery, general muzzleloader and general any weapon deer hunts within the hunt area and during the season dates prescribed in the [proclamation]guidebook of the Wildlife Board for taking big game.

(b) The division may exclude multiple season opportunities on specific deer management units due to extenuating circumstances on that specific unit.

(2)(a) Participants must designate a [regional]unit hunt choice during the Dedicated Hunter application period.

(b) The [regional]unit hunt choice shall remain in effect for the duration of the Dedicated Hunter certificate of registration, unless otherwise changed in writing by the participant by the last business day in January].

(3)(a) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter [P]permit by mail.

(b) A participant who enters the program as a resident and becomes a nonresident, or claims residency outside of Utah shall be issued a nonresident permit at no additional charge for the remainder of the three-year enrollment period.

(c) A participant who enters the program as a nonresident and becomes a resident, or claims residency in Utah, shall be issued a resident permit with no reimbursement of the higher nonresident fee for the remainder of the three-year enrollment period.

(4)(a) Dedicated Hunter permits may be issued through the mail ~~[by June 1 of each year and again three weeks]~~ prior to the beginning of the general archery deer hunt, and only upon evidence that the participant has completed all program requirements and possesses a Utah hunting or combination license. For the purposes of meeting the requirement of 23-19-24(2) the application period for a Dedicated Hunter deer permit will be considered to be the application period for the big game permits. Any Dedicated Hunter who does not have a valid hunting license during this application period must obtain one before a Dedicated Hunter deer permit will be issued.

(b) Participants completing program requirements ~~[after June 1]~~ may obtain their Dedicated Hunter [P]permit over-the-counter from any division office after the remaining general season deer permits become available to the public as listed in the guidebook of the Wildlife Board for taking big game.

(5) A Dedicated Hunter [P]permit may not be issued to any participant who:

(a) does not complete the program requirements;

(b) violates the terms of this rule or the Dedicated Hunter [E]certificate of [R]registration;

(c) does not possess a current and or valid Utah hunting or combination license.

(6)(a) The division may issue a duplicate Dedicated Hunter [P]permit pursuant to Section 23-19-10.

(b) If a participant's unused Dedicated Hunter [P]permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate. A fee to duplicate the permit and tag may apply.

(c) A duplicate Dedicated Hunter [P]permit shall not be issued after the closing date of the general any weapon buck deer hunt. However, a participant may complete an affidavit and submit the affidavit for program reporting purposes as required in Section R657-38-13(1).

(7)(a) A participant may ~~[exchange or]~~ surrender a Dedicated Hunter [P]permit in accordance with Rule R657-~~[42-provided annual program requirements are completed.]42.~~

(b) A participant may not ~~[exchange or]~~ surrender a Dedicated Hunter ~~[Permit for any other buck deer]~~ permit once the general archery deer hunt has begun, ~~[except:~~

~~(i) a participant may exchange a Dedicated Hunter Permit for a Dedicated Hunter Permit in any other available area prior to the opening of the general muzzleloader buck deer hunt.~~

~~(ii) a participant may surrender a Dedicated Hunter Permit after the opening of the buck deer archery hunt, provided unless the Division can verify that the permit was never in the participant's possession.~~

~~(9)8(a)~~ Lifetime license holders may participate in the program.

~~(b) [Upon signing the certificate of registration, the]~~The lifetime license holder agrees to forego any rights to receive a lifetime license buck deer permit for the general archery, general muzzleloader or general any weapon deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the lifetime license general archery, general muzzleloader or general any weapon permit.

R657-38-9. Dedicated Hunter Program Orientation Course.

(1)(a) The division shall provide an annual Dedicated Hunter Program ~~[Orientation]~~orientation course.

(b) Prior to applying for the program, and obtaining a certificate of registration, a prospective participant must complete the Dedicated Hunter Program orientation course.

(2) The Dedicated Hunter Program ~~[Orientation]~~orientation course shall explain the program to give a prospective participant a reasonable understanding of the program.

(3) The Dedicated Hunter Program ~~[Orientation]~~orientation course is available through the division's Internet site.

(4)(a) Evidence of completion of the Dedicated Hunter Program ~~[Orientation]~~orientation course shall be provided to the prospective participant upon completion of the Dedicated Hunter Program ~~[Orientation]~~orientation course.

(b) Certificates of registration shall not be issued without the prospective participant having completed the Dedicated Hunter Program ~~[Orientation]~~orientation course.

(c) The division shall keep a record of all participants who complete the Dedicated Hunter Program ~~[Orientation]~~orientation course.

R657-38-11. Wildlife Conservation Projects.

(1) Each participant in the program shall provide a total of ~~[40]32~~ hours of service as a volunteer on a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee for each hour not completed as provided in Subsection (c).

(a) A participant must provide no fewer than ~~[sixteen]eight~~ hours of service before obtaining the first Dedicated Hunter Permit.

(b) A participant must provide an additional sixteen hours of service prior to receiving the second Dedicated Hunter Permit.

(c) A participant must provide the remaining balance of hours of service prior to ~~[October]~~November 1 of the third-year in the program ~~[to be eligible for a loyalty point.]~~

(d) If a participant fails to complete all third year required service hours by November 1 after having been issued permits in years one and two, the value of the final hours must be paid in full prior to applying in any division drawings.

~~(d)~~~~(e)~~ Residents may not purchase more than ~~[30]24~~ of the ~~[40]32~~ total required service hours. Nonresidents may purchase all of the ~~[40]32~~ total required service hours.

~~(e)~~~~(f)~~ Goods or services may be provided to the division in lieu of hours of service.

~~(f)~~~~(g)~~ Goods or services provided to the division for wildlife conservation projects by a participant may be, at the discretion of the division, substituted for service hours based upon

current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.

~~[(g) If a participant fails to complete all third year required service hours by October 1 after having been issued permits in years one and two, the value of the final hours must be paid in full prior to applying in any division drawings.]~~

(2) Wildlife conservation projects shall be designed by the division, or any other individual or entity and shall be pre-approved by the division.

(3)(a) Wildlife conservation projects may occur anytime during the year as determined by the division.

(b) The division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities on the division's Internet site.

(4)(a) Service hours completed in any given year may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.

(b) Dedicated Hunter permits issued to participants within three weeks prior to the opening date of the general archery deer hunt annually, shall be issued over-the-counter at division offices.

(5) A participant ~~[must]~~may request a receipt from the wildlife conservation project manager showing service hours worked on the wildlife conservation project.

(6)(a) If a participant fails to fulfill the wildlife conservation project requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter ~~[Permit]~~permit for that year.

(b) The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife conservation project program requirements due or payment of the fee in lieu thereof.

(7) The ~~[wildlife conservation project manager]~~Volunteer Service Program Coordinator shall keep a record of all participants who attend ~~[the]~~wildlife conservation ~~[project]~~projects and the number of service hours worked.

R657-38-12. Obtaining Other Permits.

(1) Participants may not apply for or obtain general buck deer permits or preference points issued by the division through the big game drawing, license agents, over-the-counter sales, or the Internet during the three-year period of enrollment in the program. Any general deer permit obtained in addition to the Dedicated Hunter permit becomes invalid and must be surrendered prior to the beginning date of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.

(2) Participants may not apply for or obtain general landowner buck deer permits as provided under Rule R657-43.

(3)(a) Participants may apply for or obtain any other non general season buck deer permit as provided in Rule R657-5 and the ~~[proclamation]~~guidebook of the Wildlife Board for taking big game.

(i) harvest of a deer with a permit obtained pursuant to Subsection (a) shall not be considered a program harvest.

(ii) participants are not required to complete program requirements prior to obtaining a permit pursuant to Subsection (a).

(b) ~~[Participants may apply for or obtain a Dedicated Hunter Limited Entry Permit as provided under Section R657-38-14.]~~

~~[(e) If the participant obtains any other [buck deer permit, or Dedicated Hunter Limited Entry] buck deer permit, the Dedicated Hunter [P]permit becomes invalid and the participant must surrender the Dedicated Hunter [P]permit prior to the opening day of the general archery deer hunt. A refund may not be issued pursuant to Section 23-19-38.~~

~~[(d)c] If the participant obtains any other buck deer permit [or a Dedicated Hunter Limited Entry Permit,] the participant may use the permit only in the prescribed area during the season dates listed on the permit.~~

~~[(e)d] Participants who obtain a cooperative wildlife management unit deer permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.~~

(4) Participants must have a valid permit in their possession while hunting.

(5) Obtaining any other buck deer permit does not authorize a participant to take an additional deer.

(6)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the ~~[Antlerless Addendum to the proclamation]~~guidebook of the Wildlife Board for taking big game.

(b) Antlerless permits do not count against the number of permits issued pursuant to this program.

(c) Harvest of an antlerless deer as provided in the ~~[Antlerless Addendum to the proclamation]~~guidebook of the Wildlife Board for taking big game shall not be considered a program harvest.

R657-38-13. Reporting Requirements.

