

UTAH STATE BULLETIN

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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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. 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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

Water Conservation, Utah Exec. Order No. 2015-4

EXECUTIVE ORDER

Water Conservation

WHEREAS, water is a precious resource critical to our economy, environment and quality of life that should be managed and used wisely;

WHEREAS, Utah's continued population growth and periodic years of drought put increasing pressure on Utah's limited water and financial resources;

WHEREAS, every Utah citizen must adopt long-term water conservation practices not limited to periods of drought;

WHEREAS, the Governor's Water Strategy Advisory Team is developing a 50-Year Water Strategy for Utah to advance conservation and conservation practices;

WHEREAS, the Division of Facilities Construction and Management, in cooperation with the Utah Division of Water Resources, has developed and implemented water conservation landscape design criteria for capital improvements and new state facilities and has implemented new and retrofit existing landscapes with the best available water conservation technology, landscape design standards, and efficient operation standards, including rain-detecting watering systems, low-flow plumbing fixtures, optimal watering hours, and bottle filling water fountains; and

WHEREAS, water conservation is an essential part of meeting the state's growing water needs and can save significant financial and natural resources;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of the State, do hereby order the following:

1. (a) The Division of Facilities Construction and Management shall assist agencies at all state owned and managed buildings to:

- i. Prohibit watering of landscapes between 10:00 a.m. and 6:00 p.m.
- ii. Update irrigation technology to control watering relative to the amount of rainfall reaching the landscape.
- iii. Replace inefficient plumbing fixtures with ultra low-flow fixtures, as replacement is appropriate.
- iv. Audit and repair all landscape irrigation systems so they are operating at an acceptable efficiency.

- v. Implement leak-detection and repair programs for both indoor and outdoor water use.
 - vi. Conduct periodic checks of facility restrooms, boiler rooms, etc., to ensure appliances are working at maximum efficiency.
 - vii. Evaluate opportunities to limit turf areas surrounding facilities.
 - viii. Update facility-management technology to include metering for water-consuming processes related to irrigation, domestic, and mechanical systems.
 - ix. Use a water budgeting tool to consistently evaluate and establish an appropriate water allowance for the facility landscape.
 - x. Where appropriate, follow the conservewater.utah.gov weekly lawn watering guide.
- (b) The above policies shall be followed as agency budgets, facilities, and resources permit. Where current resources do not allow compliance with the above orders, compliance should be implemented to the extent possible within existing resources and as equipment and products are replaced.
- 2. State agencies shall purchase indoor plumbing and irrigation products with water conservation technology whenever practicable.
 - 3. The Division of Purchasing and General Services shall include water conservation standards in solicitations for contracts whenever practicable.
 - 4. The Division of Facilities Construction Management shall include water conservation and efficiency measures in the selection criteria for leased spaces.
 - 5. The Division of Facilities Construction and Management shall develop water conservation strategies for all state-owned and managed buildings, facilities, grounds, parks and other properties under their control. Each state facility manager shall implement those plans in the facilities and on the grounds for which the manager is responsible.
 - 6. State employees shall read and follow the guidance from the Division of Water Resources' "Slow the Flow" campaign and the water conservation website, www.conservewater.utah.gov, in and around the workplace. The Division shall make this information easily accessible to state employees and the public.
 - 7. The Division of Facilities Construction and Management, in cooperation with the Utah Division of Water Resources, shall develop a water conservation operation and maintenance best practices guide to provide state facility managers and building engineers with current and practical information on no-cost and low-cost measures to reduce water use in state facilities.
 - 8. The Governor's Office of Management and Budget shall conduct a study of various pricing and funding models to determine the long term impact of water usage models and their impact on the need for future infrastructure and develop recommendations for long-term water financing.
 - 9. For the short and long-term benefit of the state, all Utah citizens, cities, towns, schools, businesses and government agencies, should adopt the water conservation practices outlined in conservewater.utah.gov and this Order.
 - 10. This Order supersedes Executive Order 2004/0003, issued April 23, 2004.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, on this, the 3rd day of June 2015.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2015/004/EO

Calling the Sixty-First Legislature Into the Fourth Extraordinary Session, Utah Proclamation No. 2015-4E

PROCLAMATION

WHEREAS, since the close of the 2015 General Session of the 61st Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 61st Legislature of the State of Utah into the Fourth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 17th day of June 2015, at 2:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2015 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 15th day of June 2015.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2015/04/E

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between June 02, 2015, 12:00 a.m., and June 15, 2015, 11:59 p.m. are included in this, the July 01, 2015, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the 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 July 31, 2015. 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 October 29, 2015, 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.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Administrative Services, Purchasing
and General Services

R33-7-702

Only One Proposal Received

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39432

FILED: 06/08/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to clarify that if only one proposal is received, the evaluation committee shall score the proposal with specific requirements. The word "may" is removed from Subsection R33-7-702(1).

SUMMARY OF THE RULE OR CHANGE: The word "may" is removed from Subsection R33-7-702(1).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 6a

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no anticipated costs or savings that are expected. The changes made to this rule are nonsubstantive.
- ◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings that are expected. The changes made to this rule are nonsubstantive.
- ◆ SMALL BUSINESSES: There are no anticipated costs or savings that are expected. The changes made to this rule are nonsubstantive.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings that are expected. The changes made to this rule are nonsubstantive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs because the changes made to this rule are nonsubstantive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated affects that this rule will have on businesses. The changes made are nonsubstantive.

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

ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
- ◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov
- ◆ Paul Mash by phone at 801-538-3138, by FAX at 801-538-3882, or by Internet E-mail at pmash@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.

R33-7. Request for Proposals.

R33-7-702. Only One Proposal Received.

(1) If only one proposal is received in response to a request for proposals, the evaluation committee shall score the proposal and ~~may~~

(a) conduct a review to determine if:

(i) the proposal meets the minimum requirements;

(ii) pricing and terms are reasonable as set forth in R33-12-603 and R33-12-604; and

(iii) the proposal is in the best interest of the procurement unit.

(b) if the evaluation committee determines the proposal meets the minimum requirements, pricing and terms are reasonable, and the proposal is in the best interest of the procurement unit, the procurement unit shall issue a justification statement as set forth in 63G-6a-708 and may make an award.

(c) If an award is not made, the procurement unit may either cancel the procurement or resolicit for the purpose of obtaining additional proposals.

KEY: government purchasing, request for proposals, standard procurement process

Date of Enactment or Last Substantive Amendment: ~~January 28,~~ 2015

Authorizing, and Implemented or Interpreted Law: 63G-6a

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39423

FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule change will exempt the coggins requirements for horses going directly to an approved livestock market. The rule also updates the legal references.

SUMMARY OF THE RULE OR CHANGE: The proposed rule gives the correct legal authority for the rule. The rule also exempts horses going directly to a livestock auction from coggins testing.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no cost or savings to the state budget. The rule does not change any actions or responsibilities associated with this rule.

◆ **LOCAL GOVERNMENTS:** There are no costs to local government associated with this rule because none of the requirements are directed towards local governments nor does the rule require local governments to do any enforcement.

◆ **SMALL BUSINESSES:** There could be minimal cost savings to small businesses who deal with horses. The savings are estimated to be between \$40 to \$60 from not having to have a coggins test on the animal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be a minimal cost savings to the owners of the horse. There could be an estimated \$40 to \$60 savings from not having to have a coggins test on the animal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs to the affected person. The proposed rule removes a requirement which will lead to a savings, not a cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule removes a testing requirement in certain situations. This removal of the requirement will lead to savings to the horse owner.

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

AGRICULTURE AND FOOD

ANIMAL INDUSTRY

350 N REDWOOD RD

SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Cody James by phone at 801-538-7166, by FAX at 801-538-7169, or by Internet E-mail at codyjames@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

◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

◆ Warren Hess by phone at 801-538-4910, by FAX at 801-538-7169, or by Internet E-mail at wjhess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: LuAnn Adams, Commissioner

R58. Agriculture and Food, Animal Industry.

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

R58-1-1. Authority.

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

(2) It is the intent of these rules to eliminate or reduce the spread of diseases among animals by providing standards to be met in the movement of animals within the State of Utah (INTRASTATE) and the importation of animals into the state (INTERSTATE).

R58-1-2. Definitions.

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

(2) "Animal identification number (AIN)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code).

(3) "Animals" means all vertebrates, except humans.

(4) "Approved livestock facility" means a stockyard, livestock market, buying station, concentration point, or any other premises under State or Federal veterinary inspection where livestock are assembled and that has been approved by the Department.

(5) "Approved Livestock Market" means a livestock market that is licensed by the Department under Title 4, Chapter 30, Livestock Markets.

(6) "Approved Slaughter Establishment" means a State or Federally inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by State or Federal inspectors.

(7) "Approved tagging site" means a premises, authorized by Department, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

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

(9) "Camelidae" means a term referring to members of the family of animals which for the purposes of these rules includes camels (*Camelus dromedarius* and *Camelus bactrianus*), llamas (*Lama glama*), alpacas (*Vicugna pacos*), guanacos (*Lama guanicoe*), and vicunas (*Vicugna vicugna*).

(10) "Captive Cervidae" means a term referring to members of the family of animals which for the purposes of these rules includes captive bred Caribou (Reindeer (*Rangifer tarandus*)), captive bred Elk (*Cervus canadensis nelsoni*), and captive bred Fallow deer (*Dama dama*) or any other captive bred cervidae allowed with permission from the State Veterinarian and the Utah Division of Wildlife Resources.

(11) "Certificate of Veterinary Inspection" means an official paper or electronic form completed by an accredited veterinarian that has examined the animal or animals listed on the certificate and has completed all disease testing or vaccinations as required.

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

(13) "Commuter herd agreement" means a written agreement between the owner(s) of a herd of cattle and the animal health officials for the States or Tribes of origin and destination specifying the conditions required for the interstate movement from one premises to another in the course of normal livestock management operations and specifying the time period, up to 1 year, that the agreement is effective. A commuter herd agreement may be renewed annually.

(14) "Dairy cattle" means all cattle, regardless of age or sex or current use, that are of a breed(s) used to produce milk or other dairy products for human consumption, including, but not limited to, Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, Milking Shorthorn, and Red and Whites.

(15) "Department" means the Utah Department of Agriculture and Food.

(16) "Designated brucellosis surveillance area" means an area within a state that has been designated by the animal health official of that state as an area of increased disease risk for bovine brucellosis.

(17) "Direct Movement" means the movement in which the animals are not unloaded enroute to their final destination, except for

stops of less than 24 hours to feed, water, or rest the animals being moved, and not commingled with another producer's animals.

(18) "Exotic animal" means a rare or unusual animal pet or an animal, not commonly thought of as a pet, kept within a human household. For this chapter, rodents, reptiles, and amphibians are considered exotic animals.

(19) "Exposed Animal" means an animal that has been in contact with or on the same premises of or within a quarantine zone where animals with a contagious or communicable disease are present.

(20) "Farm of Origin" means the farm where the animal was born and remain prior to importation into the state.

(21) "Flock-based number system" means the flock-based number system that combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

(22) "Flock identification number (FIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

(23) "Group/lot identification number (GIN)" means the identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain.

(24) "Import Permit" means a number given by the Department to the issuing veterinarian that is recorded on the certificate of veterinary inspection and is required before movement of the animals into the state.

(25) "Interstate movement" means movement of animals from one State into or through any other State.

(26) "Livestock Market Veterinarian" means a Utah licensed and USDA accredited veterinarian appointed by the Utah Department of Agriculture and Food to work at approved livestock markets.

(27) "Location identification (LID) number" means a nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

(28) "National Uniform Eartagging System (NUES)" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal.

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

(30) "Official eartag" means an identification tag approved by the Department that bears an official identification number for individual animals. The official eartag must be tamper-resistant and have a high retention rate in the animal.

(31) "Official eartag shield" means the shield shaped graphic of the U.S. Route Shield with "U.S." or the State postal abbreviation or Tribal alpha code imprinted within the shield.

(32) "Official identification device or method" means a means approved by the Department of applying an official identification number to an animal of a specific species or associating an official identification number with an animal or group of animals of a specific species or otherwise officially identifying an animal or group of animals.

(33) "Official identification number" means a nationally unique number that is permanently associated with an animal or group of animals.

(34) "Officially identified" means identified by means of an official identification device or method approved by the Department.

(35) "Poultry" means domestic fowl (chickens, turkeys, ducks, geese, and guinea and pea fowl), pigeons and doves, pheasants and other gamebirds, and ratites.

(36) "Premises identification number (PIN)" means a nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority a geographically distinct location from other premises.

(37) "Qualified Feedlot" means a feedlot approved by the Utah Department of Agriculture and Food to handle heifers, cows or bulls which are either official calfhooed vaccinated, or brucellosis unvaccinated animals confined to a drylot area which is used to upgrade or finish feeding animals going only to slaughter or another qualified feedlot. All such animals must be kept separate from other animals not destined for slaughter.

(38) "Quarantine" means a verbal or written restriction of movement of animals into or out of an area or premise, issued by a State Animal Health Official.

(39) "Reactor" means any animal that has been determined by a designated brucellosis epidemiologist to be infected with brucellosis based on test results, herd/flock history, and/or culture results.

(40) "Suspect" means any animal that may be infected with a contagious, infectious, or communicable disease based on test results and/or herd/flock history.

(41) "Test Eligible Cattle and Bison" means all cattle or bison six months of age or older, except:

1. Steers, spayed heifers;
2. Official calfhooed vaccinates of any breed under 24 months of age which are not parturient, springers, or post parturient.

(42) "United States Department of Agriculture (USDA) approved backtag" means a backtag issued by APHIS that provides a temporary unique identification for each animal.

(43) "Zoological animal" means an animal kept at a zoological garden (zoo) or other exhibition that is inspected on a regular basis by the United States Department of Agriculture.

R58-1-3. Official Identification Devices and Methods.

(1) Any State, Tribe, accredited veterinarian, or other person or entity who distributes official identification devices must maintain for 5 years a record of the names and addresses of anyone to whom the devices were distributed.

(2) An official identification number is a nationally unique number that is permanently associated with an animal or group of animals and that adheres to one of the following systems:

- (a) National Uniform Eartagging System (NUES).
- (b) Animal identification number (AIN).
- (c) Location-based number system.

(d) Flock-based number system.

(e) Any other numbering system approved by the animal health official of the state of origin for the official identification of animals.

(3) The Department has approved the following official identification devices or methods for the species listed.

(a) The Department may authorize the use of additional devices or methods for a specific species if the Department determines that such additional devices or methods will provide for adequate traceability.

(4) Cattle and bison that are required to be officially identified for interstate movement must be identified by means of:

(a) An official eartag; or

(b) Brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(c) Tattoos and other identification methods acceptable to a breed association for registration purposes, accompanied by a breed registration certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(d) Group/lot identification when a group/lot identification number (GIN) may be used.

(5) Horses and other equine species that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) A description sufficient to identify the individual equine including, but not limited to, name, age, breed, color, gender, distinctive markings, and unique and permanent forms of identification when present (e.g., brands, tattoos, scars, cowlicks, blemishes or biometric measurements); or

(b) Electronic identification that complies with ISO 11784/11785; or

(c) Non-ISO electronic identification injected to the equine on or before June 30, 2013; or

(d) Digital photographs sufficient to identify the individual equine.