(1)(a) A participant must return the unused Dedicated Hunter ~~[P]permit~~ and attached tag, or an affidavit as provided in Section R657-38-8(6)(c), to a division office ~~by March 15 annually [by the last business day in January to be eligible for the Dedicated Hunter Limited Entry Permit drawing].~~

(b) The division shall credit a program harvest to any participant who fails to return the unused Dedicated Hunter ~~[P]permit~~ and attached tag, or an affidavit as provided in Section R657-38-8(6)(c) ~~[by the last business day in January to be eligible for the Dedicated Hunter Limited Entry Permit drawing].~~

(i) An unused Dedicated Hunter ~~[P]permit~~ and attached tag, or an affidavit as provided in Subsection R657-38-8(6)(c) ~~[returned after the last business day in January,] will be accepted and the credited program harvest removed. [However, the participant will not be eligible for the Dedicated Hunter Limited Entry Permit drawing.]~~

(ii) A participant who returns an unused Dedicated Hunter ~~[P]permit~~ after March 15, and who is credited with a second program harvest, is only eligible to obtain a Dedicated Hunter ~~[P]permit~~ for an available ~~[region]~~unit if permits remain after the big game drawing and must obtain the Dedicated Hunter ~~[P]permit~~ over-the-counter at a division office.

(iii) If there are no permits remaining after the big game drawing, additional Dedicated Hunter permits shall not be issued.

(2)(a) The division may contact participants to gather annual harvest information and hunting activity information.

(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.

~~[(3)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by the last business day in January.~~

~~[(b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall remain in effect.~~

~~]~~
R657-38-14. [Dedicated Hunter Program Limited Entry Drawing:

~~(1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by the last business day in January, may qualify the participant to be entered into the Dedicated Hunter Program Limited Entry Drawing provided:~~

~~(a) the participant is currently enrolled in the program;~~

~~(b) the participant has returned the Dedicated Hunter Permit and unused, attached tag, or an affidavit as provided in Section R657-38-8(6)(e); and~~

~~(c) the participant is 14 years of age or older, or if the participant is 13 years of age and will have their 14th birthday in the calendar year for which the permit is issued.~~

~~(2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).~~

~~(b) The eligible participants and limited entry permits shall be randomly drawn.~~

~~(c) The successful participant must meet all program requirements by June 1 for the current year in which the permit is valid before the issuance of the permit.~~

~~(d) If the successful participant fails to fulfill program requirements by June 1, the permit may be issued to the next participant on the alternate drawing list as provided in Rule R657-42.~~

~~(3)(a) The successful participant shall be notified by certified mail.~~

~~(b) The successful participant must submit the appropriate limited entry permit fee within ten business days of the date on the notification letter.~~

~~(c) If the successful participant fails to submit the required limited entry permit fee, the permit may be issued to the next participant on the alternate drawing list as provided in Rule R657-42.~~

~~(5)(a) The Dedicated Hunter Limited Entry Permit allows the recipient to take only the species for which the permit is issued.~~

~~(b) The species that may be taken shall be printed on the permit.~~

~~(c) The species may be taken in the area and during the season specified on the permit.~~

~~(d) The species may be taken only with the weapon specified on the permit.~~

~~(e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.~~

~~(f) Bonus points shall not be awarded or utilized when applying for or obtaining Dedicated Hunter Limited Entry permits.~~

~~(g) Any participant who obtains a Dedicated Hunter Limited Entry Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.~~

R657-38-15.]Certificate of Registration Surrender.

~~(1)(a) A participant who has obtained a Dedicated Hunter certificate of registration may surrender the certificate of registration to a division office provided the participant does not have two program harvests[-~~

~~(b) A participant who surrenders the Dedicated Hunter certificate of registration may not re-enter the program until the participant's initial certificate of registration has expired.] and the participant has not been issued a permit in years one and two.~~

~~(2) The division may not issue a refund, except as provided in Section 23-19-38 and Section R657-38-3(15).~~

R657-38-~~14~~15. Certificate of Registration Suspension.

~~(1) The division may suspend a Dedicated Hunter certificate of registration pursuant to Section 23-19-9 and R657-26.~~

~~(2) A certificate of registration may be suspended if the participant fraudulently:~~

~~(a) submits a time sheet for service hours; or~~

~~(b) completes a wildlife conservation and ethics course.~~

~~(3) A certificate of registration may be suspended if the participant is under a judicial or administrative suspension order suspending any wildlife hunting or fishing privilege within Utah or elsewhere.~~

~~(4) A certificate of registration is invalid if the participant's big game hunting privileges are suspended in any jurisdiction during the participant's enrollment in the program.~~

~~(5) A Dedicated Hunter permit is invalid if a participant's certificate of registration is suspended.~~

KEY: wildlife, hunting, recreation, wildlife conservation

Date of Enactment or Last Substantive Amendment: [~~March 10, 2009~~2011

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18

**Natural Resources, Wildlife Resources
R657-43
Landowner Permits**

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 35210
FILED: 09/01/2011**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' rule pursuant to landowner permits.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule change "region" to "unit" and "proclamation" to "guidebook" for consistency with other division rules.

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 makes only technical changes therefore, the Division of Wildlife Resources (DWR) determines that these amendments do 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 only makes technical changes, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment only makes technical wording changes, therefore, the amendments do not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment only makes technical wording changes, therefore, the amendments do not have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will not create additional costs for landowners wishing to purchase a landowner permit in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-43. Landowner Permits.

R657-43-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:

(a) taking buck deer within the general [regional]unit hunt boundary area where the landowner's property is located during the general deer hunt only; and

(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.

(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the [proclamation]guidebook of the Wildlife Board for taking big game.

(3) The intent of the general landowner buck deer permit is to provide an opportunity for landowners, lessees, or their immediate family, whose property provides habitat for deer, to purchase a general deer permit for the general [regional]unit hunt boundary area where the landowner's property is located.

(4) The intent of the limited entry landowner permit is to provide an opportunity for landowners, whose property provides habitat for deer, elk, or pronghorn, to be allocated a restricted number of permits for a limited entry bull elk, buck deer, or buck pronghorn unit, where the landowner's property is located. Allowing landowners a restricted number of permits:

(a) encourages landowners to manage their land for wildlife;

(b) compensates the landowner for providing private land as habitat for wildlife; and

(c) allows the division to increase big game numbers on specific units.

R657-43-2. Definitions.

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

(2) In addition:

(a) "Eligible property" means:

(i) private land that provides habitat for deer, elk or pronghorn as determined by the division of Wildlife Resources;

(ii) private land that is not used in the operation of a Cooperative Wildlife Management Unit;

(iii) private land that is not used in the operation of an elk farm or elk hunting park;

(iv) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and

(v) for the purpose of receiving general buck deer permits, a minimum of 640 acres of private land owned or leased by one landowner within the general [regional]unit hunt boundary; or

(vi) private land, including crop land owned by members of a landowner association for limited entry permits.

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

(c) "Landowner" means any person, partnership, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(d) "Landowner association" means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the division.

(e) "Lessee" means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.

(f) "Limited entry unit" means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.

(g) "Voucher" means a document issued by the division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a division office.

R657-43-5. Application for General Landowner Buck Deer Permits.

(1) Applications for general landowner buck deer permits are available from division offices.

(2) Only one eligible landowner or lessee may submit an application for the same parcel of land within the respective general [regional]unit hunt boundary area.

(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

(4) Applications must include:

(a) total acres owned within the respective general [regional]unit hunt boundary area;

(b) signature of the landowner; and

(c) location of the private lands, acres owned, county and region.

(5) In cases where the landowner's or lessee's land is in more than one general [regional]unit hunt boundary area, the landowner or lessee may select one of those [regions]units from which to receive the permit.

(6) a non-refundable handling fee must accompany each application.

(7) a landowner may not apply for or obtain a general landowner buck deer permit without possessing a Utah hunting or combination license.

(8) Applications will be available by January 7.

(9) Applications must be completed and returned to the regional division office.

(10) The signature on the application will serve as an affidavit certifying ownership.

R657-43-7. General Permits and Season Dates.

(1) The following number of general landowner buck deer permits may be available to a landowner or lessee:

(a) one general landowner buck deer permit may be issued for eligible property of 640 acres; and

(b) one additional general landowner buck deer permit may be issued for each additional 640 acres of eligible property.

(c) If an individual has both owned and leased eligible property, the acreage may be combined in determining the number of permits to be issued.

(2) Permittees may select only one general landowner buck deer permit (archery, rifle or muzzleloader) as provided in the [proclamation]guidebook of the Wildlife Board for taking big game.

(3)(a) General landowner buck deer permits are for personal use only and may not be transferred to any other person.

(b) If the landowner or lessee is a corporation, the person eligible for the permit must be a shareholder, or immediate family member of a shareholder, designated by the corporation.

(4) Any person who is issued a general landowner buck deer permit under this rule is subject to all season dates, weapon restrictions and any other regulations as provided in the [proclamation]guidebook of the Wildlife Board for taking big game.

(5) The fee for a general landowner buck deer permit is the same as the fee for a general season, general archery or general muzzleloader buck deer permit.

(6) Nothing in this rule shall be construed to allow any person to obtain more than one general buck deer permit from any source or take more than one buck deer during any one year.

(7) Permits will be issued beginning in June, in the order that applications are received, and permits will continue to be issued until all permits for each region have been issued.

(8) [to]To receive a general landowner buck deer permit, the eligible person must possess or obtain a Utah hunting or combination license.

R657-43-8. Limited Entry Permits and Season Dates.

(1) Only bull elk, buck deer or buck pronghorn limited entry permits may be applied for by the landowner association.

(2)(a) The division and landowner chairperson shall jointly recommend the number of permits to be issued to the landowner association.

(b) When consensus between the landowner chairperson and the division is not reached, applications shall include justification for permit numbers for review by the Wildlife Regional Advisory Councils and the Wildlife Board.

(3) Permit numbers shall fall within the herd unit management guidelines. Permit numbers will be based on:

(a) the percent of private land big game habitat within the unit that is used by wildlife; or

(b) the percentage of use by wildlife on the private lands.