(6) Poultry that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Sealed and numbered leg bands; or

(b) Group/lot identification when a group/lot identification number (GIN) may be used.

(7) Sheep and goats that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Electronic implants when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer; or

(b) Official eartags, including tags approved for use in the Scrapie Flock Certification Program or APHIS-approved premises identification number eartags when combined with a unique animal identification number; or

(c) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck; or

(d) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection.

(i) These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin; or

(e) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement; or

(f) Premises identification when premises identification is allowed and the animal is accompanied by an owner statement; or

(g) Any other official identification method or device approved by the animal health official of the state of origin.

(8) Swine that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Official eartags; or

(b) United States Department of Agriculture backtags, when used on swine moving to slaughter; or

(c) Official swine tattoos, when used on swine moving to slaughter; or

(d) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association; or

(e) Tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association;

(f) For slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated; or

(g) Any other official identification device or method that is approved by the animal health official of the state of origin; or

(h) Group/lot identification when a group/lot identification number (GIN) may be used.

(9) Captive cervids that are required to be officially identified for interstate movement must be identified by one of the following methods:

(a) Official eartag; and

(b) A tattoo that is placed peri-anally or inside the right ear and consist of a number assigned by the animal health official of the state of origin; or

(c) A microchip that has been placed in the right ear.

R58-1-4. Intrastate Cattle Movement - Rules - Brucellosis.

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

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

R58-1-5. Interstate Importation Standards.

(1) No animal, poultry or bird of any species or other animal including wildlife, that is known to be affected with or has been exposed to a contagious, infectious or communicable disease, or that originates from a quarantined area, shall be shipped, transported or

moved into the State of Utah until written permission for such entry is first obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services Division, and the Utah Department of Agriculture and Food, State Veterinarian or Commissioner of Agriculture.

(a) Failure to obtain written permission may result in a citation.

(2) An official Certificate of Veterinary Inspection issued by an accredited veterinarian is required for importation of all animals.

(3) A copy of the certificate shall be immediately forwarded to the Utah Department of Agriculture and Food by the issuing veterinarian or the animal health official of the state of origin within 7 calendar days from date on which the Certificate of Veterinary Inspection or other document is received or issued.

(4) Import permits for livestock, poultry and other animals may be obtained by telephone or via the internet to the accredited veterinarian responsible for issuing a Certificate of Veterinary Inspection.

(5) Certificates of Veterinary Inspection are considered valid for 30 days from the date of inspection.

R58-1-6. Cattle and Bison.

(1) A Certificate of Veterinary Inspection and an import permit must accompany all cattle and bison imported into the state.

(2) All cattle and bison must carry some form of individual identification as listed in R58-1-3(4).

(a) Individual identification must be listed on the Certificate of Veterinary Inspection.

(i) Official individual identification used for testing purposes must be shown on the Certificate of Veterinary Inspection; or

(ii) A copy of the official brucellosis or tuberculosis test sheets must be stapled to each copy of the Certificate of Veterinary Inspection.

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

(3) The import permit number must be listed on the Certificate of Veterinary Inspection.

(4) The following cattle are exempted from (1) above:

(a) Cattle consigned directly to slaughter at an approved slaughter establishment; or

(b) Cattle consigned directly to a State or Federal approved Auction Market.

(c) Movements under Subsections R58-1-5(4)(a), and R58-1-5(4)(b) must be in compliance with state and federal laws and regulations and must be accompanied by a weighbill, brand certificate, or similar document showing some form of positive identification, signed by the owner or shipper stating the origin, destination, number and description of animals and purpose of movement.

(d) Commuter cattle are exempt as outlined in Subsection R58-1-5(6).

(5) A brand inspection certificate or proof of ownership, which indicates the intended destination, is required for cattle entering the state.

(6) Commuter cattle may enter Utah or return to Utah after grazing if the following conditions are met.

(a) A commuter permit approved by the import state and the State of Utah must be obtained prior to movement into Utah. This will

allow movements for grazing for the current season if the following conditions are met:

(i) All cattle shall meet testing requirements as to State classification for interstate movements as outlined in 9 CFR 1-78, which is incorporated by reference; USDA, Animal and Plant Health Inspection Services, Brucellosis Eradication, Uniform Methods and Rules, October 1, 2003, and approved by cooperating States.

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

(iii) All bulls used in the commuter herd must be tested annually for trichomoniasis as required by the State of Utah.

(b) No quarantined, exposed or reactor cattle shall enter Utah.

(7) Prior to importation of cattle or bison into Utah the following health restrictions must be met.

(a) Bison and cattle heifers of vaccination age between four and 12 months must be officially calfhood vaccinated for brucellosis prior to entering Utah, unless;

(i) going directly to slaughter, or

(ii) qualified feedlot to be sold for slaughter, or

(iii) to an approved livestock market to be sold for slaughter or for vaccination.

(iv) Bison and cattle heifers of vaccination age may be vaccinated upon arrival by special permit from the State Veterinarian.

(b) All female bison and cattle over 12 months of age imported to Utah must have evidence of a brucellosis calfhood vaccination tattoo to be imported or sold into the State of Utah, unless;

(i) going directly to slaughter, or

(ii) qualified feedlot to be sold for slaughter, or

(iii) to an approved livestock market to be sold for slaughter,

or

(iv) tested negative for *Brucella abortus* within 30 days prior to entry.

(c) Test eligible cattle imported from states designated as brucellosis free, but are coming from a designated brucellosis surveillance area within that state, must be tested negative for brucellosis within 30 days prior to entry.

(i) Test eligible cattle may enter the state prior to testing with approval from the State Veterinarian but must be tested immediately upon arrival and the cattle must be kept isolated away from other cattle until tested negative.

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

(e) Exceptions to the above testing requirements include exhibition animals and test eligible cattle imported to Utah and moving directly to:

(i) an approved livestock market, or

(ii) to a "qualified feedlot", or

(iii) for immediate slaughter to an approved slaughter establishment.

(f) No reactor cattle, or cattle from herds under quarantine for brucellosis will be allowed to enter the state except when consigned to an approved slaughter establishment. An import permit and a Veterinary Services Form 1-27 prior to shipment are also required.

(g) Entry of cattle which have been retattooed is not permitted unless they are moved for immediate slaughter to an

approved slaughter establishment or to not more than one state or federal approved market for sale to a qualified feedlot or slaughtering establishment.

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

(i) Breeding cattle originating within a quarantined area or from reactor or exposed herds and all cattle from an area which is not classified as Tuberculosis Free are required to be tested for tuberculosis within 60 days prior to entry to Utah.

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

(k) No cattle infested with, or exposed to scabies shall be moved into Utah. Cattle from a county where scabies has been diagnosed during the past 12 months must be officially treated within 10 days prior to shipment into Utah. The date of treating and products used must be shown on the Certificate of Veterinary Inspection.

(l) No cattle infested with ticks that can transmit splenic or tick fever, or exposed to tick infestations shall be imported into the State of Utah for any purpose.

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

R58-1-7. Horses, Mules, Asses, and Other Equidae.

(1) Equidae may be imported into the State of Utah when accompanied by an official Certificate of Veterinary Inspection.

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

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

(b) Equidae which test positive to the EIA test shall not be permitted entry into Utah, except by special written permission from the State Veterinarian.

(c) A nursing foal less than six (6) months of age accompanied by its EIA negative dam and equidae moving directly to an approved livestock market are[is] exempt from the test requirements.

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

(4) An import permit issued by the Department must accompany all stallions or semen.

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

(a) Exceptions are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.

(b) The EVA test or vaccination status must be recorded on the Certificate of Veterinary Inspection.

(c) Breeding stallions and semen infected with Equine Arteritis Virus must be handled only on an approved facility as required by R58-23.

R58-1-8. Swine.

(1) Swine may be shipped into the state if the following requirements are met:

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

(i) The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, microchips or other permanent means.

(b) An import permit issued by the Department must accompany all swine imported into the state.

(c) All breeding and exhibition swine over the age of three months shipped into Utah shall be tested negative for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd or brucellosis free state.

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

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

(d) All breeding, feeding and exhibition swine shall be tested negative for pseudorabies within thirty days unless they originate from a recognized qualified pseudorabies free herd or pseudorabies Stage V state.

(i) Swine that have been vaccinated with any pseudorabies vaccine shall not enter the state.

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

(iii) Swine from states with known populations of feral or wild hogs may be required to be tested for Pseudorabies prior to entry to Utah.

(2) Prohibition of Non-domestic and Non-native Suidae and Tayassuidae

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

(b) These animals are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above testing requirements.

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

R58-1-9. Sheep.

(1) All sheep imported must be accompanied by a Certificate of Veterinary Inspection and an import permit.

(a) No sheep exhibiting clinical signs of blue tongue may enter Utah.

(b) Sheep must be thoroughly examined for evidence of foot rot and verified that they are free from foot rot.

(c) Sheep entering Utah must comply with federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Sheep from scrapie infected, exposed, quarantined or source flocks may not be permitted to enter the state unless an official post-exposure flock eradication and control plan has been implemented.

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

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

R58-1-10. Poultry.

(1) All poultry and hatching eggs being imported into Utah must meet the following requirements:

(a) All poultry and hatching eggs must have an import permit from the Department.

(b) All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan VS Form 9-3.

(c) All poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state, or

(d) All poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for Pullorum-Typhoid within the last 30 days.

R58-1-11. Goats and Camelids.

(1) Goats being imported into Utah must meet the following requirements:

(a) Dairy goats must have an import permit from the Department and an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd. There to; there must be no evidence of caseous lymphadenitis (abscesses).

(b) Meat type goats must have an import permit from the Department and an official Certificate of Veterinary Inspection indicating they are free from any communicable diseases or exposure and that there is no evidence of caseous lymphadenitis (abscesses).

(c) Goats entering Utah must comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(d) Goats for slaughter may be shipped into Utah directly to an approved slaughter establishment or to an approved auction market without an official Certificate of Veterinary Inspection and an import permit but must comply with Federal Scrapie identification requirements as listed in 9 CFR 79, which is incorporated by reference.

(2) Camelids being imported into Utah must have an import permit from the Department and an official Certificate of Veterinary Inspection showing a negative tuberculosis test within 60 days, and a negative brucellosis test within 30 days prior to entry or be from a certified brucellosis free herd and accredited tuberculosis free herd.

(3) Test eligible age for both brucellosis and tuberculosis shall be 6 months of age or older for both goats and camelids.

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

R58-1-12. Psittacine and Passerine Birds and Raptors.

(1) No psittacine or passerine birds or raptors shall be shipped into the State of Utah unless an official Certificate of Veterinary Inspection accompanies the birds.

(2) The number and kinds of birds to be shipped into Utah, their origin, date to be shipped and destination must be listed on the Certificate of Veterinary Inspection.

R58-1-13. Dogs, Cats, and Ferrets.

(1) All dogs, cats and ferrets shall be accompanied by an official Certificate of Veterinary Inspection.

(2) All dogs, cats and ferrets over three months of age must be currently vaccinated against rabies before entering Utah.

(a) The date of vaccination, name of product used, and expiration date must be written on the Certificate of Veterinary Inspection.

(3) No puppies or kittens less than 8 weeks of age shall be imported into the state unless accompanied by the mother.

R58-1-14. Exotic Animals.

(1) It is unlawful for any person to import into the State of Utah any species of exotic animal that is prohibited for importation or possession as listed in Utah Administrative Code R657-3.

(2) All exotic animals (birds, mammals, and reptiles) must be accompanied by an official Certificate of Veterinary Inspection.

(3) All aquatic animals (fish, mollusk, crustacean, or amphibians) must fulfill all requirements of Utah Administrative Code R58-17 prior to importation into the State of Utah.

R58-1-15. Game and Fur-Bearing Animals.

(1) No game or fur bearing animals will be imported into Utah without an import permit being obtained from the Department.

(2) Each shipment shall be accompanied by an official Certificate of Veterinary Inspection.

(3) All mink entering Utah shall have originated on ranches where mink viral enteritis has not been diagnosed or exposed to within the past three years.

R58-1-16. Captive Cervidae.

(1) All captive cervidae entering Utah must meet the following requirements:

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

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

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

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

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

(i) Elk must come from a state with a USDA approved herd certification program.

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

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

(f) All captive cervidae must be permanently identified using either a microchip or tattoo.

(g) All captive cervidae must have an import permit from the Department.

(h) All captive cervidae must have an official Certificate of Veterinary Inspection showing the following:

(i) A negative tuberculosis test within 60 days of import.

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

(iii) Two forms of individual animal identification.

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

R58-1-17. Zoological Animals.

(1) The entry of zoological animals to be kept in zoological gardens, or shown at exhibitions is authorized when an import permit, subject to requirements established by the State Veterinarian, has been obtained from the Department and the animals are accompanied by an official Certificate of Veterinary Inspection.

(2) Movement of these animals must also be in compliance with the Federal Animal Welfare Act, 7 USC 2131-2159.

R58-1-18. Wildlife.

(1) It is unlawful for any person to import into the State of Utah any species of live native or exotic wildlife except as provided in Title 23, Chapter 13 and Utah Administrative Code R657-3.

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

R58-1-19. Duties of Carriers.

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

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

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

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

KEY: disease control, import requirements

Date of Enactment or Last Substantive Amendment: [~~August 21, 2013~~]2015

Notice of Continuation: January 18, 2012

Authorizing, and Implemented or Interpreted Law: 4-31; 4-2-2(1) (j)(i)

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39422

FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to the rule make necessary updates, bringing the state rule up to date with the federal regulations. It also adds goats to animals which are required to be identified by the federal regulations.

SUMMARY OF THE RULE OR CHANGE: The rule change adds goats to the animals required to comply with federal identification and record keeping requirements. The change updates the federal code incorporated by reference to the current version.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-31-115 and Section 4-31-118 and Subsection 4-2-2(1)(c)(ii) and Subsection 4-2-2(1)(i)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Animals and Animal Products, published by Government Printing Office, 01/01/2010
- ◆ Adds Scrapie In Sheep and Goats, published by Government Printing Office, 01/01/2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The rule change does not have an affect on the state's enforcement of the rule, nor does it increase cost to the state, because the cost is covered by the Animal and Plant Health Inspection Services (APHIS) at no charge. There are no anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed rule changes will have no cost or savings to local governments because local governments have no enforcement authority nor other obligations required by this rule.
- ◆ **SMALL BUSINESSES:** Small businesses will not be affected by the proposed rule change. The items required for the identification are available free of charge from APHIS.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The cost associated with the identification is covered by

APHIS upon request. That is the only cost associated with the changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs to the affected person because the items necessary for identification are made available by APHIS with cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts associated with this rule because the cost is covered through APHIS.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Cody James by phone at 801-538-7166, by FAX at 801-538-7169, or by Internet E-mail at codyjames@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
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Warren Hess by phone at 801-538-4910, by FAX at 801-538-7169, or by Internet E-mail at wjhess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: LuAnn Adams, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-2. Diseases, Inspections and Quarantines.

R58-2-1. Authority.

Promulgated Under the Authority of Sections 4-31-115, [and 4-31-118~~17~~], [and Subsection]4-2-2(1)(c)(ii), and 4-2-2(1)(i).

R58-2-2. Definitions.

- A. "Animal exhibition" - An event where animals are congregated for the purpose of exhibition and judging.
- B. "Animals" - For the purpose of this chapter animals means poultry, rabbits, cattle, sheep, goats and swine.
- C. "Terminal show" - A fair or livestock judging exhibition with designated species of animals that are declared "at risk animals" which at the conclusion of the event must be transported directly to slaughter.

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

- A. Reporting of Diseases. It shall be the responsibility of veterinary diagnostic laboratories, veterinary practitioners, livestock

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

1. All swine moving within the State of Utah shall be identifiable to determine the farm of origin as per 9 CFR, 1,71.19, January 1, ~~2010~~[2002], edition which is hereby adopted and is incorporated by reference within this rule.

2. All sheep and goats moving within the State of Utah shall, upon change of ownership, comply with federal Scrapie identification requirements as listed in 9 CFR Part 79, January 1, ~~2014~~[2002], requiring official identification to determine the farm of origin.

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

4. Any live scrapie-positive, suspect, or high-risk sheep or goat of any age and any sexually intact exposed sheep or goat of more than one year of age shall be required to possess official individual identification as listed in 9 CFR Part 79, January 1, ~~2014~~[2002].

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

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

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

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

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

b. On and after the effective date of quarantine no animals shall be moved or allowed to be moved from or onto the quarantined premises without the owner or caretaker of the quarantined livestock having first obtained a written permit from the Utah Department of Agriculture and Food or its authorized agent to move the animals.

c. Quarantines shall be released upon compliance with Section 4-31-17; as well as with 9 CFR 71.2, January 1, ~~2014~~[2002], edition; and the Utah Health Code Sections 26-6, 19-4 and 19-5.

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

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

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

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

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

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

KEY: quarantines

Date of Enactment or Last Substantive Amendment: [~~March 24, 2011~~]**2015**

Notice of Continuation: June 23, 2011

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

Agriculture and Food, Animal Industry **R58-22** Equine Infectious Anemia (EIA)

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39424

FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes update references to the legal authority, as well as makes changes to the requirements for disposal of horses.

SUMMARY OF THE RULE OR CHANGE: The proposed changes makes corrections to the legal authority for the rule. It is also proposed to remove the requirements to treat above and below the carcass with lime.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The changes have no effect on the state budget. The changes have no effect on the responsibilities of the department. They will not require more time or effort to enforce.

◆ **LOCAL GOVERNMENTS:** Local governments have no responsibility in the proposed rule. There should be no costs to local governments.

◆ **SMALL BUSINESSES:** The proposed rule change removes the requirement to treat with lime. There are no additional requirements adding no additional costs. The removal of the lime will result in a cost saving to the owner.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The removal of the lime requirement adds no additional cost to those affected by the change. The removal of the lime will result in a cost saving to the owner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs for compliance with the changes. The changes remove a requirement and place no additional requirement on the person. The removal of the lime will result in a cost saving to the owner.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no additional requirements to the rule, instead there is a removal of requirement which adds no cost to the business. The removal of the lime will result in a cost saving to the owner.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Cody James by phone at 801-538-7166, by FAX at 801-538-7169, or by Internet E-mail at codyjames@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
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Warren Hess by phone at 801-538-4910, by FAX at 801-538-7169, or by Internet E-mail at wjhess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: LuAnn Adams, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-22. Equine Infectious Anemia (EIA).

R58-22-1. Authority.

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

The intent of these rules is to eliminate or reduce the spread of Equine Infectious Anemia among equines by providing for a protocol for testing and handling of equines infected and exposed to Equine Infectious Anemia.

R58-22-2. Definitions.

Accredited Veterinarian - means a veterinarian approved by the Deputy Administrator of USDA, APHIS, VS in accordance with provisions of 9 CFR Part 161.

Coggins test - means a common name for the Agar Gel Immuno-diffusion (AGID) test for diagnosis of EIA.

Equine - means any animal in the family Equidae, including horses, asses, mules, ponies, and Zebras.

Equine Infectious Anemia (EIA) - means an infectious disease of equines caused by a lentivirus, equine infectious anemia virus (EIAV). The disease is characterized by three distinct clinical forms: acute, chronic and inapparent.

Identification - means permanent notation of equines that are determined to be EIA reactors by application of a hot iron, or freeze marking using the National Uniform Tag code number for the State of Utah (87), followed by the letter "A" on the left side of the neck or left shoulder.

Official test - means any test for the laboratory diagnosis of EIA that utilizes a diagnostic product that is (1) produced under license from the Secretary of Agriculture, and found to be efficacious for that diagnosis, under the Virus-Serum- Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 et seq.); and (2) conducted in a laboratory approved by the Administrator of APHIS.

Reactor - means any equine that has been subjected to an official laboratory test whose result is positive for EIA.

Exposed Animals - means all equines that have been exposed to EIA by reason of association with the affected animal.

R58-22-3. Equine Infectious Anemia - Rules - Prevention and Control.

The State Veterinarian shall have authority to conduct or supervise testing at an official laboratory to diagnose EIA and to quarantine and order disposition of any individuals or herds that are found to be positive for EIA, at such time as may be deemed necessary for the control and elimination of EIA., as granted under Section 4-31-16.

Personnel authorized to submit samples, approved laboratories, and official tests shall be those identified in the Uniform Methods and Rules, USDA, APHIS 91-55-037 Part II, B, C, and D, effective January 1, 1998, or subsequent revisions.

Procedures for handling equines which are classified as reactors:

Quarantine - When an equine has a positive result on an official test for EIA, the animal shall be placed under quarantine within 24 hours after positive test results are known and a second, confirmatory, test shall be performed under the direction of the state veterinarian. The equine shall remain in quarantine until final classification and disposition is made. Equines which have been located within 200 yards of the infected animal shall be quarantined and tested also.

Repeat testing and removal of reactors - When a reactor is disclosed in a herd, and removed, testing of all exposed equines for EIA must be repeated at no less than 45 day intervals until all remaining equines on the premise test negative, at which time the quarantine may be removed.

Identification of reactor equines - Equines that are determined to be reactors must be permanently identified using the National Uniform Tag code number for Utah (87) followed by the letter "A". Markings must be permanently applied using a hot iron, or freeze marking by an APHIS representative, State representative, or accredited veterinarian. The marking shall be not less than two inches high and shall be applied to the left shoulder or left side of the neck of the reactor. Official identification is not necessary if the reactor is moved directly to slaughter under a permit and is in a conveyance sealed with an official seal.

Euthanasia and disposal - Once an equine has been classified as a reactor, it must be removed from the herd. This can be accomplished by euthanasia or removal to slaughter. If slaughter is chosen, the equine must be moved either to a federally or state inspected slaughtering establishment per the Code of Federal Regulations, Part 75.4. If euthanasia is chosen, the animal must be properly buried six feet underground [~~and the carcass treated above and below with lime~~].

R58-22-4. Importation of Equines.

A. Equines imported to Utah shall be in compliance with R58-1-6.

KEY: inspections

Date of Enactment or Last Substantive Amendment: [~~August 2, 2000~~] **2015**

Notice of Continuation: January 18, 2012

Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(c); 4-2-2(1)(j)

Attorney General, Administration

R105-3

White Collar Crime Registry

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39445

FILED: 06/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed new rule is to establish procedures to efficiently administer the Utah White Collar Crime Offender Registry.

SUMMARY OF THE RULE OR CHANGE: This rule establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 77-42-107(1)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings that are expected. This rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings that are expected. This rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry. However, there will be an impact on local government in general because local prosecutors are required to report qualifying convictions to the Attorney General's office and to provide the office with information about the offender, as well as on the court system.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings that are expected. This rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings that are expected. This rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs because the rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated affects that this rule will have on businesses. The rule simply establishes procedures to efficiently administer the Utah White Collar Crime Offender Registry.

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

ATTORNEY GENERAL
ADMINISTRATION
ROOM 230 UTAH STATE CAPITOL
350 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ David Sonnenreich by phone at 801-366-0132, by FAX at 801-845-6862, or by Internet E-mail at dsonnenreich@utah.gov
♦ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Brian Tarbet, Chief Civil Deputy Attorney General

R105. Attorney General, Administration.

R105-3. White Collar Crime Registry.

R105-3-1. Purpose.

The purpose of this rule is to establish procedures to efficiently administer the Utah White Collar Crime Offender Registry. These rules are made pursuant to the rulemaking authority granted by Utah Code Ann. Section 77-42-107(1).

R105-3-2. Definitions.

(1) Attorney General: The Attorney General of the State of Utah and any Assistant Attorney General.

(2) Attorney General's Office: The Office of the Attorney General of the State of Utah, and its employees acting within the scope of their employment.

(3) Conviction: A conviction occurs, for purposes of this Rule, as soon as a plea is entered and accepted by the court, or a trial concludes with a verdict of guilty. The Registry shall note cases in which an Offender has been convicted but is still awaiting sentencing or has appealed the conviction, so long as the appeal is pending.

(4) Dates: When a day of the month or a date that is specified in this rule falls on a weekend or an official state holiday, the deadline shall be the end of the next regular business day.

(5) Harassment: Harassment is any action that is designed to intimidate, humiliate, coerce, or threaten an individual, including stalking an individual. Persons who use the Registry are prohibited from harassing any Offender listed on the Registry, or any person related to any Offender. Persons who use the Registry are also prohibited from engaging in indirect harassing behavior against an Offender through harassing contact with any person who employs any Offender, any person who provides housing to any Offender, or any person who is a religious or spiritual advisor to any Offender. For example, a person using the Registry may not coerce or threaten a landlord in an effort to cause the landlord to cease renting to an Offender. However, it is not harassment for a person who uses the Registry to accurately inform any person that an Offender is listed on the Registry, or to provide information on the Registry to any person. It is not harassment for a person who uses the Registry to suggest, advise, or recommend to any person that they not invest money with an Offender, or that they take action to recover money they may have invested with an Offender.

(6) Offender: Any person who has been convicted of a crime listed in Section 77-42-105, who is required to register pursuant to Section 77-42-106(2) and who is not exempted from that requirement pursuant to Section 77-42-106(3).

(7) Presiding Officer: The initial Presiding Officer for administrative proceedings shall be the current Director of the Markets and Financial Fraud Division, unless otherwise designated by the Attorney General in a particular proceeding.

(8) Potential Offender: Any person whom the Attorney General has reason to believe may be an Offender, during the period of time when the Attorney General's Office is investigating whether the person qualifies for listing on the Registry.

(9) Prosecutor: Any Assistant Utah Attorney General, County Attorney, Assistant County Attorney, District Attorney, Assistant District Attorney, or other individual who is authorized by law to prosecute any of the offenses listed in Section 77-42-105. A law enforcement agency may designate any Prosecutor within the agency as the person responsible for fulfilling the requirements of this Rule regarding any Offender or group of Offenders; in the absence of any such designation, it is the responsibility of the Prosecutor who obtained the conviction to comply with this Rule.

(10) Registry: The White Collar Crime Registry, as authorized by Utah Code Title 77, Chapter 42.

(11) Registry Coordinator: The Registry Coordinator is the person who is responsible for maintaining the Registry. The Attorney General shall designate a Registry Coordinator, whose

name will be listed as part of the information about the Registry provided at <http://www.attorneygeneral.utah.gov>

(12) Repeat Offender: For purposes of Section 77-42-106(1) a person shall be deemed to have been convicted more than once and hence subject to being listed for additional time on the Registry only if all of the following conditions are met:

(a) Each conviction was the result of a separate legal proceeding;

(b) Each conviction is based upon factually distinct behavior, such as different fraudulent schemes affecting different investors;

(c) Although a person may be convicted in a single proceeding of having committed multiple offenses from among the list in Section 77-42-105 or may be convicted of multiple counts of the same offense, such a proceeding still constitutes a single conviction; and

(d) It is irrelevant whether the events for later convictions take place before or after earlier convictions, so long as they constitute separate factually distinct behavior.

(13) Review Officer: A Review Officer is an individual who makes initial determinations concerning whether a Potential Offender should be listed as an Offender on the Registry, and whether an Offender who is listed on the Registry should be removed from the Registry. The Attorney General shall designate one or more Review Officers from time to time. Individuals may obtain the name of the Review Officer in a particular case by sending an email to whitecollar@utah.gov, or by checking the information about the Registry provided at <http://www.attorneygeneral.utah.gov>, or by mailing a written request to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.

(14) Victim: Any person identified as a victim, including persons to whom restitution is owed regardless of whether they testified or were identified at trial.

R105-3-3. Operation of the Registry.

(1) The Registry shall be maintained and updated by the Registry Coordinator.

(2) All communications concerning the operation of the Registry or the accuracy of information contained in the Registry, and all forms, information, and notices that are permitted or required to be sent to the Attorney General's Office under this Rule shall be sent to the Registry Coordinator by email to whitecollar@utah.gov or by mail to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.

(3) All written communications from the Attorney General's Office to any Offender or Potential Offender shall be mailed to the likely best address in this order:

(a) The current address provided by the Offender or Potential Offender;

(b) The last known address provided by the Prosecutor; or

(c) Any other address discovered by the Attorney General's Office.

(4) The Attorney General's Office may communicate with any person by email instead of mail if that person has provided the Attorney General's Office with an email address and has either stated in writing that use of the email address instead of mail is

acceptable, or has used the whitecollar@utah.gov email address to communicate with the Attorney General's Office.

(5) The Registry Coordinator shall have authority to determine that Potential Offenders are Offenders, to list Offenders on the Registry (including determining what information will be included in the listing), to correct errors in the Registry, to remove an Offender from the Registry, and to take any other acts necessary to maintain the Registry. The Registry Coordinator shall work with the Review Officer or Officers in making these determinations.

(6) The Registry Coordinator may seek advice and assistance from the Attorney General or anyone employed by the Attorney General's Office in exercising the authority granted under this Rule.

(7) The Attorney General's Office will generally update the Registry monthly on or before the 15th day of the month. Updates will include changes that have received final approval from the Registry Coordinator prior to the 1st day of the month. Any changes receiving approval after the 1st day of the month will generally be included in the following month's update.

(8) The Registry can be accessed from this URL: <http://www.attorneygeneral.utah.gov>.

(9) All forms referenced in this Rule can be obtained from this URL: <http://www.attorneygeneral.utah.gov>.

R105-3-4. Information to be Supplied by the Prosecutor.

(1) Within 45 business days of any conviction of an Offender, the Prosecutor shall provide the Registry Coordinator with the information requested on form 105-3-4, to the extent that such information is available to the Prosecutor. The completed form and attached documentation may be emailed in PDF format to: whitecollar@utah.gov or mailed to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.

(2) The Attorney General finds all of the information regarding the Offender requested on Form 105-3-4 to be potentially relevant identifying information, however the Attorney General reserves the right not to post information provided on that form if the Attorney General determines that it is not helpful for identifying an Offender in a particular case.