(4) Landowners receiving vouchers may personally use the vouchers or reassign the vouchers to any legal hunter.

(5) All landowners who receive vouchers, and transfer the vouchers to other hunters must:

(a) allow those hunters receiving the vouchers access to their private lands for hunting; and

(b) allow the same number of public hunters with valid permits, equal to the number of vouchers transferred, to access the landowner association's private land for hunting during the appropriate limited entry bull elk, buck deer or buck pronghorn hunting season, except as provided in Subsection (6).

(6)(a) Landowners who transfer vouchers to other hunters may deny public hunters access to the landowner association's private land for hunting by requesting, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.

(b) The requested variance must be provided by the landowner association in writing to the division 30 days prior to the

appropriate Regional Advisory Council meeting scheduled to review Rule R657-5 and the [~~Bucks, Bulls and Once-in-a-lifetime proclamation~~]guidebook of the Wildlife Board for taking big game.

(c) The variance request must be presented by the landowner association to the appropriate local Regional Wildlife Advisory Council. The local Regional Wildlife Advisory Council shall forward a recommendation to the Wildlife Board for consideration and action.

(7)(a) Any person who is issued a limited entry landowner permit must follow the season dates, weapon restrictions and any other regulations governing the taking of big game as specified in Rule R657-5 and the [~~proclamation~~]guidebook of the Wildlife Board for taking big game.

(b) to receive a limited entry landowner permit, the person designated on the voucher must possess or obtain a Utah hunting or combination license.

(8) A limited entry landowner permit authorizes the permittee to hunt within the limited entry unit where the eligible property is located.

(9) Nothing in this rule shall be construed to allow any person, including a landowner, to take more than one buck deer, one bull elk or one buck pronghorn during any one year.

KEY: wildlife, landowner permits, big game seasons

Date of Enactment or Last Substantive Change: [~~August 7, 2007~~]2011

Notice of Continuation: March 13, 2007

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Natural Resources, Wildlife Resources R657-56 Recreational Lease of Private Lands for Free Public Walk-in Access

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35214

FILED: 09/01/2011

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. The purpose of this rule is to provide the standards, procedures, and requirements necessary to administer a walk-in access (WIA) program to compensate private landowners for a recreational lease of their property to allow free public WIA for fishing, hunting, and trapping.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) allow two or more landowners to combine property and form a WIA landowner association to make larger tracts of private property available; 2) allow

habitat improvement projects in addition to monetary payments; 3) set regulations for habitat projects; 4) set regulations for a Walk-in Access Authorization program; and 5) make technical corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19 and Section 57-14-1

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This is an existing program and the associated costs have been funded with monies from existing funding sources. Therefore, the Division of Wildlife Resources (DWR) determines that this rule does not create a cost or savings impact to the state budget or DWR's budget.

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

◆ **SMALL BUSINESSES:** Private landowners will be compensated by DWR through a recreational lease but it is not anticipated that it will produce a cost or savings for them. This rule does not impose any additional requirements on small businesses, and because this rule provides for free public access, DWR has determined that this rule does not create a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Private landowners will be compensated by DWR through a recreational lease but it is not anticipated that it will produce a cost or savings for them. This rule does not impose any additional requirements on other persons, and because this rule provides for free public access, DWR has determined that this rule does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is proposed to compensate private landowners for allowing free WIA to the public and does not impose any cost requirements for affected persons.

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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-56. Recreational Lease of Private Lands for Free Public Walk-in Access.

R657-56-1. Purpose and Authority.

Under the authority of Sections 23-14-3(2), 23-14-18, and 23-14-19, this rule provides the procedures, standards, and requirements to administer a ~~[walk-in access]~~ Walk-In Access program in the State of Utah designed to compensate private landowners for ~~[a recreational lease of their]~~ leasing private property for the purpose of allowing free public ~~[walk-in] access [to fish, hunt, or trap]~~ for wildlife dependent recreation.

R657-56-2. Definitions.

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

(2) In addition:

~~(a)~~ "Base rate fee" is the minimum payment that a landowner is eligible for excluding all bonus payments.

~~(b)~~ "Contiguous" means parcels of real property that share a common property line and are otherwise connected as a single mass, excluding parcels that adjoin only at corners.

~~(c)~~ "Landowner association" means a landowner or group of landowners of private land organized as a single entity for the purpose of applying for and becoming a WIA property.

~~(d)~~ "Landowner association chair" means an individual designated by a landowner association as their representative.

~~(e)~~ "Landowner association member" means an individual landowner participating in the landowner association.

~~(f)~~ "Private landowner" means any individual, partnership, corporation, or association that possesses the legal right on private property to grant a recreational lease.

~~(g)~~ "Recreational lease activities" [means] mean wildlife dependent recreation limited to fishing, hunting or trapping as provided in the wildlife dependent recreational lease agreement.

~~(h)~~ "WIA" means walk-in access.

~~(i)~~ "WIFA" means walk-in fishing access, which provides free public access to fish waters located on private property as provided in the recreational lease agreement, and includes trapping when the landowner designates this activity in the WIFA recreational lease agreement.

~~(j)~~ "WIHA" means walk-in hunting access, which provides free public access to hunt private property as provided in the recreational lease agreement, and includes trapping when the landowner designates this activity in the WIHA recreational lease agreement.

~~(k)~~ "Contiguous block" means a polygon of land that is connected as a single mass.

R657-56-3. Walk-In Access Landowner Enrollment Procedures.

(1) A private landowner with eligible property may participate in the WIA program[

~~(2) A private landowner interested in participating in the WIA program must submit an enrollment form] provided they submit an application to the appropriate division office by [March 1, and provide] June 30, with the following information:~~

(a) evidence of property ownership, or if leasing the private property a copy of the lease agreement; and

(b) county recorder plat maps or equivalent maps, dated by receipt of purchase within 30 days of the initial or renewal enrollment deadline, depicting boundaries and ownership of all property enrolled in the WIA.

(c) the private landowner's signature.

(3) [Enrollment]two or more landowners with contiguous properties may join together to form a landowner association provided the combined properties meet the minimum requirements in R657-56-5.

(4) Application forms are available at the appropriate division office[or through the division's web site].

R657-56-4. Walk-In Access Recreational Lease Agreement.

(1) The division and private landowner shall prepare and agree to the terms in a WIA recreational lease agreement by ~~[May]~~ July 1.

(2) Terms in the WIA recreational lease agreement shall include private landowner and division responsibilities, including the provisions ~~[as provided]~~ in Sections R657-56-8 and R657-56-9, and compensation necessary to provide free public access for ~~[fishing, hunting, or trapping]~~ wildlife dependent recreational activities on private property.

(3) The amount of compensation ~~[to be]~~ paid to the private landowner participating in the WIA program shall be determined by:

(a) the type of wildlife dependent recreational lease activity allowed on the private property;

(b) the duration of the recreational lease agreement; and

(c) the number of acres of private land or pond, or miles of stream or river available for free public walk-in access.

(4) Upon mutual agreement, the division may provide ~~[in-kind]~~ habitat improvement, materials, or labor on the WIA property in lieu of all or part of the monetary [payment to the landowner] compensation otherwise due for free public walk-in access.

~~(a)~~ If habitat improvement, materials, and/or labor are provided by the division then the duration of the agreement shall be determined upon mutual agreement and based on the divisions cost estimate for the project.

R657-56-5. Walk-In ~~[Hunting]~~ Access Program Requirements.

(1) Private property enrolled in the ~~[WIHA Program]~~ WIA program must provide suitable ~~[wildlife]~~ habitat [to]that can support the wildlife dependent recreational lease activity described in the [WIHA]WIA recreational lease agreement, and:

(a) contain no less than an 80 acre contiguous block of land for hunting or trapping;

(b) contain no less than a 40 acre contiguous block of wetland or riparian land~~;~~ for hunting or trapping;

~~(c)~~ contain a minimum of .25 miles of stream or river;

~~(d)~~ contain a minimum 5 acres of pond;

~~(e) the property provides an access corridor to comparable tracts of isolated public land or fishing waters open to free [public hunting or trapping]wildlife dependent recreational activities.~~

~~(2) If two or more landowners are joining private property to form a landowner association for the WIA program the property must:~~

~~(a) contain no less than a 320 acre contiguous block of land for hunting or trapping;~~

~~(b) contain no less than a 160 acre contiguous block of wetland or riparian land for hunting or trapping;~~

~~(c) contain a minimum of 1 mile of stream or river.~~

~~(3) No land parcel may be included in more than one WIA.~~

~~(4)(a) Division personnel shall evaluate proposed [WHA]WIA property to determine if the property provides suitable wildlife [habitat and wildlife]or fish populations and habitat for the designated recreational lease activity.~~

~~(b) The property must be capable of independently maintaining the respective species and harboring them during the period of the designated recreational lease.~~

~~(c) If the property is approved for the designated wildlife dependent recreational lease activity, the division and private landowner may enter into the [WHA]WIA recreational lease agreement as provided in Section R657-56-4.~~

~~[R657-56-6. Walk-In Fishing Access Requirements.~~

~~(1) Private property enrolled in the WIFA Program must provide suitable fishing waters and fish to support the recreational lease activity described in the WIFA recreational lease agreement, and:~~

~~(a) contain a minimum 0.25 miles of stream or river;~~

~~(b) contain a minimum 5 acres of pond; or~~

~~(c) the property provides an access corridor to comparable fishing waters on isolated public land open to public fishing.~~