(3) The Prosecutor shall provide additional information to the Registry Coordinator or any Review Officer upon request.

R105-3-5. Information to be Supplied by the Offender or Potential Offender.

(1) When requested by the Attorney General's Office, an Offender or Potential Offender shall provide the designated Review Officer with the information requested on Form 105-3-5 located at this URL: <http://www.attorneygeneral.utah.gov>. The form and attached documentation may be emailed in PDF format to: whitecollar@utah.gov or mailed to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320.

(2) Each Offender or Potential Offender shall provide current address and phone number contact information to the Attorney General's Office, and shall update that information within 30 days of a change of address or phone number.

(3) When requested, an Offender or Potential Offender shall provide the Attorney General's Office with a photograph that is in the format required for a passport photograph.

(4) When requested, an Offender or Potential Offender shall appear at the Attorney General's Office in order to have his or her physical characteristics verified or his or her photograph taken.

(5) An Offender or Potential Offender shall provide such additional information as may be requested by the Attorney General's Office at any time in order to either identify any Offender or Potential Offender (including a convicted co-conspirator) or to determine whether any Offender or Potential Offender should be listed on (or remain listed on) the Registry.

R105-3-6. Adding an Offender to the Registry -- Notice to the Offender.

(1) When the Attorney General's Office learns of a Potential Offender from any source, it shall attempt to contact the Prosecutor and ask the Prosecutor to provide the information requested on Form 105-3-4.

(2) When the Attorney General's Office has received Form 105-3-4 with attachments, the Attorney General may determine from the information provided that the Potential Offender is an Offender who qualifies for listing on the Registry. Alternatively the Attorney General's Office may forward the Prosecutor's Form 105-3-4 to the Potential Offender with the Prosecutor's name, contact information and certification redacted.

(3) If requested by the Attorney General, the Potential Offender shall provide the information requested on Form 105-3-5, and shall provide any additional information requested by the Attorney General's Office.

(4) If the Attorney General's Office determines that a Potential Offender is an individual who should be listed on the Registry as an Offender, the Attorney General shall provide written notice to the Potential Offender at least 15 days before the first day of the month in which the person is to be listed as an Offender.

R105-3-7. Accuracy of the Registry.

Any person may challenge the accuracy of any information contained in the Registry, may assert that an individual who is not listed in the Registry is a Potential Offender, or that an Offender listed in the Registry should be removed. Such challenges should be directed to the Registry Coordinator by sending an email to: whitecollar@utah.gov or mailing a letter to White Collar Crime Registry Coordinator, Office of the Attorney General, PO Box 142320, Salt Lake City, UT 84114-2320. An Attorney General's Office employee will typically respond within 30 days of receipt of the challenge, and will inform the individual whether the Registry Coordinator has approved or denied the requested change, and if approved, when the change will be incorporated into the Registry.

R105-3-8. Removal of an Offender from the Registry by Passage of Time.

(1) An Offender who believes that he or she qualifies for removal from the Registry due to the passage of time shall provide notice of the same to the Review Officer assigned to that Offender. To facilitate timely removal, such notice should be provided no more than 120 nor less than 60 days prior to the first date on which the Offender is eligible to be removed.

(2) The Review Officer shall review the notice and determine whether the Offender is eligible to be removed due to the passage of time. The Attorney General's Office may require the

Offender to provide additional documentation and information prior to making that determination.

(3) If the Review Officer determines that the Offender is eligible to have his or her name removed, the Offender's name shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry following the first date on which Review Officer makes that determination.

(4) If the Review Officer determines that the Offender is not eligible for removal from the Registry due to the passage of time, the Review Officer shall inform the Offender in writing and shall briefly explain the basis for that decision.

(5) The Review Officer shall decide whether the Offender is eligible for removal from the Registry within 60 days of receiving notice, unless the Review Officer believes that additional time is necessary to investigate, in which case the Review Officer shall provide the Offender with a written explanation of the reason why additional time is necessary and an estimate of the date by which a decision shall be rendered.

R105-3-9. Removal of an Offender from the Registry by Court Order.

(1) An Offender may be removed from the Registry by petitioning the court where the Offender was convicted, and following the procedure set forth in Subsections 77-42-108(1) through (11).

(2) Once the Attorney General's Office has received a copy of the order directing removal, the Offender shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry.

R105-3-10. Removal of an Offender from the Registry by Direct Petition.

(1) An Offender who believes that he or she qualifies for removal from the Registry under the provisions of Section 77-42-108(12) shall petition the Attorney General by submitting Form 105-3-9 and all required supporting documents to the Review Officer assigned to that Offender's case.

(2) The Review Officer shall review the petition and determine whether the Offender is eligible to be removed due to compliance with Section 77-42-108(12). The Attorney General's Office may require the Offender to provide additional documentation and information prior to making that determination.

(3) If the Review Officer determines that the Offender is eligible to have his or her name removed, the Offender's name shall be removed by the Registry Coordinator as part of the next regularly scheduled monthly update of the Registry following the first date on which The Review Officer makes that determination.

(4) If the Review Officer determines that the Offender is not eligible for removal from the Registry due to compliance with Section 77-42-108(12), the Review Officer shall inform the Offender in writing and shall briefly explain the basis for that decision.

(5) The Review Officer shall decide whether the Offender is eligible for removal from the Registry within 60 days of receiving the petition, unless the Review Officer believes that additional time is necessary to investigate, in which case the Review Officer shall provide the Offender with a written explanation of the reason why additional time is necessary and an estimate of the date by which a decision shall be rendered.

R105-3-11. Administrative Procedures.

(1) All administrative proceedings conducted in connection with this Rule shall be conducted by the Presiding Officer and shall be initially designated as informal proceedings pursuant to Section 63G-4-202. The Presiding Officer may convert any informal proceeding to a formal proceeding.

(2) In the event of an appeal of the Presiding Officer's decision, the Agency Designee to conduct the review shall be the Presiding Officer's immediate superior, unless otherwise designated by the Attorney General in a particular proceeding.

(3) The following parties may commence an administrative proceeding:

(a) The Attorney General may issue a Notice of Agency Action in order to enforce compliance with any requirement of this Rule.

(b) A Prosecutor, Offender, Potential Offender, or Victim may file a Request for Agency Action in order to challenge any action or inaction by the Attorney General under this Rule.

(c) No other person shall have a right to initiate an administrative proceeding under this Rule.

(4) Parties that receive a Notice of Agency Action shall respond in writing within 15 business days. Failure to respond in writing shall be deemed to be a grounds for default, and a default may be issued by the Presiding Officer. The Attorney General's Office may, in its discretion, file a response to any Request for Agency Action. Any such response shall be filed and mailed or emailed to the party requesting agency action within 15 business days of receipt of the Request for Agency Action. Other than as set forth herein, no additional pleadings or responses are permitted unless authorized by the Presiding Officer in a particular proceeding. The deadlines set forth in this subsection may be extended by the Presiding Officer upon a showing of good cause by any party.

(5) The Presiding Officer shall decide the informal adjudicative proceeding on the basis of the Notice of Agency Action or Request for Agency Action, any attached documentation, and any responses submitted. No hearings are permitted unless the Presiding Officer converts the proceeding from an informal to a formal proceeding.

R105-3-12. Unlawful Acts.

(1) Failure to provide required information: An Offender who fails to provide any information required or requested under this Rule will be deemed to have not properly "Registered" as required by Section 77-42-105 and as defined in Section 77-42-102(6). An Offender's failure to register may be brought to the attention of a judge, prosecutor, Adult Probation and Parole officer, the Utah Board of Pardons, and others. In addition, a failure to provide information may violate various laws.

(2) Intentionally providing inaccurate information: An Offender who intentionally provides any false, misleading, or incomplete information required or requested pursuant to this Rule will be deemed to have not properly "Registered" as required by Section 77-42-105 and as defined in Section 77-42-102(6). Such a failure to register may be brought to the attention of a judge, prosecutor, Adult Probation and Parole officer, the Utah Board of Pardons, and others. In addition, intentionally providing false, misleading, or incomplete information may violate various laws.

(3) Using a link or other method to intentionally circumvent the disclaimer page: It is unlawful to intentionally circumvent the disclaimer page for the Registry so as to be able to access the Registry without agreeing to the disclaimer language. In particular, it is unlawful to imbed in a website, post, email, text (SMS), or otherwise use a URL that allows any person to circumvent the disclaimer page and go directly to the Registry. Such unlawful action may expose the responsible persons to criminal or civil liability, including injunctive and declaratory relief.

(4) Harassment of Offenders or their families: Harassment, as defined in this Rule, may violate criminal laws, and may be actionable under civil law, including injunctive and declaratory relief, depending upon the specific nature of the harassment.

KEY: attorney general, white collar crime registry
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 77-42-107(1)

**Commerce, Occupational and
 Professional Licensing
 R156-46a-502d
 Form of Written Informed Consent**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39428

FILED: 06/04/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 112, passed during the 2015 General Session, added a requirement that hearing instrument specialists obtain informed consent from their clients on a form approved by the Division in collaboration with the Hearing Instrument Specialist Licensing Board. This proposed rule change establishes the approved form for clients of a hearing instrument specialist to acknowledge informed consent.

SUMMARY OF THE RULE OR CHANGE: Section R156-46a-502d is added to establish the approved form for clients of a hearing instrument specialist to acknowledge informed consent.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-46a-101 and Section 58-46a-304 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed rule amendment will not affect the state budget other than the cost of \$75 to

republish the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to licensed hearing instrument specialists and licensed hearing instrument specialist interns. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed rule amendment will have very minor compliance costs for hearing instrument specialist businesses. These businesses are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112 (2015).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed rule amendment will have very minor compliance costs for hearing instrument specialists. These licensees are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112 (2015).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule amendment will have very minor compliance costs for hearing instrument specialists. These licensees are already required to make certain disclosures to clients. The new statute adds a requirement that an informed consent disclosure be included. Any costs for complying with this additional disclosure were contemplated under H.B. 112 (2015).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing responds to legislative action (H.B. 112, 2015), which required licensed hearing instrument specialists to obtain informed consent from clients prior to providing products or services. The rule specifies the contents of the consent form. No fiscal impact to businesses is anticipated beyond that considered by the legislature in determining to require the disclosure.

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

COMMERCE
 OCCUPATIONAL AND PROFESSIONAL
 LICENSING
 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:

◆ Dan Jones by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 07/01/2015 11:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 250 (second floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-46a. Hearing Instrument Specialist Licensing Act Rule.
R156-46a-502d. Form of Written Informed Consent.**

In accordance with Subsection 58-46a-502(4)(c), an agreement to provide hearing instrument specialist goods and services shall include the patient's informed consent in substantially the following form.

TABLE

ACKNOWLEDGEMENT OF INFORMED CONSENT

As a consumer of hearing instrument specialist goods or services, you are required to be informed of certain information as provided in Utah Code Ann. Sections 58-46a-502 and 503.

1. The list of goods and services to be provided to you include the following: (add additional lines as required)

Services: _____ Charge: _____
Goods (circle as applicable: new, used, reconditioned): Charge: _____
These goods (circle as applicable: are, are not) covered by a warranty or guarantee. Additional information about any warranty or guarantee is attached.

2. The licensees providing these goods and services are: (add additional lines as required)
hearing instrument specialist:

name: _____ license number: _____

hearing instrument specialist intern
name: _____ license number: _____

3. The expected results of the goods and services are:

4. If the goods to be provided include a hearing instrument:
(a) Additional information is attached about hearing instruments that work with assisted listening systems that are compliant with ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the American with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

(b) You have the right to receive a written receipt or written contract, which includes notice to you that you have a 30-day right to cancel the purchase and obtain a refund if you find the hearing aid does not function adequately for you.
(i) The 30-day right to cancel shall commence from either the date the hearing aid is originally delivered to you or the date the written receipt or contract is delivered to you, whichever is later. The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

(ii) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing is entitled to a cancellation fee not to exceed 15% of all fees charged to the consumer, including testing, fitting, counseling, and the purchase price of the hearing aid. The exact amount of the cancellation fee shall be stated in the written receipt or contract provided to the consumer.

5. If the goods and services provided do not substantially enhance your hearing as stated in the expected results, you are entitled to:
(a) necessary intervention to produce satisfactory recovery results consistent with the representations made above at no additional cost; or
(b) refund of the fees you paid for the hearing instrument within a reasonable period of time after finding that the hearing instrument does not substantially enhance your hearing.
I hereby acknowledge being informed of the above and consent to the receive the goods and services.
Patient's Signature and Date

KEY: licensing, hearing aids, hearing instrument specialist, hearing instrument intern

Date of Enactment or Last Substantive Amendment: [January 21, 2014]2015

Notice of Continuation: January 27, 2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-46a-101; 58-46a-304

**Financial Institutions, Nondepository
Lenders
R343-10**

**Title Lenders Registration with the
Nationwide Database**

**NOTICE OF PROPOSED RULE
(New Rule)**

**DAR FILE NO.: 39442
FILED: 06/12/2015**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage of S.B. 24, during the 2015 General Session, the department may by rule establish initial and renewal registration requirements for title lenders with the nationwide database.

SUMMARY OF THE RULE OR CHANGE: With the passage of S.B. 24 (2015), the department may by rule establish initial and renewal registration requirements for title lenders with the nationwide database.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 7-24-201(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed new rule will not require additional appropriations because compliance to the rule affects title lenders not the department.

◆ **LOCAL GOVERNMENTS:** Local governments are not involved in regulating title lenders and are therefore not subject to this rule.

♦ **SMALL BUSINESSES:** The costs for conducting business as a title lender, for those who have not previously registered with the nationwide database, will increase. Title lenders that register with the nationwide database for the first time will have to pay any fees that are required by the nationwide database.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The costs for conducting business as a title lender, for those who have not previously registered with the nationwide database, will increase. Title lenders that register with the nationwide database for the first time will have to pay any fees that are required by the nationwide database.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a title lender, for those who have not previously registered with the nationwide database, will increase. Title lenders that register with the nationwide database for the first time will have to pay any fees that are required by the nationwide database.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a title lender, for those who have not previously registered with the nationwide database, will increase. Title lenders that register with the nationwide database for the first time will have to pay any fees that are required by the nationwide database.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 FINANCIAL INSTITUTIONS
 NONDEPOSITORY LENDERS
 ROOM 201
 324 S STATE ST
 SALT LAKE CITY, UT 84111-2393
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Edward Leary, Commissioner

R343. Nondepository Lenders.

R343-10. Title Lenders Registration with the Nationwide Database.

R343-10-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Section 7-24-201(4).

(2) This rule applies to title lenders that are required to register with the nationwide database.

(3) This rule establishes initial and renewal registration requirements for deferred deposit lenders.

R343-10-2. Definitions.

(1) "Commissioner" means the Commissioner of Financial Institutions.

(2) "Department" means the Department of Financial Institutions.

(3) "Form MU1" means the Uniform Company License/Registration and Consent form adopted by the nationwide database.

(4) "NMLS" means the Nationwide Mortgage Licensing System located at <http://mortgage.nationwidelicencingsystem.org/>.