~~(2)(a) Division personnel shall evaluate proposed WIFA property to determine if the property provides suitable fishing waters and fish.~~

~~(b) If the property is approved for the designated recreational lease activity, the division and private landowner may enter into the WIFA recreational lease agreement as provided in Section R657-56-4.~~

~~[R657-56-7. Walk-In [Hunting and Fishing] Access Compensation.~~

~~(1) The amount of compensation payment to a landowner is determined by the acreage [that will be]or miles of stream used for the WIA program[;] and the type of recreational[lease] activity allowed on the private property[using the base rate fee as provided in the recreational lease agreement].~~

~~(a) Payments to a landowner association will be issued to the WIA landowner chair who will be responsible for disbursement of funds to other participating landowners.~~

~~(b) The landowner association will receive a base rate fee for the qualifying property and activity in addition to a bonus of 25% of the base rate.~~

~~(2) A bonus fee will be added to the base rate fee when a private landowner[initially] enrolls private property in the~~

recreational lease agreement for additional consecutive years as follows:

~~(a) five percent will be added for two years; or~~

~~(b) ten percent will be added for three years; or~~

~~(c) fifteen percent will be added for four years; or~~

~~(d) twenty percent will be added for five years.~~

~~(3) Upon mutual agreement, the division may provide habitat improvement, materials, or labor on the WIA property in lieu of all or part of the monetary compensation otherwise due for free public walk-in access.~~

~~(a) Employees of the division will provide evaluation of the property for habitat improvement.~~

~~(b) A habitat project proposal must be completed, reviewed, and approved through the divisions Habitat Council, Blue Ribbon Fisheries Council, or the Watershed Restoration Initiative.~~

~~(c) The division and the private landowner will agree to the duration of the agreement based on the estimated value of the habitat project as determined by the division.~~

R657-56-8. Walk-In Access Program Landowner Responsibilities.

(1) Each private landowner enrolled in the WIA program must provide:

(a) free public walk-in access for wildlife dependent recreational lease activities as provided in the recreational lease agreement; and

(b) private land with suitable [wildlife]habitat [to]that can support the recreational lease activity; or

(c) an access corridor to comparable tracts of isolated public land open to free public [fishing, hunting or trapping]access for wildlife dependent recreational activities.

(2) Each private landowner must indicate the type of landowner authorization required for the public to use the WIA for [fishing, hunting, or trapping;]wildlife dependent recreational activities as follows:

(a) WIA authorization is [not required]the only requirement to access the property;

(b) registration at a WIA site is required prior to accessing the property; or

(c) contacting the landowner is required prior to accessing the property.

(3) The private landowner must transfer to the division, the recreational lease of their property for the wildlife dependent recreational lease activities designated in the WIA recreational lease agreement.

R657-56-9. Walk-In Access Program Division Responsibilities.

The division shall provide:

(1) evaluations of [wildlife]habitat, [and]wildlife or fish on the proposed WIA property as provided in [Subsections]Section R657-56-5[(2)(a) or R657-56-6(2)(a)];

(2) WIA recreational lease agreement forms;

(3) WIA authorization program;

(4) WIA registration forms and boxes when applicable[;

(4) signs for enrolled WIA property];

(5) maps, requirements, and signs for enrolled WIA property as provided in the recreational lease agreement; and

(6) law enforcement during applicable [fishing, hunting, or trapping seasons]wildlife dependent recreational activities;[

~~(6) maps of approved and enrolled WIA locations and requirements as provided in the recreational lease agreement;~~ and

(7) compensation payments to landowners following successful completion of the terms of the WIA recreational lease agreement.

R657-56-10. Termination of Walk-In Access Recreational Lease Agreement.

(1) The WIA recreational lease agreement may be:

(a) terminated for any reason by either party upon 30 days written notice; or

(b) amended at any time upon written agreement by the landowner and the division.

(2) If a WIA recreational lease agreement is terminated as provided in Subsection (1)(a), prior to the ending date specified in the recreational lease agreement, the compensation [~~payment~~]fee shall be prorated based upon the recreational lease activity provided and the number of days that access was provided.

(3) Restriction of public use by the landowner of the private property enrolled in the WIA program in violation of the recreational lease agreement may void all or a portion of the WIA recreational lease agreement.

(4) Any change in private [~~landownership~~]land ownership of enrolled WIA property may terminate the WIA recreational lease agreement.

(5) Misrepresentation of enrolled private property in the WIA program shall terminate the WIA recreational lease agreement.

(6) If a habitat project is provided by the division and the landowner terminates the contract prior to the agreed term, the landowner will be required to reimburse the division the value of the project, which shall be prorated based on termination date.

R657-56-11. Liability Protection for Walk-In Access Private Landowner.

Landowner liability may be limited when free public access is allowed on private property enrolled in the WIA program for the purpose of any recreational lease activities as provided in Title 57, Chapter 14 of the Utah Code.

R657-56-12. Licenses, Permits and Seasons.

(1) Any person accessing WIA private lands [~~to fish, hunt, or trap~~]for wildlife dependent recreational activities must obtain and possess the required valid license or permit for the recreational lease activity, and must adhere to the respective rules and proclamations established by the Wildlife Board.

(2)(a) If enrolled WIA property requires prior private landowner authorization or any other requirement as provided in the recreational lease agreement, any person entering enrolled WIA private lands [~~to fish, hunt, or trap~~]for wildlife dependent recreation must comply with said requirements.

(b) The division shall provide to the public maps of approved and enrolled WIA locations and requirements as determined in the recreational lease agreement.

R657-56-13. Walk-in Access Authorization Program (WIAA).

(1) Any person 14 years of age and older must obtain an annual Walk-in Access Authorization registration number to access properties enrolled in the Walk-in Access Program and may be required, while in the field, to prove they have registered.

(2) WIA authorization numbers will be valid from January 1 to December 31 for the year that they are obtained.

(3) To obtain an WIA authorization number, a person must call the telephone number published on-line or on signs available at WIA access points and provide the following information:

(a) combination, fishing, or hunting license number;

(b) license code or type;

(c) name;

(d) address;

(e) phone number;

(f) birth date; and

(g) information about their use of Walk-in Access areas.

R657-56-14. Right to Deny Access.

The division or the private landowner reserves the right to deny a person access to the WIA property described in the recreational lease agreement for causes related to, but not limited to, intoxication, damage to WIA property, violations of conditions provided in the recreational lease agreement, failure to obtain a WIA authorization number, or any wildlife violation committed on WIA property.

R657-56-~~14~~-15. Prohibited Activities.

(1) It is unlawful for any person to access WIA property in violation of the recreational lease agreement, or refuse to leave WIA property when requested by the landowner, a division representative, or a peace officer.

(2) Any person accessing WIA property in violation of Subsection (1) may further be subject to criminal trespass prosecution as provided in Sections 23-20-14 and 76-6-206.

R657-56-~~15~~-16. Walk-In Access Advisory Committee.

(1) A WIA Advisory Committee shall be created consisting of five members nominated by the five division [~~Supervisors~~]regional supervisors, and approved by the Director.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two agricultural representatives;

(c) one elected official; and

(d) the division's Wildlife Section Chief, or designee.

(3) The committee shall be chaired by the Wildlife Section Chief, or designee, who shall be a non-voting member.

(4) The committee will:

(a) hear complaints dealing with fair and equitable treatment of anglers, hunters, or trappers on enrolled WIA property;

(b) hear complaints dealing with fair and equitable treatment of WIA private landowners; and

(c) make advisory recommendations to the Director.

(5) The Wildlife Section Chief shall determine the agenda, time, and location of the WIA Advisory Committee meetings.

(6) The director may mitigate or resolve issues dealing with complaints.

(7) Members of the advisory Committee shall serve a term of four years, except members may be appointed for a term of two years to ensure that the term of office are staggered.

(a) The Wildlife Section Chief is not subject to a term limitation.

KEY: wildlife, private landowners, public access
Date of Enactment or Last Substantive Change: ~~August 7, 2007~~ **2011**
Notice of Continuation: November 1, 2010
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 57-14-1

Tax Commission, Administration
R861-1A-24
Formal Adjudicative Proceedings
Pursuant to Utah Code Ann. Sections
59-1-502.5, 63G-4-206, and 63G-4-208

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 35182
 FILED: 08/25/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment allows a hearing officer to preside over certain Tax Commission proceedings.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides that a hearing officer may preside over formal proceedings before the Tax Commission if the proceeding is related to: 1) Title 41, Chapter 1a, Motor Vehicle Act; 2) Title 41, Chapter 3a, Motor Vehicle Business Regulation Act, except for Section 41-1a-301; 3) Title 59, Chapter 2, Property Tax Act; 4) Title 59, Chapter 3, Tax Equivalent Property Act; 5) Title 59, Chapter 4, Privilege Tax Act; or 6) Title 59, Chapter 13, Part 5, Interstate Agreement. In addition, the proposed amendment makes technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-502.5 and Section 63G-4-206 and Section 63G-4-208

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--The proposed amendment provides the commission greater flexibility in appointing a presiding officer in certain appeals before the commission.
- ◆ **LOCAL GOVERNMENTS:** None--The proposed amendment provides the commission greater flexibility in appointing a presiding officer in certain appeals before the commission.
- ◆ **SMALL BUSINESSES:** None--The proposed amendment provides the commission greater flexibility in appointing a presiding officer in certain appeals before the commission.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The proposed amendment provides the commission greater flexibility in appointing a presiding officer in certain appeals before the commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment provides the commission greater flexibility in appointing a presiding officer in certain appeals before the commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to the Commissioners' procedures for conducting hearings should have no fiscal impact on business.

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

TAX COMMISSION
 ADMINISTRATION
 210 N 1950 W
 SALT LAKE CITY, UT 84134-0002
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Michael Cragun, Tax Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63G-4-206, and 63G-4-208.

(1) ~~[At a formal proceeding, an administrative law judge appointed by the commission or a commissioner]~~ The following may preside at a formal proceeding:

(a) a commissioner;

(b) an administrative law judge appointed by the commission; or

(c) in the case of a formal proceeding that relates to a matter that is not a tax, fee, or charge as defined under Section 59-1-1402:

(i) a commissioner;

(ii) an administrative law judge appointed by the commission; or

(iii) a hearing officer appointed by the commission.

~~(a)~~ (2) Assignment of a presiding officer to a case will be made pursuant to agency procedures and not at the request of any party to the appeal.

~~(b)~~ (a) A party may request that one or more commissioners be present at any hearing. However, the decision of whether the request is granted rests with the commission.

~~(c)~~ (b) If more than one commissioner, ~~or~~ administrative law judge, or hearing officer is present at any hearing, the hearing will be conducted by the presiding officer

assigned to the appeal, unless otherwise determined by the commission.

~~(2)~~(3) A formal proceeding includes an initial hearing pursuant to Section 59-1-502.5, unless it is waived upon agreement of all parties, and a formal hearing on the record, if the initial hearing is waived or if a party appeals the initial hearing decision.

(a) Initial Hearing.

(i) An initial hearing pursuant to Section 59-1-502.5 shall be in the form of a conference.

(ii) In accordance with Section 59-1-502.5, the commission shall make no record of an initial hearing.

(iii) Any issue may be settled in the initial hearing, but any party has a right to a formal hearing on matters that remain in dispute after the initial hearing decision is issued.

(iv) Any party dissatisfied with the result of the initial hearing must file a timely request for a formal hearing before pursuing judicial review of unsettled matters.

(b) Formal Hearing.

(i) The commission shall make a record of all formal hearings, which may include a written record or an audio recording of the proceeding.

(ii) Evidence presented at the initial hearing will not be included in the record of the formal hearing, unless specifically requested by a party and admitted by the presiding officer.

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: [June 23,] 2011

Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition

Tax Commission, Property Tax **R884-24P-71**

Agreements with Commercial or
Industrial Taxpayers for Equal Property
Tax Payments Pursuant to Utah Code
Ann. Section 59-2-1308.5

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35183

FILED: 08/25/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-1308.5 of 2011 S.B. 157 requires the Tax Commission promulgate rules to ensure that payments under a property tax equal payment contract to not affect the certified tax rate calculation.

SUMMARY OF THE RULE OR CHANGE: The proposed rule indicates that an agreement with a commercial or industrial taxpayer for equal property tax payments must be agreed to by all parties on or before May 31 to be effective in the current calendar year; provides that a payment agreement affects only those taxing entities that are a party to the agreement; and, to ensure that the agreement does not impact the calculation of the certified tax rate, requires the commission to adjust the collection ratio under Section 59-2-924 for each taxpayer that is a party to the agreement to equal what it would have been in the absence of the agreement.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-1308.5

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--Any impact would have been considered in S.B. 157 (2011 General Session).
- ◆ LOCAL GOVERNMENTS: None--Any impact would have been considered in S.B. 157 (2011 General Session).
- ◆ SMALL BUSINESSES: None--Any impact would have been considered in S.B. 157 (2011 General Session).
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any impact would have been considered in S.B. 157 (2011 General Session).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--S.B. 157 (2011 General Session) provides an option for certain property tax taxpayers to enter into agreements with local government entities and the Tax Commission for equal property tax payments over a period of up to 20 years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on business was considered by the legislature when enacting S.B. 157 (2011 General Session).

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W

SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Michael Cragun, Tax Commissioner

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-71. Agreements with Commercial or Industrial Taxpayers for Equal Property Tax Payments Pursuant to Utah Code Ann. Section 59-2-1308.5.

(1) An agreement with a commercial or industrial taxpayer for equal property tax payments under Section 59-2-1308.5 is effective:

(a) the current calendar year, if the agreement is agreed to by all parties on or before May 31; or

(b) the subsequent calendar year, if the agreement is agreed to by all parties after May 31.

(2) An agreement under Subsection (1) affects only those taxing entities that are a party to the agreement.

(3) The commission shall ensure that an agreement under Subsection (1) does not affect the calculation of the certified tax rate by adjusting the formula under Section 59-2-924 so that the collection ratio for each taxpayer that is a party to the agreement is based on the amount that would have been collected according to the same valuation and assessment methodologies that would have been applied in the absence of the agreement.

KEY: taxation, personal property, property tax, appraisals

Date of Enactment or Last Substantive Amendment:
[~~December 15, 2010~~2011]

Notice of Continuation: March 12, 2007

Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365

**Workforce Services, Employment
Development
R986-200-247
Utah Back to Work Pilot Program
(BWP)**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35219

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect change in policy.

SUMMARY OF THE RULE OR CHANGE: Back to work subsidy payments will no longer be allowed for youth who are not receiving or eligible for unemployment benefits.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-301 and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This applies to federally-funded programs 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 the local government.

♦ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to any business or local government entity to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

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.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-200. Family Employment Program.

R986-200-247. Utah Back to Work Pilot Program (BWP).

(1) BWP is a voluntary program providing short term subsidized employment for a maximum of three months to an eligible unemployment insurance (UI) claimant. To be eligible, a UI claimant must:

(a) be currently receiving UI benefits and have received at least one week of paid UI benefit. The waiting week is not considered a "paid" benefit for the purposes of this section;

(b) be legally eligible to work in the U.S. and be a U.S. citizen or meet the alienage requirements of R986-200-203;

(c) have at least 1 week of UI benefits remaining on his or her claim. The week can be Extended Benefits under 35A-4-402 or Emergency Unemployment Compensation (EUC) benefits as defined by the UI division;

(d) be the parent of at least one minor dependent child and be contributing to the financial support of that child or children;

(e) have not worked for the employer where the claimant is to be hired under this program more than 40 hours in the 60 days immediately preceding the date of hire under the BWP program;

(f) have not previously participated in the BWP or BWY program; and

(g) sign a "statement of facts" agreement.

(2) The Utah Back to Work Youth Program (BWY) provides short term subsidized employment for a maximum of three months to unemployed youth 18-24 years of age. BWY youth must be legally eligible to work in the U.S. and be unemployed[~~but do not need to be receiving or eligible to receive UI benefits~~]. BWY youth do not need to be a parent but must meet the requirements of subsections (1)(e) through (g) of this section. Eligible Utah Back to Work Youth who are also eligible UI claimants are not required to have a minor dependent child.

(3) An employer eligible for a subsidy under this section is an employer that:

(a) is registered with the Department's UI division as an active employer in "good standing". For the purposes of this section, "good standing" means the employer has no delinquent UI contributions or reports;

(b) is a "qualified employer" which "means any employer other than the United States, any State, or any political subdivision" or instrumentality thereof. A public institution of higher education is considered a "qualified employer" for purposes of this section. The employer cannot be a Temporary Help Company as defined in R994-202-102 or a Professional Employer Organization as defined in R994-202-106;

(c) pays a wage of at least \$9 per hour. Commission only jobs may qualify if the employer guarantees \$9 per hour or more, employees who receive gratuities plus wages may qualify if the employer reports \$9 per hour or more to the UI Contributions division;

(d) has not displaced or partially displaced existing workers by participating in this program;

(e) has at least one other employee;

(f) will provide the claimant with at least 35 hours work per week;

(g) does not hire the claimant for temporary or seasonal work and

(h) has signed a participation agreement with the department. The agreement must be signed before the "date of hire" of the qualified unemployed individual. A qualified unemployed individual is one who has enrolled in, and is eligible for, the BWP. The date of hire means the date services for remuneration were first performed by the employee.

(4) Once it has been verified that a claimant has been hired, a qualified employer will be paid a \$500 subsidy and an additional \$1,500 subsidy at the conclusion of the third month of employment provided the required DWS invoices have been provided.

(5) BWP and BWY will continue for as long as funding is available.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: [January 13, 2011]

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

Workforce Services, Employment
Development
R986-700-714
CC Payment Method

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 35218

FILED: 09/01/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow for changes in federal law.

SUMMARY OF THE RULE OR CHANGE: New financial institution regulations require our vendor to issue forms documenting the amount of money the Department paid to that provider during the year. This requires all child care providers to provide information to our vendor in order to use electronic benefit transfer (EBT) after 01/01/2012. If this information is not provided, the Department cannot make payments to the child care provider. This rule instructs child care providers to provide that information to our vendor for continuing EBT use.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-3-310(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This applies to federally-funded programs 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 the local government.
- ◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to businesses other than small businesses, or local governmental entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes. It will not cost the child care providers any money to provide the information to our vendor.

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.

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
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 10/17/2011

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.**R986-700. Child Care Assistance.****R986-700-714. CC Payment Method.**

(1) CC payments to parents will be generated monthly by a two-party check issued in the parent's name and the chosen provider's name, except as noted in paragraph (2) below. The check is mailed to the client.

(2) CC payments will be made by electronic benefit transfer (EBT) either through a point of sale (POS) machine or interactive voice recording (IVR) system to authorized provider types as determined by the Department. The provider may elect which option of EBT to use. The provider must complete the application process and sign an agreement with the Department's contractor in order to be eligible to receive CC payments. If the provider elects to use the POS method of payment, the provider must lease a POS machine at the provider's own expense. Providers that completed the application process prior to August 1, 2011 need to provide additional information to the Department contractor. If the provider does not provide this additional information, the provider will not be eligible for CC payments as of January 1, 2012.