R343-10-3. Renewal of Current Registered Deferred Deposit Lenders.

(1) On or after November 1, 2015, title lenders that are registered with the department shall renew a registration through the NMLS.

(a) Title lenders that do not have a record in NMLS will be required to complete a Form MU1 on the NMLS website.

(b) Title lenders that have a record in NMLS and have submitted a company Form MU1 are not required to reenter their company information. Those with a record will complete the appropriate registration for Utah.

R343-10-4. Initial Registration of Deferred Deposit Lenders.

(1) On or after November 1, 2015, persons seeking authorization to transact business as a title lender in Utah or with a Utah resident may register with the department through the NMLS.

(a) Title lenders that do not have a record in NMLS will be required to complete a Form MU1 on the NMLS website.

(b) Title lenders that have a record in NMLS and have submitted a company Form MU1 are not required to reenter their company information. Those with a record will complete the appropriate registration for Utah.

R343-10-5. Fees.

(1) Title lenders filing an original registration through the NMLS shall pay the department an original registration fee as set forth in Subsection 7-1-401(8).

(2) Title lenders renewing a registration through NMLS shall pay an annual fee as set forth in Subsection 7-1-401(5).

(3) Title lenders renewing a registration through the NMLS in 2015, which have previously paid an annual fee in 2015, are not required to pay a second annual fee to the Department for 2015.

(4) Title lenders shall pay to the NMLS all fees required by NMLS.

KEY: title lenders, fees

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implemented or Interpreted Law: 7-24-201(4)

**Health, Disease Control and
Prevention; HIV/AIDS, Tuberculosis
Control/Refugee Health
R388-804
Special Measures for the Control of
Tuberculosis**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 39446
FILED: 06/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify language; update references; and update diagnostic criteria to be consistent with the recommendations from the CDC.

SUMMARY OF THE RULE OR CHANGE: The rule change:
1) updates the case definition of tuberculosis to be consistent with the Council of State and Territorial Epidemiologists; and
2) updates the tuberculosis diagnostic criteria to include by reference the CDC diagnostic criteria and classification standards for Nucleic Acid Amplification Tests and Interferon Gamma Release Assays.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-6-4 and Section 26-6-6 and Section 26-6-7 and Section 26-6-8 and Section 26-6-9 and Title 26, Chapter 6b

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Updated Guidelines for Using Interferon Gamma release Assays to Detect Mycobacterium tuberculosis Infection, United States, 2010, published by Morbidity and Mortality Weekly Report, 06/25/2010
- ◆ Adds Updated Guidelines for the Use of Nucleic Acid Amplification Tests in the Diagnosis of Tuberculosis, published by Morbidity and Mortality Weekly Report, 2010, Vol. 58

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment has no anticipated costs to the budget as the amendment does not impact changes in program administration or TB screening requirements.
- ◆ **LOCAL GOVERNMENTS:** This amendment has no anticipated cost to local government. Local health departments receive contractual funds from the TB Program to provide assistance and screening.
- ◆ **SMALL BUSINESSES:** This amendment has no anticipated cost to small business as they have no interaction with the TB Program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment has no anticipated cost to business, individuals, local governments, and persons that are not small businesses. Local health departments are contracted to provide TB services to identified individuals. The amendment provides additional guidance and recommendations for optional TB diagnostic tests but does not require the tests to be utilized. If a contracted or non-contracted entity chooses to utilize the optional diagnostic tests, they will incur the cost associated with the test.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment does not require any affected persons to utilize the optional diagnostic tests incorporated by reference, but allows them to do so if they choose to pay for the associated costs. Any individual identified by the TB Program as being symptomatic for active TB or having a potential exposure to TB may be required to be tested and all costs will be covered by the TB Program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no impact on business because it provides guidance, but not requirements, to local health departments regarding TB services.

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

HEALTH
DISEASE CONTROL AND PREVENTION;
HIV/AIDS,
TUBERCULOSIS CONTROL/REFUGEE HEALTH
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:

◆ Amelia Self by phone at 801-538-6221, by FAX at 801-538-9913, or by Internet E-mail at aself@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R388. Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health.

R388-804. Special Measures for the Control of Tuberculosis.

R388-804-1. Authority and Purpose.

(1) This rule establishes standards for the control and prevention of tuberculosis as required by Section 26-6-4, Section 26-6-6, Section 26-6-7, Section 26-6-8, and Section 26-6-9 of the Utah

Communicable Disease Control Act and Title 26, Chapter 6b, Communicable Diseases-Treatment, Isolation and Quarantine Procedures.

(2) The purpose of this rule is to focus the efforts of tuberculosis control on disease elimination. The standards outlined in this rule constitute the minimum expectations in the care and treatment of individuals diagnosed with, suspected to have, or exposed to tuberculosis.

R388-804-2. Definitions.

(1) The definitions described in Section 26-6b apply to this rule, and in addition:

(a) Tuberculosis. A disease caused by *Mycobacterium tuberculosis* complex, i.e., *Mycobacterium tuberculosis*, *Mycobacterium bovis*, or *Mycobacterium africanum*.

(b) Acid-fast bacilli (AFB). Denotes bacteria that are not decolorized by acid-alcohol after having been stained with dyes such as basic fuchsin; e.g., the mycobacteria and nocardiae.

(c) Case of tuberculosis. An episode of tuberculosis disease meeting the clinical or laboratory criteria for tuberculosis as defined in the National Notifiable Diseases Surveillance System (NNDSS), [document entitled "Case Definitions for Infectious Conditions Under Public Health Surveillance."] The Department incorporates by reference the Tuberculosis 2009 Case Definition, CSTE (Council of State and Territorial Epidemiologists) Position Statement, 09-ID-65 [the Centers for Disease Control and Prevention "Case Definitions for Infectious Conditions under Public Health Surveillance," MMWR; 46 (no. RR-10): 40-41, 1997].

(d) Tuberculosis infection. The presence of *M. tuberculosis* in the body but the absence of clinical or radiographic evidence of active disease as documented by a significant tuberculin skin test, a negative chest radiograph and the absence of clinical signs and symptoms.

(e) Tuberculosis disease. A state of infectious or communicable tuberculosis, pulmonary or extra-pulmonary, as determined by a chest radiograph, the bacteriologic examination of body tissues or secretions, other diagnostic procedures or physician diagnosis.

(f) Directly observed therapy. A method of treatment in which health-care providers or other designated individuals physically observe the individual ingesting anti-tuberculosis medications.

(g) Drug resistant tuberculosis. Tuberculosis bacteria which is resistant to one or more anti-tuberculosis drug.

(h) Multi-drug resistant tuberculosis. Tuberculosis bacteria which is resistant to at least isoniazid and rifampin.

(i) Suspect case. An individual who is suspected to have tuberculosis disease, e.g., a known contact to an active tuberculosis case or a person with signs and symptoms consistent with tuberculosis.

(j) Program. Utah Department of Health: Bureau of HIV/AIDS, Tuberculosis Control and Refugee Health: Tuberculosis Control/Refugee Health Program.

(k) Department. Utah Department of Health.

R388-804-3. Required Reporting.

(1) Tuberculosis is a reportable disease. Individuals shall immediately notify the Department by telephone of all suspect and confirmed cases of pulmonary and extra-pulmonary tuberculosis as required by R386-702-2, R386-702-3.

(2) The report may also be made to the local health department, who shall notify the Department of all suspect and confirmed cases within 72 hours of report.

R388-804-4. Screening Priorities and Procedures.

(1) Private physicians and local health departments shall screen individuals considered to be at high risk for tuberculosis disease and infection before screening is conducted in the general population. Priorities shall be established based on those at greatest risk for disease and in consideration of the resources available.

(2) Individuals considered at high risk for tuberculosis include the following:

(a) Close contacts of those with infectious tuberculosis;

(b) Persons infected with human immunodeficiency virus;

(c) Individuals who inject illicit drugs;

(d) Inmates of adult and youth correctional facilities;

(e) Residents of nursing homes, mental institutions, other long term residential facilities and homeless shelters;

(f) Recently arrived foreign-born individuals, within five years, from countries that have a high tuberculosis incidence or prevalence;

(g) Low income or traditionally under-served groups with poor access to health care, e.g., migrant farm workers and homeless persons;

(h) Individuals who are substance abusers and members of traditionally under-served groups;

(i) Individuals with certain medical conditions that may predispose them to tuberculosis infection and disease, e.g., diabetes, cancer, silicosis, and immune-suppressive disorders;

(j) Individuals who have traveled for extended periods of time in countries that have a high tuberculosis incidence or prevalence;

(k) Other groups may be identified by order of the Department, as needed to protect public health.

(3) Employers who are required to follow Occupational Safety and Health Administration guidelines for the prevention of tuberculosis transmission disease shall develop and implement an employee screening program.

(4) Tuberculosis screening shall be completed using either the Mantoux tuberculin skin test method or an FDA approved in-vitro serologic test.

(a) Screening for tuberculosis with chest radiographs or sputum smears to identify individuals with tuberculosis disease is acceptable in places where the risk of transmission is high and the time required to give the skin test makes the method impractical.

(b) If the skin test yields results indicating tuberculosis exposure, the individual shall be referred for further medical evaluation.

R388-804-5. Diagnostic Criteria.

(1) The Department incorporates by reference the American Thoracic Society (ATS/CDC) diagnostic and classification standards as described in the segment entitled "Diagnostic Standards and Classification of Tuberculosis in Adults and Children," published in the American Journal of Respiratory and Critical Care Medicine, Vol 161, pp. 1376-1395, 2000.

(2) The Department incorporates by reference the CDC diagnostic and classification standards for use of Nucleic Acid Amplification test in the document entitled "Updated Guidelines for

the Use of Nucleic Acid Amplification Tests in the Diagnosis of Tuberculosis," MMWR; 58 (01): 7-10, 2010.

(3) The Department incorporates by reference the CDC diagnostic and classification standards for use of Interferon Gamma Release Assays as described in the document entitled, "Updated Guidelines for Using Interferon Gamma Release Assays to Detect Mycobacterium tuberculosis Infection, United States, 2010" MMWR; 59 (no. RR-5); 1-25, 2010.

In diagnosing tuberculosis, health care providers shall be expected to adhere to the standards listed in this document.

R388-804-6. Treatment and Control.

(1) The Department incorporates by reference the ATS/CDC treatment standards as described in the segment entitled "Centers for Disease Control and Prevention. Treatment of Tuberculosis, American Thoracic Society, CDC, and Infectious Diseases Society of America. MMWR 2003; 52 (No. RR-11), Centers for Disease Control and Prevention. Controlling Tuberculosis in the United States: Recommendations from the American Thoracic Society; CDC, and the Infectious Diseases Society of America. MMWR 2005; 54 (No. RR-12)" and "Centers for Disease Control and Prevention. Targeted Tuberculin Testing and Treatment of Latent Tuberculosis Infection. MMWR 2000; 49 (No. RR-6)." In treating tuberculosis, health care providers must adhere to the standards listed in this document.

(2) A health-care provider who treats an individual with tuberculosis disease shall use the ATS/CDC treatment standards as a reference for the development of a comprehensive treatment and follow-up plan for each individual. The plan shall be developed in cooperation with the individual and approved by the local health department or the Program. Health-care providers shall routinely document an individuals' adherence to prescribed therapy for tuberculosis infection and disease. If isolation is indicated, the plan for isolation shall be approved by the local health department or the Program.

(3) A health-care provider who treats an individual with tuberculosis disease shall provide for directly observed therapy for individuals diagnosed with active tuberculosis disease.

(4) Individuals with infectious tuberculosis disease shall wear a mask approved by the local health department or the Program when outside the isolation area.

R388-804-7. Epidemiologic Investigations.

(1) The local health department shall conduct a contact investigation immediately upon report of an AFB smear positive suspected or confirmed case of tuberculosis disease.

(2) The contact investigation shall include interviewing, counseling, educating, examining and obtaining comprehensive information about those who have been in contact with individuals who have infectious tuberculosis.

(a) The investigation shall begin within three days of notification of an AFB smear positive suspected or confirmed case and the initial evaluation shall be completed within fourteen days of notification.

(b) Investigations of contacts to persons with active TB disease shall include the evaluation of contacts and the treatment of infected contacts.

(c) The local health department shall submit demographic data to the Department at 30 days and at 120 days after initiation of the contact investigation, and following the completion of prophylactic.

R388-804-8. Payment for Isolation and Quarantine.

(1) Individuals who are isolated or quarantined at the expense of the Department shall provide the Department with information to determine if any other payment source for the costs associated with isolation or quarantine is available.

R388-804-9. Penalty for Violation.

(1) Any person who violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: tuberculosis, screening, communicable diseases

Date of Enactment or Last Substantive Amendment: [~~March 15, 2010~~2015]

Notice of Continuation: October 18, 2011

Authorizing, and Implemented or Interpreted Law: 26-6-4; 26-6-6; 26-6-7; 26-6-8; 26-6-9; 26-6b

Insurance, Administration **R590-162-3** Scope

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39443

FILED: 06/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being amended to exclude life insurance companies that file the health annual statement from its scope. The change is done to avoid conflicting actuarial opinion requirements for life companies that file the health annual statements. These companies should follow NAIC annual statement instructions rather than this rule.

SUMMARY OF THE RULE OR CHANGE: The scope section is amended to exclude life insurance companies that file the health annual statement from its scope.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-17-503

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget. The rule only affects the form of the actuarial opinion required to be filed each year by insurance companies.

◆ **LOCAL GOVERNMENTS:** There is no impact to the local government. The rule only affects the form of the actuarial opinion required to be filed each year by insurance companies.

◆ **SMALL BUSINESSES:** There is no impact to the small business. The rule only affects the form of the actuarial opinion required to be filed each year by insurance companies.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to persons other than small businesses, businesses, or local government entities. The rule only affects the form of the actuarial opinion required to be filed each year by insurance companies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to the affected companies. The change simplifies filing requirements for some companies, but any savings would be minimal because for these companies the cost of compliance with the existing requirements is very low.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change will have no fiscal impact. The rule only affects the form of the actuarial opinion required to be filed each year by insurance companies.

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:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Todd Kiser, Commissioner

R590. Insurance, Administration.

R590-162. Actuarial Opinion and Memorandum Rule.

R590-162-3. Scope.

This rule shall apply to all [~~life insurance~~] companies and fraternal benefit societies that file the life, accident and health annual statement[doing business in this State] and to all [~~life insurance~~] companies and fraternal benefit societies [~~which~~]that are authorized to reinsure life insurance, annuities or [~~disability~~]accident and health insurance business in this State.

Companies that file the property and casualty annual statement or the health annual statement shall follow the actuarial opinion and supporting actuarial memoranda requirements pursuant to the instructions for these annual statements. Such companies are not subject to actuarial opinion and supporting actuarial memoranda requirements of this rule.

This rule shall be applied in a manner that allows the appointed actuary to utilize professional judgment in performing the

asset adequacy analysis and developing the actuarial opinion and supporting memoranda, consistent with applicable actuarial standards of practice. However, the commissioner shall have the authority to specify the methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

This rule shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this rule. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 6 of this rule, and a memorandum in support thereof in accordance with Section 7 of this rule, shall be required each year.

KEY: insurance

Date of Enactment or Last Substantive Amendment: [~~December 5, 2012~~]**2015**

Notice of Continuation: September 27, 2013

Authorizing, and Implemented or Interpreted Law: 31A-17-503

Insurance, Administration
R590-198-5
General Calculation Requirements for
Basic Reserves and Premium
Deficiency Reserves

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39444

FILED: 06/15/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to update the rule to align it with the NAIC model and with the valuation requirements in 27 other states.

SUMMARY OF THE RULE OR CHANGE: The change removes two restrictions on special selection factors (X factors) that can be used to adjust statutory mortality when calculating reserves for some forms of life insurance. The rule also updates some reporting requirements to make them consistent with changes made in 2012 to Rule R590-162.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-17-402 and Section 31A-17-512

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget. The rule only impacts the way insurance companies calculate reserves.

◆ **LOCAL GOVERNMENTS:** There is no impact to the local government. The rule only impacts the way insurance companies calculate reserves.

♦ **SMALL BUSINESSES:** There is no impact to the small business. The rule only impacts the way insurance companies calculate reserves.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to the persons other than small businesses, businesses or local government entities. Insurance companies may be affected insofar as the rule changes the way insurance companies calculate reserves. The change may provide some savings for life insurance companies that utilize X factors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change may provide some savings for life insurance companies that utilize X factors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is a permissive change. It affects the way life insurance companies are allowed to calculate their reserve funds in the state of Utah. This is a company-friendly change that allows companies to utilize an alternate method to calculate their reserve funds, should they find it beneficial.

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:

♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Todd Kiser, Commissioner

R590. Insurance, Administration.

R590-198. Valuation of Life Insurance Policies Rule.

R590-198-5. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.

A. At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors, or any other valuation mortality table adopted by the NAIC after January 4, 2000 and promulgated by rule by the commissioner for this purpose. If select mortality factors are elected, they may be:

(1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law, see Rule R590-95;

(2) The select mortality factors adopted by the NAIC at the 1999 Spring National Meeting.

(3) Any other table of select mortality factors adopted by the NAIC after January 4, 2000 and promulgated by rule by the commissioner for the purpose of calculating basic reserves.

B. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors or any other valuation mortality table adopted by the NAIC after January 4, 2000 and promulgated by rule by the commissioner. If select mortality factors are elected, they may be:

(1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

(2) The select mortality factors adopted by the NAIC at the 1999 Spring National Meeting;

(3) For durations in the first segment, X percent of the select mortality factors adopted by the NAIC at the 1999 Spring National Meeting, subject to the following:

(a) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

~~_____ (b) X shall not be less than 20%;~~

~~_____ (c) X shall not decrease in any successive policy years;~~

[(+) (b) X is such that, when using the valuation interest rate used for basic reserves, Item (i) is greater than or equal to Item (ii);

(i) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

[(+) (c) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5-years after the valuation date;

[(+) (d) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Subsection B(3);

[(+) (e) The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of Subsection B(3); and

[(+) (f) The appointed actuary shall specifically take into account the adverse effect on expected mortality and the lapsing of any anticipated or actual increase in gross premiums.

[(+) (g) If X is less than 100% at any duration for any policy, the following requirements shall be met:

(i) ~~The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance~~

with the requirements of Section R590-162-8]The appointed actuary shall disclose in the Regulatory Asset Adequacy Issues Summary required by R590-162-7, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

(ii) The appointed actuary shall annually opine for all policies subject to this rule as to whether the mortality rates resulting from the application of X meet the requirements of Subsection B(3). This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(4) Any other table of select mortality factors adopted by the NAIC after January 4, 2000 and promulgated by rule by the commissioner for the purpose of calculating deficiency reserves.

C. This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten-years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

D. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one-year after the date of the change shall be the greatest of the following:

- (1) reserves calculated ignoring the guarantee;
- (2) reserves assuming the guarantee was made at issue; and
- (3) reserves assuming that the policy was issued on the date

of the guarantee.

F. The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to January 4, 2000. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of Rule R590-162-5.

KEY: insurance companies

Date of Enactment or Last Substantive Amendment: ~~January 4, 2000~~ 2015

Notice of Continuation: November 21, 2014

Authorizing, and Implemented or Interpreted Law: 31A-17-402; 31A-17-512

Natural Resources, Wildlife Resources R657-9 Taking Waterfowl, Common Snipe and Coot

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39435
FILED: 06/11/2015

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: 1) change the name "Common Snipe" to "Wilson's Snipe"; 2) redefine closed areas; 3) redefine the use of blinds on Waterfowl Management Areas; and 4) make technical corrections.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This amendment clarifies closed areas and the use of blinds on waterfowl management areas; it does not make any changes to the process or employee workload, 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 minimal impact on individual hunters and no impact on 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 closed areas on waterfowl management areas and redefines the use of blinds on those areas 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 closed areas on waterfowl management areas and redefines the use of blinds on those areas 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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-9. Taking Waterfowl, [Common]Wilson's 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]Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking waterfowl, [Common]Wilson's 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 game 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]game 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.

(h) "Off-highway vehicle" means any motor vehicle designed for or capable of travel over unimproved terrain.

(i) "Permanent waterfowl blind" means any waterfowl blind that is left unattended overnight and that is not a portable structure capable of immediate relocation.

(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.

(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.

(l) "Transport" means to ship, export, import or receive or deliver for shipment.

(m) "Waterfowl" means ducks, mergansers, geese, brant and swans.

(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.

R657-9-7. Authorized Weapons.

(1) Migratory game birds may be taken with a shotgun, crossbow or archery tackle, including a draw lock.

(2) Migratory game birds may not be taken with a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive or stupefying substance.

(3) Migratory game birds may not be taken with a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells, except as authorized by the Wildlife Board and specified in the guidebook of the Wildlife Board for taking Waterfowl, [Common]Wilson's snipe and Coot.

R657-9-9. Use of Weapons on State Waterfowl Management Areas.

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

(2) During the waterfowl hunting seasons, a shotgun is the only firearm that may be in possession, except as provided in Rule R657-12.

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

R657-9-11. Airboats.

(1) Air-thrust or air-propelled boats and personal watercraft are not allowed in designated parts of the following waterfowl management or federal refuge areas:

(a) Box Elder County: Box Elder Lake, Bear River, that part of Harold S. Crane within one-half mile of all dikes and levees, Locomotive Springs, Public Shooting Grounds and Salt Creek, that part of Bear River Migratory Bird Refuge north of "D" line dike, and outside Units 1, 3, 4 and 5 as posted.

(b) Daggett County: Brown's Park

(c) Davis County: Howard Slough, Ogden Bay and Farmington Bay within diked units or as posted

(d) Emery County: Desert Lake

(e) Millard County: Clear Lake, Topaz Slough

(f) Tooele County: Timpie Springs

(g) Uintah County: Stewart's Lake

(h) Utah County: Powell Slough

(i) Wayne County: Bicknell Bottoms

(j) Weber County: Ogden Bay within diked units or as posted and the portion of Harold S. Crane Waterfowl Management Area that falls within the county line.

(2) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing or kneeling on the vessel, rather than sitting or standing inside the vessel.

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 guidebook of the Wildlife Board for taking waterfowl, [~~Common~~]Wilson's snipe and coot.

R657-9-15. Amplified Bird Calls.

A person may not use recorded or electrically amplified bird calls or sounds or recorded or electronically amplified imitations of bird calls or sounds except as authorized by the Wildlife Board and specified in the guidebook of the Wildlife Board for taking waterfowl, [~~Common~~]Wilson's snipe and coot.

R657-9-28. Use of Dogs.

~~(+)~~(1) An individual may not use or permit a dog to harass, pursue, or take protected wildlife unless otherwise allowed for in the Wildlife Code, administrative rules issued under Wildlife Code, or a guidebook of the Wildlife Board.

(2) Dogs may be used to locate and retrieve turkey during open turkey hunting seasons.

(3) Dogs are generally allowed on state wildlife management and waterfowl management areas, subject to the following conditions.

(a) [~~dogs~~]Dogs are not allowed on the following state wildlife management areas and waterfowl management areas between March 10 and August 31 annually or as posted by the Division:

(i) Annabella;

(ii) Bear River Trenton Property Parcel;

(iii) Bicknell Bottoms;

(iv) Blue Lake;

(v) Browns Park;

(vi) Bud Phelps;

(vii) Clear Lake;

(viii) Desert Lake;

(ix) Farmington Bay;

(x) Harold S. Crane;

(xi) Hatt's Ranch

(xii) Howard Slough;

(xiii) Huntington;

(xiv) James Walter Fitzgerald;

(xv) Kevin Conway;

(xvi) Locomotive Springs;

(xvii) Manti Meadows;

(xviii) Mills Meadows;

(xix) Montes Creek;

(xx) Nephi;

(xxi) Ogden Bay;

(xxii) Pahvant;

(xxiv) Public Shooting Grounds;

(xxv) Redmond Marsh;

(xxvi) Richfield;

(xxvii) Roosevelt;

(xxviii) Salt Creek;

(xxix) Scott M. Matheson Wetland Preserve;

(xxx) Steward Lake;

(xxxii) Timpie Springs;

(xxxiii) Topaz Slough;

(xxxiii) Vernal; and

(xxxiv) Willard Bay.

(b) The Division may establish special restrictions for Division-managed properties, such as on-leash requirements and temporary or locational closures for dogs, and post them at specific Division properties and at Regional offices;

(c) Organized events or group gatherings of twenty-five (25) or more individuals that involve the use of dogs, such as dog training or trials, that occur on Division properties may require a special use permit as described in R657-28; and

(d) Dog training may be allowed in designated areas on Lee Kay Center and Willard Bay WMA by the Division without a special use permit.

R657-9-29. Season Dates and Bag and Possession Limits.

(1) Season dates and bag and possession limits are specified in the guidebook of the Wildlife Board for taking waterfowl, [~~Common~~]Wilson's 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 guidebook of

the Wildlife Board for taking waterfowl, ~~[Common]~~Wilson's snipe and coot.

R657-9-30. ~~[Closed Areas.]Rest Areas and No Shooting Areas.~~

~~[(1) A person may not trespass on state waterfowl management areas except during prescribed seasons, or for other activities as posted without prior permission from the division.](1) A person may only access and use state waterfowl management areas in accordance with state and federal law, state administrative code, and proclamations of the Wildlife Board.~~

~~(2)(a) The division may establish portions of state waterfowl management areas as "rest areas" for wildlife that are closed to the public and trespass of any kind is prohibited.~~

~~(b) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot, the following areas are designated as rest areas:~~

~~(i) That portion of Clear Lake Waterfowl Management Area known as Spring Lake;~~

~~(ii) That portion of Desert Lake Waterfowl Management Area known as Desert Lake;~~

~~(iii) That portion of Public Shooting Grounds Waterfowl Management Area that lies above and adjacent to the Hull Lake Diversion Dike known as "Duck Lake";~~

~~(iv) That portion of Salt Creek Waterfowl Management Area known as "Rest Lake"; and~~

~~(v) That portion of Farmington Bay Waterfowl Management Area that lies in the northwest quarter of unit one.~~

~~(d) Maps of all rest areas will be available at division offices, on the division's website, and to the extent necessary, marked with signage at each rest area.~~

~~(3)(a) The division may establish portions of state waterfowl management areas as "No Shooting Areas" where the discharge of weapons for the purposes of hunting is prohibited.~~

~~(b) No Shooting Areas remain open to the public for other lawful activities.~~

~~[(2) A person may not participate in activities that are posted as prohibited.~~

~~(3) A person may not trespass, take, hunt, shoot at, or rally any](c) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, ~~[or]~~and coot~~[in]~~, the following ~~[specified]~~areas are No Shooting Areas:~~

~~[(a)]i) Within 600 feet of the north and south side of the center line of Antelope Island causeway~~[within]~~;~~

~~(ii) Within 600 feet of ~~[either the north or south side]~~~~

~~(b) ~~[all structures found at Brown's Park ~~[That part adjacent to headquarters.]~~Waterfowl Management Area;~~~~

~~(e) Clear Lake ~~[Spring Lake]~~.~~

~~(d) Desert Lake ~~[That part known as "Desert Lake."]~~~~

~~(e)]iii) The following portions of Farmington Bay ~~[Waterfowl Management Area]~~:~~

~~(A) within 600 feet of the Headquarters and Learning ~~[center]Center area[-]; and~~~~

~~(B) within 600 feet of dikes and roads accessible by motorized vehicles~~[and the waterfowl rest area in the northwest quarter of unit one as posted];~~~~

~~[(f) Ogden Bay ~~[Headquarters area]~~~~

~~(g) Public Shooting Grounds ~~[That part as posted lying above and adjacent to the Hull Lake Diversion Dike known as "Duck Lake."]~~~~

~~(h) Salt Creek ~~[That part as posted known as "Rest Lake."]~~~~

~~(i) Bear River Migratory Bird Refuge ~~[For information contact the refuge manager, U.S. Fish and Wildlife Service, at (435) 723-5887. The entire refuge is closed to the hunting of snipe.]~~(iv) Within 600 feet of the headquarters area of Ogden Bay Waterfowl Management Area;~~

~~(j) Fish Springs and Ouray National Wildlife Refuges ~~[Waterfowl hunters must register at Fish Springs refuge headquarters prior to hunting. Both refuges are closed to the hunting of swans]~~~~

~~(k)]v) Within the boundaries of all State Parks~~[Hunting of any wildlife is prohibited within the boundaries of all state park areas]~~ except those designated open by appropriate ~~[signing]signage~~ as provided in Rule R651-614-~~[4]~~4;~~

~~[(h)]vi) Within 1/3 of a mile of the Great Salt Lake Marina~~[and adjacent areas as posted];~~~~

~~(m) Millard County~~

~~[xi) Within 600 feet of Gunnison Bend Reservoir and ~~[the]its~~ inflow upstream to the Southerland Bridge[-]. Millard County;~~

~~[(n) Salt Lake International Airport ~~[Hunting and shooting prohibited as posted.]~~xii) All property within the boundary of the Salt Lake International Airport; and~~

~~(xii) All property within the boundaries of federal migratory bird refuges, unless hunting waterfowl specifically authorized by the federal government.~~

~~(4) The division reserves the right to manage division lands and regulate their use consistent with Utah Code Section 23-21-7 and Utah Administrative Code R657-28.~~

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]~~Wilson's snipe, and coot are provided in the guidebook of the Wildlife Board for taking waterfowl, ~~[Common]~~Wilson's 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 guidebook of the Wildlife Board for taking waterfowl, ~~[Common]~~Wilson's 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 guidebook of the Wildlife Board for taking waterfowl, ~~[Common]~~Wilson's snipe and coot, or register online at the address published in the guidebook of the Wildlife Board for taking

waterfowl, [~~Common~~]Wilson's 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.

R657-9-34. Waterfowl Blinds on Waterfowl Management Areas.

(1) Waterfowl blinds on division waterfowl management areas may be constructed or used as provided in Subsection (a) through Subsection (e).