(3) In the event that a check is reported as lost or stolen, both the parent and the provider are required to sign a statement that they have not received funds from the original check before a replacement check can be issued. The check must be reported as lost or stolen within 60 days of the date the check was mailed. The statement must be signed on an approved Department form and the signing witnessed, and in some cases notarized, at a local office of the Department. If the provider is unable to come into a Department office to sign the form, the form may be accepted if the signature is notarized. If the original check has been redeemed, a copy of the check will be reviewed and both the parent and provider must provide a sworn, notarized statement that the signature on the endorsed check is a forgery. The Department may require a waiting period prior to issuing a replacement check.

(4) The Department is authorized to stop payment on a CC check without prior notice to the client if:

(a) the Department has determined that the client was not eligible for the CC payment, the Department has confirmed with the child care provider that no services were provided for the month in question or the provider cannot be located, and the Department has made an attempt to contact the parent: or

(b) when the check has been outstanding for at least 90 days; or

(c) the check is lost or stolen.

(5) No stop payment will be issued by the Department without prior notice to the provider unless the provider is not providing services or cannot be contacted.

KEY: child care

**Date of Enactment or Last Substantive Amendment: [~~June 15,~~]
2011**

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-310

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, Horse Racing Commission (Utah) **R52-7** Horse Racing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35193
FILED: 08/30/2011

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 4-38-4 requires rules to be promulgated that will govern officially recognized race meets.

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 received comments requesting that the fingerprinting requirement be removed and number of horses required for an official raced be adjusted. These were the only comments which were received. The Department acknowledged and acted upon those comments. Section R52-7-7 was amended in 2009 at the request of industry. The amendments changed the requirements for fingerprinting on license applications and reduced the number of horses for an officially recognized race meet.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: The continuation of this rule is necessary to enable the horse industry to record race results and receive official recognition with national horse breed organizations. This adds to the value of the sire and dam of the offspring. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
HORSE RACING COMMISSION (UTAH)
350 N REDWOOD RD
SALT LAKE CITY, UT 84114
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

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/30/2011

Agriculture and Food, Regulatory Services **R70-920** Packaging and Labeling of Commodities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35177
FILED: 08/22/2011

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 4-9-2 allows the Department to adopt uniform packaging and labeling regulation, modify the Uniform Packaging and Labeling Regulation, adopted by the national conference on Weights and Measures in Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, National Institute of Standards and Technology, which otherwise shall apply to packaging and labeling in the state.

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 comments in support or opposing have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As a regulatory agency, there is still have a need for a regulation to provide and have adequate information on packages. This regulation requires the identity and quantity of contents so that purchasers can make price and quantity comparisons. This permits fair competition among businesses, and provides uniformity and protection to consumers in commercial weights and measures practices. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Brett Gurney by phone at 801-538-7158, by FAX at 801-538-7126, or by Internet E-mail at bgurney@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
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/22/2011

Insurance, Administration
R590-207

Health Agent Commissions for Small Employer Groups

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35215
FILED: 09/01/2011

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: Subsection 31A-2-201(3) gives the commissioner the authority to write rules to implement the provisions of Title 31A. This rule implements the provisions of Subsection 31A-30-104(6) by establishing guidelines relating to commission structure for small group health insurance agents in the small employer group market. Commission structure can affect access to health insurance coverage for small employer groups. Section R590-207-5 of the rule requires that commission schedules not be set up by insurers to restrict or hinder agents from selling to small business owners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was amended on 08/02/2011 to clarify acceptable and unacceptable commission structures. The department did not receive comments regarding this rule during the comment period or at any time during the past five years.

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 is important because it eliminates the pressure from insurers on agents from selling guarantee issue or renewal policies to small business owners. This way small employers are guaranteed health insurance coverage. Therefore, this rule should be continued.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/01/2011

**Insurance, Administration
R590-210**

**Privacy of Consumer Information
Exemption for Manufacturer Warranties
and Service Contracts**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35220

FILED: 09/01/2011

**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: Subsections 31A-2-201(2), 31A-2-202(2), and (3)(a) empower the commissioner to administer and enforce Title 31A, which in this case specifically refers to the following Title 31A sections. Subsection 31A-23-317(3) authorizes the commissioner to adopt rules implementing the requirements of Title V, Sections 501 to 505 of the federal act (15 U.S.C. 6801 through 6807). Title V, Section 505 (15 U.S.C. 6805) empowers the commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 - 6820). As allowed by the federal law, the rule provides an exemption to warranty and service contract providers from the department's privacy rule, Rule R590-206, which sets restrictions on the disclosure of nonpublic personal health and financial information, as well as requires licensees to disclose their privacy policies to customers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no changes in the rule in the past five years and no written comments have been received by the department in that period of time.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R590-210 is applicable to licensees of the department. Persons or entities that provide warranty or service contracts on consumer goods are required to register with the department and provide certain information about their ability to perform under the warranty or service contract.

Technically a registration could be considered a license issued by the department. Unless those contracts are exempted from the rule, the provider must comply with Rule R590-210. Without the exemption, the persons or entities providing the warranties or service contracts will experience immediate and substantial costs to be in compliance with Rule R590-210. Without the exemption, they will either be out of compliance or will have to stop providing the product or provide the product subject to being in violation of the rule. The impact to the public is immediate and perilous. It will impact the delivery of these products in interstate commerce and will result in increased costs to purchasers. It will impact the supply of these products in the market. Warranty and service contract providers are not subject to Gramm-Leach-Bliley. However, because they are required to register with the department, they can be technically considered to be "licensees" of the department and without exemption would be subject to Rule R590-210, which applies only to financial services entities under Gramm-Leach Bliley. Therefore, this rule should be continued.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/01/2011

**Insurance, Administration
R590-237
Access to Health Care Providers in
Rural Counties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35217

FILED: 09/01/2011

**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: Title 31A, Chapter 2, authorizes the commissioner to adopt rules to implement the code.

Subsection 31A-8-501(8)(c) authorizes the commissioner to identify by rule the counties with a population density of less than 100 people per square mile, independent hospitals, and federally qualified health centers and describe how health maintenance organizations shall use the information and provide enrollees in rural areas with a notice that includes a list of non-HMO contracted medical providers they can use per certain requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments sent to the department regarding this rule within the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is needed to assure that people living in rural areas have access to adequate health care services. Therefore, this rule should be continued.

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/01/2011

Labor Commission, Antidiscrimination
and Labor, Antidiscrimination

R606-1

Antidiscrimination

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35194

FILED: 08/30/2011

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 34A-5-104 gives the Labor Commission authority to establish rules to administer and enforce the Utah Antidiscrimination Act.

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 during or since the last five-year review 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: The Labor Commission continues to have jurisdiction over claims of discrimination in the workplace. This rule establishes the methods for filing and investigating such claims. Therefore, this rule should be continued.

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR,
ANTIDISCRIMINATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Heather Gunnarson by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hgunnarson@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 08/30/2011

Natural Resources, Wildlife Resources
R657-9

Taking Waterfowl, Common Snipe and
Coot

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35171

FILED: 08/16/2011

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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-9 were received since August 2006, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-9 provides the procedures and standards necessary to manage the waterfowl, common snipe, and coot program for the Division of Wildlife Resources. The provisions adopted in this rule are effective in administering the state's waterfowl management program and the continuation of this rule is necessary for its future success. Therefore, this rule should be continued.

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

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 08/16/2011

**Natural Resources, Wildlife Resources
 R657-10
 Taking Cougar**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 35172
 FILED: 08/16/2011

**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: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments supporting or opposing Rule R657-10 were received since August 2006 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-10 provides the procedures and standards for taking and pursuing cougar. The provisions adopted in this rule are effective in administering the state's cougar management program and the continuation of this rule is necessary for its future success. Therefore, this rule should be continued.

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

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 08/16/2011

**Natural Resources, Wildlife Resources
 R657-26**

**Adjudicative Proceedings for a License,
 Permit, or Certificate of Registration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 35173
 FILED: 08/16/2011

**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: Under Subsection 23-19-9(14), the Wildlife Board is authorized and required to provide rules to regulate and prescribe the procedures and standards for the suspension of the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit and the suspension of a certificate of registration.

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 supporting or opposing Rule R657-26 were received since August 2006 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-26 provides the procedures and standards for the suspension of the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit and the suspension of a certificate of registration and the continuation of this rule is necessary for proper adjudicative proceedings. Therefore, this rule should be continued.

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

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 08/16/2011

End of the Five-Year Notices of Review and Statements of Continuation Section

**NOTICES OF
FIVE-YEAR REVIEW EXTENSIONS**

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

The five-year review extension is governed by Subsections 63G-3-305(4) and (5).

Agriculture and Food, Horse Racing
Commission (Utah)
R52-7
Horse Racing

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 35192

FILED: 08/29/2011

EXTENSION REASON AND NEW DEADLINE: The Department of Agriculture and Food requests the 120-Day Extension for filing on this rule. It is critical that it continue, but due to a number of situations, the Department has been delayed in meeting the filing deadline. The five-year review should be filed by 08/30/2011. The new deadline is 12/27/2011. (DAR NOTE: The five-year review for Rule R52-7 is under DAR No. 35193 in this issue, September 15, 2011, of the Bulletin.)