(a) Waterfowl blinds may not be left unattended overnight, except for blinds constructed entirely of non-woody, vegetative materials that naturally occur where the blind is located.

(b) Trees and shrubs on waterfowl management areas that are live or dead standing may not be cut or damaged except as expressly authorized in writing by the division.

(c) Excavating soil or rock on waterfowl management areas above or below water surface is strictly prohibited, except as expressly authorized in writing by the division.

(d) Rock and soil material may not be transported to waterfowl management areas for purposes of constructing a blind.

(e) Waterfowl blinds may not be constructed or used in any area or manner, which obstructs vehicular or pedestrian travel on dikes.

(2) The restrictions set forth in Subsection (1)(a) through Subsection (1)(c) do not apply to the following waterfowl management areas:

(a) Farmington Bay Waterfowl Management Area - West and North of Unit 1, Turpin Unit, and [~~Crystal~~]Doug Miller Unit.

(b) Howard Slough Waterfowl Management Area - West and South of the exterior dike separating the waterfowl management area's fresh water impoundments from the Great Salt Lake.

(c) Ogden Bay Waterfowl Management Area - West of Unit 1, Unit 2, and Unit 3.

(d) Harold Crane Waterfowl Management Area - one half mile North and West of the exterior dike separating the waterfowl management area's fresh water impoundments from Willard Spur.

(3) Waterfowl blinds constructed or maintained on waterfowl management areas in violation of this section may be removed or destroyed by the division without notice.

(4) Any unoccupied, permanent waterfowl blind located on state land open to public access for hunting may be used by any

person without priority to the person that constructed the blind. It being the intent of this rule to make such blinds available to any person on a first-come, first-serve basis.

(5) Waterfowl blinds or decoys cannot be left unattended overnight on state land open to public access for hunting in an effort to reserve the particular location where the blinds or decoys are placed.

KEY: wildlife, birds, migratory birds, waterfowl

Date of Enactment or Last Substantive Amendment: [~~August 11, 2014~~]2015

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 **R657-65** Urban Deer Control

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39434

FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish an urban deer removal program that enables cities to design and administer a control plan for the lethal and non-lethal removal of resident deer damaging private property or threatening public safety within the city.

SUMMARY OF THE RULE OR CHANGE: This rule sets the criteria for which a city can design and administer a control plan for the removal of deer that are damaging private property or threatening public safety within that city. This amendment also ends the trial period for Bountiful City and Highland City and opens the program to any city in the state with at least 1,000 people and an established herd of resident deer.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19 and Section 23-14-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment outlines the criteria for cities to establish and administer control plans for the removal of deer. The Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This rule amendment sets criteria under which cities can create and administer control plans. The rule allows for the cities to collect a fee of \$50 or

less from a person or entity it authorizes to remove deer to help offset the costs to administer the program and process the meat; this filing may create a direct cost or savings impact to city local governments since they are directly affected by the rule.

◆ **SMALL BUSINESSES:** Since this rule amendment opens the program to all cities and sets the criteria to be followed when creating and administering control plans and allows for the collection of \$50 or less for the removal of deer damaging private property or threatening public safety, this filing has the potential to create a direct cost or savings impact to small businesses, specifically those requesting the removal of deer.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since this rule amendment opens the program to all cities and sets the criteria to be followed when creating and administering control plans and allows for the collection of \$50 or less for the removal of deer damaging private property or threatening public safety, this filing has the potential to create a direct cost or savings impact to other persons, specifically those requesting the removal of deer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule may create a cost or savings impact to individuals in Utah wishing to have deer removed from damaging their public property.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule may create an impact on businesses in cities that require the removal of deer.

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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-65. Urban Deer Control.

R657-65-1. Authority and Purpose.

(1) This rule is promulgated under authority of Sections 23-14-3, 23-14-18, and 23-14-19.

(2) The purpose of this rule is to ~~establish and evaluate a two-year pilot program with Bountiful City, Utah and Highland City, Utah that enables each~~ enable a city to design and administer a control plan for the lethal ~~and~~ or non-lethal removal of resident deer damaging private property or threatening public safety within the ~~[municipality]city~~.

R657-65-2. Definitions.

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

(2) In addition:

(a) "Deer" means wild ~~[mule]~~ deer (*Odocoileus hemionus* or *Odocoileus virginianus*) living in nature and does not include privately owned, captive deer.

(b) "Division" means the Utah Division of Wildlife Resources.

~~[(e)]~~ "Municipality" means ~~Bountiful City in Davis County, Utah and Highland City in Utah County, Utah.~~ [(c)] "City" means an incorporated municipality with greater than 1,000 residents.

(d) "Resident deer" means a deer that lives within city boundaries year-around.

~~[(d)]~~ [(e)] "Urban deer control plan" means a document designed, created, and administered by ~~[an authorized municipality]~~ a city that establishes the protocols and methodologies it will pursue to control and mitigate private property damage or public safety threats caused by ~~[mule]~~ deer within its incorporated boundaries.

R657-65-3. Authorization to Create and Administer an Urban Deer Control Plan.

(1) A ~~[municipality]city~~ with a resident ~~[mule]~~ deer population that is significantly damaging private property or threatening public safety within its boundaries may request the Division for a certificate of registration ("COR") to design, create, and administer an urban deer control plan.

(2) The Division may issue an urban deer control plan COR to a ~~[municipality]city~~, provided:

(a) the application is filed by a ~~[municipality]city~~;

(b) resident ~~[mule]~~ deer are collectively causing significant damage to private property or threatening public safety within the ~~[municipality]city's~~ incorporated boundaries;

(c) it has enacted an ordinance prohibiting the feeding of deer, elk, and moose;

(d) it has general liability insurance in the amount of \$1,000,000.00 or more that covers liability claims that may arise from designing, creating, and administering an urban deer control plan; ~~and~~

(e) it agrees, without waiving immunity or any other limitation or provision in the Utah Governmental Immunity Act, Utah Code Sections 63G-7-101 through 63G-7-904, to hold harmless and indemnify the Division against any claims or damages arising from its deer removal activities undertaken pursuant to the urban deer control plan COR, except for any allocated share of fault and damages attributable to the Division's actual involvement in deer removal activities on the ground; ~~and~~

(f) it submits with its application the estimated population of resident deer in the city and the final target population number it seeks to achieve through deer removal.

R657-65-4. COR Authorities and Limitations.

(1) An urban deer control plan COR issued to a ~~[municipality authorizes]~~city will:

- ~~(a) specify for each year of the COR term:~~
~~(i) the seasonal time period when deer may be removed;~~
~~(ii) the total number of deer that may be removed; and~~
~~(iii) the number of deer by gender that may be removed;~~
~~and~~

~~(b) authorize~~ it to design, create, and administer an urban deer control plan consistent with the ~~season and number limitations imposed in the COR and the~~ following authorities and limitations.

(2) The COR authorizes the ~~[municipality]~~city to:

(a) prescribe and employ lethal ~~[and non-lethal]~~ methods of take to control deer, provided the methods are otherwise in compliance with state and federal law;

(b) utilize baiting to facilitate safe and effective deer removal activities;

(c) select and supervise individuals to perform specified deer removal activities, provided the ~~[municipality]~~city:

(i) issues to each individual authorized to remove deer a written authorization and tag that:

(A) is on a form prescribed by the Division;

(B) is signed by the city manager and recipient;

(C) identifies the recipient's name, address, date of birth, gender, height, weight, and eye color;

(D) describes the locations, time periods, methods of take, and related activities authorized by the ~~[municipality]~~city; and

(E) includes a detachable tag consistent with the requirements in Section 23-20-30;

~~(d) allow a single individual to take more than one deer;~~
~~[and]~~

~~(e) permit spotlighting to facilitate non-lethal deer removal or carcass recovery efforts[-]; and~~

~~(f) remove deer consistent with the annual buck and doe take prescriptions and season limitations set forth in the COR.~~

(3) The ~~[municipality]~~city will:

(a) require individuals authorized to lethally remove deer to:

(i) tag the carcass consistent with Section 23-20-30; and

(ii) comply ~~[with]~~with all federal, state, and local laws pertaining to the possession, use, and discharge of a dangerous weapon; and

(b) take measures to ensure that:

(i) deer carcasses are salvaged consistent with Section 23-20-8 (Waste of Wildlife) and disposed of as provided by law;

(ii) viscera is removed from the kill site and disposed of as provided by law;~~[-and]~~

(iii) antlers of lethally removed deer are promptly surrendered to the Division and not retained by the ~~[municipality]~~city or the person that takes the animal; ~~and~~

(iv) submit an annual report to the Division by March 1 on lethal removal activities, including the following information for each permit issued:

~~(A) name of shooter/permit holder;~~

~~(B) sex of the animal;~~

~~(C) date of harvest; and~~

~~(D) disposition of carcass, ie, retained by hunter, donated, etc.~~

(4) The ~~[municipality]~~city will not:

~~(a)(i) capture a deer for release outside municipal boundaries without a written capture and relocation plan prepared in coordination with and approved by the Division;~~

~~(ii) capture or relocate a deer in violation of the approved capture and relocation plan; or~~

~~(iii) allow an employee, officer, agent, licensee, or contractor who has not been certified and approved according to the written capture and relocation plan to capture or release a deer.~~

(b) sell or barter a deer carcass or otherwise use it for pecuniary gain without prior written approval from the Division;

(c) collect a fee or compensation from a person or entity it authorizes to remove deer from its incorporated boundaries, unless the fee or compensation is:

(i) \$50 or less;

(ii) used exclusively to recoup the actual costs incurred by the ~~[municipality]~~city in:

(A) selecting and qualifying the person; or

(B) butchering and processing lethally removed deer for donation; and

(iii) approved by the Division in writing;

(d) undertake or authorize deer removal activities outside:

(i) incorporated ~~[municipal]~~city boundaries or any unincorporated areas approved by the Division and the county; or

~~(ii) the [general]the season time frame [imposed by]prescribed in the [Division]COR;~~

(e) remove more deer, collectively or by gender, than authorized ~~[by Division]in the COR;~~ or

(f) authorize the discharge of firearms or archery equipment for deer removal:

(i) between one half hour after official sunset and one half hour before official sunrise; or

(ii) in violation of federal, state, or local laws.

R657-65-5. Urban Deer Control Plan.

(1) Upon receipt of an urban deer control plan COR, the ~~[municipality]~~city must prepare an urban deer control plan consistent with this Subsection ~~and the COR~~ prior to undertaking any deer removal activities.

(2) The urban deer control plan will address and prescribe, at a minimum, the:

(a) lethal ~~[and non-lethal]~~ methods of take that may be used to remove deer and

the conditions under which each may be employed;

(b) conditions and restrictions under which baiting and spotlighting may be used to facilitate deer removal;

(c) persons eligible to perform deer removal activities and the requirements imposed on them;

(d) locations and time periods where specified types of deer removal activities may be employed or authorized;

(e) requirements for tagging deer carcasses;

(f) protocols for carcass removal and disposal;

(g) procedures for promptly returning to the Division all antlers of lethally removed deer;~~[-and]~~

(h) procedures for obtaining Division input and approval on live capture and relocation projects; ~~and~~

~~(i) the estimated population of resident deer in the city and the final target population number the city seeks to achieve through deer removal.~~

(3) All aspects of the plan must be consistent with the authorizations and limitations imposed in this rule and the COR.

(4) If the city desires to capture and relocate resident deer, it must petition the Division to include a capture and relocation component in its urban deer control plan.

(a) The Division shall have sole discretion to authorize or prohibit capture and relocation as part of an urban deer control plan.

(4)5(a) The [municipality] city will solicit and consider input in the formulation and development of the urban deer control plan from:

- (i) the Division;
- (ii) the public;
- (iii) interested businesses and organizations; and
- (iv) local, state, and federal governments.

(b) The Division may provide technical assistance to the [municipality] city in preparing the urban deer control plan.

(c) After formulating a draft plan, the [municipality] city will hold a public meeting to take and consider input on the draft before finalizing or implementing it.

(5)6) The [municipality] city will assume full responsibility for:

(a) all costs associated with designing, establishing, implementing, and operating the urban deer control plan and all its associated activities; and

(b) for the acts and omissions of its officers, employees, agents, contractors, and licensees in designing, preparing, and implementing its urban deer control plan and undertaking the activities authorized thereunder.

R657-65-6. COR Term[~~and~~], Termination, Renewal, and Amendment.

(1) An urban deer control plan COR issued under this rule will remain valid for [two]three years from the date of issuance[~~or until August 31, 2015, whichever is less~~].

(2)(a) A municipality may(2)(a) The Division and the city shall each have the right to unilaterally [withdraw]terminate an urban deer control plan[~~and terminate the~~] COR with or without cause upon [30]7 days advance written notice to the [Division]other.

(b) Upon termination or expiration of the COR, the [municipality] city and its officers, employees, agents, contractors, and licensees must cease all deer removal activities formally authorized by the COR.

(3) Upon application by a city, the Division may renew an urban deer control plan COR for an additional three year term, provided:

(a) the city complies with the conditions in R657-65-3(2); and

(b) the application for renewal is presented at a public meeting for comment and approved by the city council.

(4) A urban deer control plan may be amended upon mutual written agreement of the city and Division, provided the amendment is consistent with the authorizations and limitations in this rule.

R657-65-7. Violations.

Pursuant to Section 23-19-9, the [division]Division may suspend, restrict, or deny an urban deer control plan COR for any

intentional, knowing, or reckless violation of the Wildlife Code, this rule, or the terms of the COR.

[R657-65-8. Sunset.

~~This rule sunsets on August 31, 2015 and all COR's and other authorizations issued hereunder will terminate by operation of law and cease having further legal effect.~~

]KEY: wildlife, certificate of registration

Date of Enactment or Last Substantive Amendment: [August 8, 2013]2015

Authorizing, and Implemented or Interpreted Law: 23-14-3; 23-14-18; 23-14-19

Natural Resources, Wildlife Resources

R657-70

Taking Utah Prairie Dogs

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39436

FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Under authority of Sections 23-14-1, 23-14-3, 23-14-18, and 23-14-19, this rule provides the standards and requirements for taking Utah prairie dogs. A person capturing any live Utah prairie dog for a personal, scientific, educational, or commercial use must comply with Rule R657-3, Collection, Importation, Transportation and Possession of Animals.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule do the following: 1) clarify "Agriculture Land", "Developable Land", and "Rangeland" definitions; 2) remove the requirement to obtain a Certificate of Registration to remove prairie dogs on federal lands; 3) authorize a person to receive a Certificate of Registration to take prairie dogs on developable land; and 4) set a requirement to report on the take of prairie dogs to the division every 30 days.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-1 and Section 23-14-18 and Section 23-14-19 and Section 23-14-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule help simplify some of the procedures and allow for standard reporting on taking. The Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: The rule amendments will aid federal land agencies with the taking of prairie dogs and will simplify the process. Local governments will not be directly or indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: Since these rule amendments simplify current regulations and processes for the taking of prairie dogs and for which it will be administered under and does not incur an additional cost to participate, this filing does not have the potential to create a direct cost or savings impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since these rule amendments simplify current regulations and processes for the taking of prairie dogs and for which it will be administered under and does not incur an additional cost to participate, this filing does not have the potential to create a direct cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these rule amendments will not create a cost or savings impact to individuals in Utah participating in the prairie dog 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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-70. Taking Utah Prairie Dogs.