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/29/2011

End of the Notices of Five-Year Review Extensions 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

Agriculture and Food

Animal Industry

No. 34957 (NEW): R58-24. Community Spay and Neuter Grants

Published: 07/15/2011

Effective: 08/26/2011

Commerce

Occupational and Professional Licensing

No. 34982 (AMD): R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule

Published: 07/15/2011

Effective: 08/23/2011

No. 34983 (AMD): R156-47b. Massage Therapy Practice Act Rule

Published: 07/15/2011

Effective: 08/23/2011

No. 34952 (AMD): R156-60b. Marriage and Family Therapist Licensing Act Rule

Published: 07/15/2011

Effective: 08/22/2011

Real Estate

No. 34986 (AMD): R162-2c-202. Qualifications for Licensure

Published: 07/15/2011

Effective: 08/22/2011

No. 34987 (AMD): R162-2c-401. Administrative Proceedings

Published: 07/15/2011

Effective: 08/22/2011

No. 34988 (AMD): R162-2f-407. Administrative Proceedings

Published: 07/15/2011

Effective: 08/22/2011

Environmental Quality

Administration

No. 34472 (CPR): R305-6. Administrative Procedures

Published: 08/01/2011

Effective: 08/31/2011

No. 34472 (NEW): R305-6. Administrative Procedures

Published: 03/15/2011

Effective: 08/31/2011

Radiation Control

No. 34684 (CPR): R313-17. Administrative Procedures

Published: 08/01/2011

Effective: 08/31/2011

No. 34684 (AMD): R313-17. Administrative Procedures

Published: 05/01/2011

Effective: 08/31/2011

Health

Administration

No. 34554 (R&R): R380-100. Americans with Disabilities Act Grievance Procedures

Published: 05/01/2011

Effective: 08/22/2011

Children's Health Insurance Program

No. 34561 (AMD): R382-10. Eligibility

Published: 05/01/2011

Effective: 08/22/2011

No. 34561 (CPR): R382-10. Eligibility

Published: 07/15/2011

Effective: 08/22/2011

Epidemiology and Laboratory Services, Environmental Services

No. 34733 (AMD): R392-510. Utah Indoor Clean Air Act

Published: 05/15/2011

Effective: 09/12/2011

Health Care Financing, Coverage and Reimbursement Policy

No. 34938 (AMD): R414-1-5. Incorporations by Reference

Published: 07/15/2011

Effective: 08/22/2011

No. 34993 (AMD): R414-1-29. Provider-Preventable Conditions

Published: 07/15/2011

Effective: 09/01/2011

No. 34893 (AMD): R414-3A-6. Services

Published: 06/15/2011

Effective: 09/01/2011

No. 34994 (AMD): R414-14. Home Health Services

Published: 07/15/2011

Effective: 08/22/2011

No. 34995 (AMD): R414-22. Administrative Sanction Procedures and Regulations

Published: 07/15/2011

Effective: 08/22/2011

No. 34939 (AMD): R414-54. Speech-Language Pathology Services

Published: 07/15/2011

Effective: 08/22/2011

No. 34940 (AMD): R414-59. Audiology-Hearing Services

Published: 07/15/2011

Effective: 08/22/2011

Human Resource Management

Administration

No. 34996 (AMD): R477-7. Leave

Published: 07/15/2011

Effective: 09/03/2011

No. 34746 (AMD): R477-8. Working Conditions

Published: 05/15/2011

Effective: 09/03/2011

No. 34997 (AMD): R477-8. Working Conditions

Published: 07/15/2011

Effective: 09/03/2011

Insurance

Administration

No. 34953 (R&R): R590-142. Continuing Education Rule

Published: 07/15/2011

Effective: 08/23/2011

Labor Commission

Boiler and Elevator Safety

No. 34958 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels

Published: 07/15/2011

Effective: 08/22/2011

Natural Resources

Wildlife Resources

No. 34981 (AMD): R657-12. Hunting and Fishing

Accommodations for People with Disabilities

Published: 07/15/2011

Effective: 08/23/2011

Public Service Commission

Administration

No. 34979 (AMD): R746-360-4. Application of Fund

Surcharges to Customer Billings

Published: 07/15/2011

Effective: 09/01/2011

Tax Commission

Auditing

No. 34964 (AMD): R865-4D-19. Refund of Special Fuel

Taxes Paid by Government Entities Pursuant to Utah Code

Ann. Section 59-13-301

Published: 07/15/2011

Effective: 08/25/2011

No. 34967 (AMD): R865-7H-1. Environmental Assurance

Fee for Retailers or Consumers Not Participating in the

Environmental Assurance Program Pursuant to Utah Code

Ann. Section 19-6-410.5

Published: 07/15/2011

Effective: 08/25/2011

No. 34968 (AMD): R865-7H-2. Environmental Assurance

Fee on Packaged Petroleum Products Pursuant to Utah Code

Ann. Section 19-6-410.5

Published: 07/15/2011

Effective: 08/25/2011

No. 34969 (AMD): R865-7H-3. Environmental Assurance

Fee on Exports of Petroleum Products Pursuant to Utah

Code Ann. Section 19-6-410.5

Published: 07/15/2011

Effective: 08/25/2011

No. 34965 (AMD): R865-13G-13. Refund of Motor Fuel

Taxes Paid Pursuant to Utah Code Ann. Section 59-13-201

Published: 07/15/2011

Effective: 08/25/2011

No. 34966 (AMD): R865-13G-15. Reduction in Motor Fuel

Tax for Distributors Subject to Navajo Nation Fuel Tax

Pursuant to Utah Code Ann. Section 59-13-201

Published: 07/15/2011

Effective: 08/25/2011

No. 34970 (AMD): R865-14W-1. Mineral Production Tax

Withholding Pursuant to Utah Code Ann. Sections 59-6-101

through 59-6-104

Published: 07/15/2011

Effective: 08/25/2011

Property Tax

No. 34971 (AMD): R884-24P-17. Reappraisal of Real Property by County Assessors Pursuant to Utah Constitution, Article XIII, Subsection 11, and Utah Code Ann. Sections 59-2-303, 59-2-302, and 59-2-704
Published: 07/15/2011
Effective: 08/25/2011

No. 34972 (AMD): R884-24P-34. Use of Sales or Appraisal Information Gathered in Conjunction With Assessment/Sales Ratio Studies Pursuant to Utah Code Ann. Section 59-2-704
Published: 07/15/2011
Effective: 08/25/2011

No. 34973 (AMD): R884-24P-72. State Farmland Evaluation Advisory Committee Procedures Pursuant to Utah Code Ann. Section 59-2-514
Published: 07/15/2011
Effective: 08/29/2011

Transportation**Motor Carrier**

No. 34956 (R&R): R909-3. Standards for Utah School Buses
Published: 07/15/2011
Effective: 08/25/2011

Program Development

No. 34955 (AMD): R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes
Published: 07/15/2011
Effective: 08/22/2011

No. 34954 (NEW): R926-15. Designated Scenic Backways
Published: 07/15/2011
Effective: 08/22/2011

Workforce Services**Administration**

No. 34934 (AMD): R982-301. Councils
Published: 07/01/2011
Effective: 08/18/2011

Employment Development

No. 35002 (AMD): R986-100-134. Payments of Assistance Pending the Hearing
Published: 07/15/2011
Effective: 09/01/2011

No. 35001 (AMD): R986-400-404. Participation Requirements
Published: 07/15/2011
Effective: 09/01/2011

No. 34935 (AMD): R986-500-506. Safeguarding Records
Published: 07/01/2011
Effective: 08/18/2011

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 September 01, 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).

DAR NOTE: A processing error caused the exclusion of 110 nonsubstantive changes from the Index. These nonsubstantive changes reflect changed agency names in the Department of Health. The Division is working to correct the error.

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	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	34347	AMD	03/10/2011	2011-3/4
R13-3-2	Definitions	34674	NSC	04/27/2011	Not Printed
<u>Facilities Construction and Management</u>					
R23-23	Health Reform - Health Insurance Coverage in State Contracts - Implementation	34801	EMR	05/10/2011	2011-11/105
R23-23	Health Reform - Health Insurance Coverage in State Contracts - Implementation	34803	AMD	07/11/2011	2011-11/6
R23-25	Administrative Rules Adjudicative Proceedings	35157	5YR	08/15/2011	2011-17/89
R23-31	Executive Residence Commission	34802	NEW	07/11/2011	2011-11/8
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	34764	AMD	07/01/2011	2011-10/6
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	34256	AMD	01/25/2011	2010-24/6
R27-3-4	Authorized and Unauthorized Use of State Vehicles	34786	AMD	07/12/2011	2011-11/10
R27-4-11	Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles	34257	AMD	01/25/2011	2010-24/7
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-3	Government Records Access and Management Act	34491	5YR	03/03/2011	2011-7/43
R51-4	ADA Complaint Procedure	34492	5YR	03/03/2011	2011-7/43
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry and Other Animals	34343	AMD	03/24/2011	2011-3/7
R58-2	Diseases, Inspections and Quarantines	34352	AMD	03/24/2011	2011-3/13
R58-2	Diseases, Inspections and Quarantines	34975	5YR	06/23/2011	2011-14/135
R58-4	Use of Animal Drugs and Biologicals in the State of Utah	34976	5YR	06/23/2011	2011-14/135
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R58-14	Holding Live Raccoons or Coyotes in Captivity	34974	5YR	06/23/2011	2011-14/136
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R58-24	Community Spay and Neuter Grants	34957	NEW	08/26/2011	2011-14/4
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	35192	EXT	08/29/2011	Not Printed
R52-7	Horse Racing	35193	5YR	08/30/2011	Not Printed

Marketing and Development

R65-8 Management of the Junior Livestock Show 34489 5YR 03/03/2011 2011-7/44
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Plant Industry

R68-4 Standardization, Marketing, and Phytosanitary 34414 5YR 02/08/2011 2011-5/107
 Inspection of Fresh Fruits, Vegetables, and
 Other Plant and Plant Products

R68-7 Utah Pesticide Control Act 34488 5YR 03/02/2011 2011-7/44
 R68-7 Utah Pesticide Control Act 34430 AMD 06/02/2011 2011-5/2
 R68-7 Utah Pesticide Control Rule 34711 AMD 06/21/2011 2011-10/10
 R68-7-10 Responsibilities of Business and Applicator 34456 NSC 06/02/2011 Not Printed
 R68-7-10 Responsibilities of Business and Applicator 34498 AMD 06/02/2011 2011-7/2
 R68-8 Utah Seed Law 34345 5YR 01/05/2011 2011-3/55
 R68-18 Quarantine Pertaining to Karnal Bunt 34412 5YR 02/08/2011 2011-5/107
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Regulatory Services

R70-330 Raw Milk for Retail 34518 5YR 03/16/2011 2011-8/29
 R70-370 Butter 34519 5YR 03/16/2011 2011-8/29
 R70-380 Grade A Condensed and Dry Milk Products and 34517 5YR 03/16/2011 2011-8/30
 Condensed and Dry Whey

R70-410 Grading and Inspection of Shell Eggs with 34378 5YR 01/24/2011 2011-4/35
 Standard Grade and Weight Classes

R70-920 Packaging and Labeling of Commodities 35177 5YR 08/22/2011 Not Printed
 R70-930 Method of Sale of Commodities 35127 5YR 08/11/2011 2011-17/89
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ALCOHOLIC BEVERAGE CONTROL

Administration

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 R81-1 Scope, Definitions, and General Provisions 35070 NSC 08/04/2011 Not Printed
 R81-1-29 Disclosure of Conflicts of Interest 34337 AMD 02/24/2011 2011-2/4
 R81-1-30 Factors for Granting Licenses 34336 AMD 02/24/2011 2011-2/5
 R81-2 State Stores 34788 5YR 05/10/2011 2011-11/124
 R81-3 Package Agencies 34789 5YR 05/10/2011 2011-11/125
 R81-3-13 Operational Restrictions 34340 AMD 02/24/2011 2011-2/6
 R81-4A Restaurant Liquor Licenses 34790 5YR 05/10/2011 2011-11/125
 R81-4B Airport Lounges 35071 NSC 08/04/2011 Not Printed
 R81-4E Resort Licenses 35073 NSC 08/04/2011 Not Printed
 R81-5 Private Clubs 34791 5YR 05/10/2011 2011-11/126
 R81-6 Special Use Permits 34792 5YR 05/10/2011 2011-11/127
 R81-6 Special Use Permits 35074 NSC 08/04/2011 Not Printed
 R81-7 Single Event Permits 34793 5YR 05/10/2011 2011-11/128
 R81-7 Single Event Permits 35075 NSC 08/04/2011 Not Printed
 R81-8 Manufacturers (Distillery, Winery, Brewery) 34794 5YR 05/10/2011 2011-11/128
 R81-8 Manufacturers (Distillery, Winery, Brewery) 35076 NSC 08/04/2011 Not Printed
 R81-9 Liquor Warehousing License 34795 5YR 05/10/2011 2011-11/129
 R81-9 Liquor Warehousing License 35077 NSC 08/04/2011 Not Printed
 R81-10 Off-Premise Beer Retailers 35078 NSC 08/04/2011 Not Printed
 R81-10B Temporary Special Event Beer Permits 35079 NSC 08/04/2011 Not Printed
 R81-11 Beer Wholesalers 34796 5YR 05/10/2011 2011-11/129
 R81-11 Beer Wholesalers 35080 NSC 08/04/2011 Not Printed
 R81-12 Manufacturer Representative (Distillery, 34797 5YR 05/10/2011 2011-11/130
 Winery, Brewery)

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-4 Capitol Preservation Board General 34675 5YR 04/11/2011 2011-9/117
 Procurement Rule

RULES INDEX

CAREER SERVICE REVIEW OFFICE

Administration

R137-1 Grievance Procedure Rules 35083 5YR 07/18/2011 2011-16/49

COMMERCE

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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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	34851	R251-711	NSC	06/14/2011	Not Printed
	34528	R251-712	5YR	03/24/2011	2011-8/31
	34852	R251-712	NSC	06/14/2011	Not Printed
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	34759	R884-24P-64	NSC	05/25/2011	Not Printed
	34973	R884-24P-72	AMD	08/29/2011	2011-14/92
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	34744	R477-6	AMD	07/01/2011	2011-10/41
	34747	R477-9	AMD	07/01/2011	2011-10/53
	34750	R477-13	AMD	07/01/2011	2011-10/56
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	34739	R311-201-11	LNR	05/01/2011	2011-10/123
	34272	R311-203	AMD	02/14/2011	2010-24/27
	34275	R311-205	AMD	02/14/2011	2010-24/30
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	34269	R311-212	AMD	02/14/2011	2010-24/38
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	34846	R251-703	NSC	06/14/2011	Not Printed
	34848	R251-706	NSC	06/14/2011	Not Printed
	34772	R251-708	5YR	05/03/2011	2011-11/132
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Education, Administration	34925 35115	R277-474 R277-474-1	AMD NSC	08/08/2011 08/31/2011	2011-13/50 Not Printed
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Corrections, Administration	34841	R251-110	NSC	06/14/2011	Not Printed
<u>sex offender registry</u>					
Corrections, Administration	34841	R251-110	NSC	06/14/2011	Not Printed
<u>sex offender treatment</u>					
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	34914	R58-11-2	NSC	06/30/2011	Not Printed
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	35124	R495-876	5YR	08/10/2011	2011-17/95
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<u>spas</u>					
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	34964	R865-4D-19	AMD	08/25/2011	2011-14/82
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	34525	R414-54-3	AMD	05/25/2011	2011-8/22
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	34534	R212-6	AMD	08/11/2011	2011-8/16
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	34786	R27-3-4	AMD	07/12/2011	2011-11/10
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	34429	R277-709	AMD	04/08/2011	2011-5/17
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	34758	R861-1A-13	NSC	05/25/2011	Not Printed
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	34873	R865-20T-5	AMD	08/11/2011	2011-12/72
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tramways

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	34408	R359-1-501	AMD	03/28/2011	2011-4/21
	34901	R359-1-501	AMD	07/26/2011	2011-12/43
	34278	R359-1-506	AMD	01/31/2011	2010-24/42
	34482	R359-1-511	AMD	04/26/2011	2011-6/76
	34483	R359-1-512	AMD	04/26/2011	2011-6/78
	34484	R359-1-515	AMD	04/26/2011	2011-6/79
	34900	R359-1-515	AMD	07/26/2011	2011-12/45
<u>wildland fire</u>					
Environmental Quality, Air Quality	34559	R307-204	AMD	07/07/2011	2011-9/14
<u>wildland urban interface</u>					
Natural Resources, Forestry, Fire and State Lands	34394	R652-122	NEW	04/28/2011	2011-4/23
<u>wildlife</u>					
Natural Resources, Wildlife Resources	34341	R657-5	AMD	03/14/2011	2011-3/39
	34807	R657-5	AMD	07/11/2011	2011-11/71
	35171	R657-9	5YR	08/16/2011	Not Printed
	35172	R657-10	5YR	08/16/2011	Not Printed
	34981	R657-12	AMD	08/23/2011	2011-14/80
	34167	R657-13	AMD	01/04/2011	2010-22/103
	35173	R657-26	5YR	08/16/2011	Not Printed
	34367	R657-33	AMD	04/04/2011	2011-4/26
	34299	R657-44	AMD	02/07/2011	2011-1/32
	34303	R657-55	AMD	02/07/2011	2011-1/35
	34168	R657-58	AMD	01/04/2011	2010-22/105
	34379	R657-58	AMD	04/04/2011	2011-4/29
	34354	R657-63	NEW	03/14/2011	2011-3/49
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	34981	R657-12	AMD	08/23/2011	2011-14/80
	34167	R657-13	AMD	01/04/2011	2010-22/103
	34168	R657-58	AMD	01/04/2011	2010-22/105
	34379	R657-58	AMD	04/04/2011	2011-4/29
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	34303	R657-55	AMD	02/07/2011	2011-1/35
<u>withholding tax</u>					
Tax Commission, Auditing	34970	R865-14W-1	AMD	08/25/2011	2011-14/88
<u>witness fees</u>					
Labor Commission, Adjudication	34728	R602-1	AMD	06/22/2011	2011-10/77
<u>workers' compensation</u>					
Labor Commission, Adjudication	34729	R602-2-1	AMD	06/22/2011	2011-10/78
	34732	R602-4-4	AMD	06/22/2011	2011-10/82
Labor Commission, Industrial Accidents	34725	R612-12	R&R	06/22/2011	2011-10/93
	34294	R612-12-2	NSC	01/06/2011	Not Printed
<u>Workforce Investment Act</u>					
Workforce Services, Employment Development	34277	R986-600	AMD	01/26/2011	2010-24/69
<u>x-rays</u>					
Environmental Quality, Radiation Control	35010	R313-16	5YR	07/07/2011	2011-15/131