R657-70-1. Purpose and Authority.

(1) Under authority of Sections 23-14-1, 23-14-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking Utah prairie dogs.

(2) A person capturing any live Utah prairie dog for a personal, scientific, educational, or commercial use must comply

with rule R657-3, Collection, Importation, Transportation and Possession of Animals.

R657-70-2. Definitions.

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

(2) Additional terms used in this rule are defined as follows:

(a) "Agriculture land" means any mapped, non-federal property ~~zoned by local authority for agricultural use~~ that is used or has been used in the previous five (5) years for production of a cultivated crop or irrigated pasture that is harvested or grazed.

(b) "Certificate of registration" means a document issued by the division authorizing a person or entity to take a Utah prairie dog.

(c) "Developed land" means any mapped, non-federal property that is:

(i) developed or improved for public use and where Utah prairie dogs threaten human health, safety or welfare, including parks, playgrounds, public facilities, sports fields, golf courses, school yards, churches, areas of cultural or religious significance, improved roads, transportation systems, etc.; or

(ii) within 50 feet of an occupied, residential or commercial structure, or greater distance where prairie dogs threaten human health, safety or welfare on developed curtilage, including lawns, landscaping, gardens, driveways, etc.

(d) "Developable land" means any mapped, non-federal property ~~zoned by local authority as commercial, industrial, or residential~~ that does not have structures or improvements on the surface of the property, excluding utilities, on which construction of permanent structures or improvements is proposed.

(e) "Division" means the Utah Division of Wildlife Resources.

(f) "Federal land" means all lands in the State of Utah owned by the United States government, including Forest Service, Bureau of Land Management, Bureau of Reclamation, Department of Defense, National Park Service, Bureau of Indian Affairs, National Monument, and National Recreation Area lands.

(g) "Immediate family" means a landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, and grandchild.

(h) "Landowner" means the person(s) or entity holding fee title to real property impacted by Utah prairie dogs.

(i) "Lessee" means the person(s) or entity leasing or renting under written contract real property impacted by Utah prairie dogs.

(j) "Mapped" means areas within the state identified and documented since 1972 by the division as currently or historically occupied by Utah prairie dogs, excluding mapped areas with a spring count of zero (0) animals in the current year and the preceding four (4) years.

(k) "Non-federal lands" means all lands in the State of Utah that are not owned by the United States government.

(l) "Productivity" means the segment of a population represented by young of the year; and is calculated ~~my~~by multiplying the spring count (animals observed) by 2 (animals underground), and multiplying that figure by 67% (percent females in the population), and multiplying that figure by 97% (percent

females that breed), and multiplying that figure by 4 (average litter size).

(m) "Protected land" means federal and non-federal property that is set aside for the preservation of Utah prairie dogs and protected specifically or primarily for that purpose. Protective mechanisms can include conservation easements, fee title purchases, regulatory designations, etc.

(n) "Rangeland" means any mapped, non-federal property ~~zoned by local authority for agricultural use~~ that is used or has been used in the previous five (5) years for grazing livestock, and is neither cultivated nor irrigated.

(o) "Recovery unit" means one of the three geographic areas established by the Utah Prairie Dog Recovery Team for the protection and management of Utah prairie dogs - West Desert Recovery Unit, Paunsaugunt Recovery Unit, and Awapa Plateau Recovery Unit. Maps and boundaries of these units may be obtained from the division.

(p) "Unmapped" means any area of the state on non-federal land that is not classified as mapped by the division.

(q) "Utah prairie dog" or "prairie dog" means the genus and species *Cynomys parvidens*.

R657-70-4. Take of Utah Prairie Dogs on Federal Land.

(1) A person may not take a Utah prairie dog on federal land:

(a) except as authorized by the U.S. Fish and Wildlife Service and federal regulation; and

(b) without obtaining a certificate of registration from the division.

~~(2) A certificate of registration for taking prairie dogs on federal land may be issued under the following circumstances, if the taking will not jeopardize the existence of the species:~~

~~(a) as provided in the rules of the U.S. Fish and Wildlife Service, 50 C.F.R. 17.40(g);~~

~~(b) as provided in a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service under an approved Habitat Conservation Plan; or~~

~~(c) as provided under a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service allowing take of Utah prairie dogs as part of an approved conservation agreement enacted between the U.S. Fish and Wildlife Service and the owner of private lands.~~

~~(3)~~ Notwithstanding Subsection (1)(b), a certificate of registration is not required when a person receives an incidental take permit from the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.

R657-70-6. Take of Utah Prairie Dogs on Unmapped Land.

(1) A person may not take a Utah prairie dog on unmapped land, except as provided in this section and R657-70-8.

(2) A landowner or lessee of unmapped land may take a prairie dog on that land without a certificate of registration, provided:

(a) the division is notified prior to take and the property where take will occur is confirmed by the division to be unmapped land;

(b) take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;

(c) take is restricted to the unmapped land owned by the landowner, or leased by the lessee; and

(d) the methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;

(3) Prairie dogs may be taken pursuant to this section year-round and without numerical limitation.

(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.

R657-70-7. Take of Utah Prairie Dogs on Developed Land.

(1) A person may not take a Utah prairie dog on developed land, excepted as provided in this section and R657-70-8.

(2) A landowner or lessee of developed land may take a prairie dog on that land without a certificate of registration, provided:

(a) The division is notified prior to take and the property where take will occur is confirmed by the division to be developed land;

(b) Take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;

(c) Take is restricted to the developed land owned by the landowner, or leased by the lessee; and

(d) The methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;

(3) Prairie dogs may be taken pursuant to this section year around and without numerical limitation.

(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.

R657-70-10. Take of Utah Prairie Dogs on Developable Land.

(1) A person may not take a Utah prairie dog on developable land without first obtaining a certificate of registration from the division.

(2)(a)(i) A person may obtain a certificate of registration to take prairie dogs on developable land when:

(A) a construction project is proposed for a parcel of developable land; and

(B) construction on the project is imminent.

(ii) The project proponent [or local authority] must notify the division prior to [the project proponent] disturbing the surface of the ground or building a structure on developable land.

(b) Upon receiving notice of the proposed construction project, the division will survey the subject property for the presence of prairie dogs.

(i) If the property is not occupied by prairie dogs, the division will issue a written notification to the project proponent authorizing the project to proceed.

(ii) If prairie dogs are discovered on the property, the division will first attempt to trap and relocate the animals to the extent feasible and in coordination with the project proponent.

(A) Prairie dogs trapped and relocated from July 1 through October 1 are not counted against the range-wide prairie dog limit in R657-70-9.

(iii) If the project proponent declines to delay the project for trapping, or when trapping is determined complete, the division will issue a certificate of registration to the project proponent

authorizing take of all prairie dogs present or remaining on the property.

(A) ~~[Intentional and incidental lethal]~~ All take ~~[are]~~ is counted against the range-wide prairie dog limit in R657-70-9.

(3) Notwithstanding the limitations in R657-70-13, take may be performed by any person authorized by the project proponent.

(4) Take is allowed only on the property proposed for the project[-

~~(5) Authorized methods of intentional take are]~~ and identified in ~~[R657-70-14;]~~ the certificate of registration.

~~[(6)]~~ 5) Prairie dogs may be taken pursuant to this section year around.

R657-70-11. Take of Utah Prairie Dogs on Agriculture Land.

(1) A person may not take a Utah prairie dog on agriculture land without first obtaining a certificate of registration from the division, except as provided in R657-70-7.

(2) A landowner or lessee of agriculture land may apply to the division for a certificate of registration to take prairie dogs damaging their agriculture land.

(a) The application shall include the:

(i) applicant's full name, mailing address, and phone number;

(ii) applicant's status as an owner or lessee of the property;

(iii) landowner's signature, and consent when the applicant is a lessee;

(iv) name and identifying information for each individual designated by the applicant and eligible under R657-70-13 to take prairie dogs on the property; and

(v) township, range, section, 1/4 section, and parcel number of the agricultural land where the prairie dogs will be taken.

(b) An application for a certificate of registration must be submitted to the division's southern region office ~~[-online or]~~ at 1470 North Airport Road, Suite 1, Cedar City, Utah ~~[84721-]~~ 84721, or online when available.

(c) Upon receipt of an application, the division will ~~[-survey the property to]~~ determine the ~~[number of resident prairie dogs and the]~~ maximum number of Utah prairie dogs that may be taken on the property under a certificate of registration.

(i) The division will calculate the yearly maximum take using the following criteria:

(A) 50% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is 999 or less;

(B) 100% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is between 1,000 and 1,249;

(C) 100% of prairie dog productivity and 33% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,250 and 1,499;

(D) 100% of prairie dog productivity and 66% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,500 and 1,999; and

(E) Unlimited take is authorized without a certificate of registration when the three year average spring count on protected land in the recovery unit is 2,000 or greater.

(3)(a) After review of the application and determining the maximum take limit for the property, a certificate of registration may be issued.

(b) The certificate of registration will identify:

(i) the name of the property owner, lessee, or other person authorized to take prairie dogs on the property;

(ii) the maximum number of prairie dogs that may be taken on the property; and

(iii) a general description of the location and boundaries of the subject property.

(c) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

(d) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(e) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(4) Prairie dogs allowed by the landowner or lessee to be trapped on the property and relocated by the division between July 1 and October 1 - before lethal take - will not count against the range-wide prairie dog limit in R657-70-9 or the property's maximum take limit identified on the certificate of registration unless the landowner or lessee is enrolled in the damage compensation program.

(5)(a) A landowner or lessee that obtains a certificate of registration to take prairie dogs on agriculture land and thereafter agrees with the division to allow trapping and relocation efforts on the property before lethally taking prairie dogs, may receive compensation for the damage caused by prairie dogs during the trapping period.

(i) Participation in the damage compensation program is voluntary on the part of the landowner or lessee and discretionary on the part of the division.

(ii) Only properties with a spring count of 50 or more prairie dogs are eligible for participation in the program.

(iii) Compensation will be based on the number of prairie dogs on the property and the associated damage estimate between ~~[juvenile emergence-]~~ May 1 and September 30.

(b)(i) A landowner or lessee must apply to participate in the damage compensation program by submitting a written application to the division that includes:

(A) the applicant's full name, mailing address; and phone number;

(B) the township, range, section, 1/4 section and parcel number of the agricultural land where the prairie dogs will be trapped;

(C) proof that the applicant is the fee title owner or lessee of the agricultural land where the prairie dogs will be trapped; and

(D) the landowner's signature, or the lessee's and landowner's signature when the applicant is the lessee.

(ii) An application to participate in the damage compensation program must be submitted:

(A) to the division's southern region office ~~[online or]~~ at 1470 North Airport Road, Suite 1, Cedar City, Utah ~~[84721]~~8472, or ~~online when available~~; and

(B) ~~[between March 1 and March 31,]~~ by May 15 of the year for which compensation is requested.

(iii) Applications for damage compensation will be evaluated by the division and granted based on the:

(A) availability of compensation funding;

(B) number and density of prairie dogs that the division determines are present on the property;

(C) ease and efficiency by which prairie dogs can be trapped and relocated;

(D) availability of release sites;

(E) availability of division personnel and funding to trap and relocate; and

(F) degree of expected damage during the trapping period.

(iv) Nothing herein shall be construed as guaranteeing that an application to participate in the damage compensation program will be granted or that all persons desiring to participate in the program will have the opportunity to do so.

(c) Compensation for prairie dog damage will be based on the following criteria, regardless of the crop involved:

(i) the estimated number of prairie dogs on the property where trapping will occur;

(A) the division will estimate prairie dog numbers by counting visible prairie dogs on the property in the spring, doubling that number to account for adults below ground, and multiplying the result by 2.6 to account for juvenile production.

(ii) each adult prairie dog consuming 0.75 pounds of alfalfa a day and each juvenile 0.375 pounds a day;

(iii) adult prairie dogs causing damage five months per year and juveniles four months per year;

(iv) the market price of the alfalfa at the time the contract referenced in Subsection (d) is executed; and

(v) an additional 10% for damage to farming equipment and fences.

(d) The division will enter into a written contract with successful applicants possessing eligible property and a certificate of registration to take prairie dogs on their agriculture land that:

(i) suspends lethal removal efforts by the landowner or lessee ~~[while]~~ until the division ~~[attempts to trap]~~ completes prairie ~~[dogs]~~ dog trapping on the property ~~[and relocate them]~~; and

(ii) identifies the monetary compensation the landowner or lessee will receive from the division for seasonal prairie dog damage ~~[incurred during the period of suspension]~~ anticipated to occur.

(e) All prairie dogs trapped and relocated under a compensation agreement will count against the range-wide prairie dog limit in R657-70-9 and the property's maximum take limit identified on the certificate of registration.

(f) Once trapping is completed, the division will deduct the number of trapped prairie dogs from the certificate of registration's original take limit and notify the landowner or lessee:

(i) of the adjusted take limit; and

(ii) that removing prairie dogs from the property pursuant to the terms of the adjusted certificate of registration is permitted.

(6) The division may issue a certificate of registration authorizing a landowner or lessee to take prairie dogs dispersing

from the property targeted for trapping under Subsections (4) or (5) to other areas of the property or adjacent properties that do not have a preexisting colony.

(7)(a) Only those people specifically identified in R657-70-13 and on a certificate of registration to take prairie dogs on agriculture land may do so.

(b) Take is restricted to the agriculture land owned by the landowner, or leased by the lessee.

(c) Prairie dogs may be taken on agriculture land only with firearms, archery equipment, and kill traps.

(d) Prairie dogs may be taken under this section from June 1 to December 31, and in number not to exceed that identified on the certificate of registration.

(8) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.

R657-70-13. Individuals Authorized to Take Utah Prairie Dogs on Federal and Non-federal Lands.

(1) Except as provided in R657-70-8 and R657-70-10(3), only the following individuals may take a Utah prairie dog when take is authorized under the provisions of this chapter:

(a) landowner;

(b) lessee, when authorized by the landowner to take prairie dogs on the property;

(c) immediate family member of the landowner or lessee, when authorized by the landowner to take prairie dogs on the property;

(d) employee of the landowner or lessee that is on a regular payroll and not hired specifically to take prairie dogs, when authorized by the landowner to take prairie dogs on the property; and

(e) designee of the landowner or lessee that possesses a certificate of registration from the division, as provided in Subsection (2).

(2)(a) A person other than a landowner, lessee, or their immediate family member, or an employee on a regular payroll not hired specifically to take prairie dogs, may apply for a certificate of registration to take prairie dogs as a designee of the landowner or lessee, provided the application includes:

(i) the applicant's:

(A) full name;

(B) complete mailing address;

(C) phone number;

(D) date of birth;

(E) weight and height;

(F) gender; and

(G) color of hair and eyes;

(ii) the township, range, section, 1/4 section and parcel number of the agricultural lands where the prairie dogs will be taken;

(iii) justification for utilization of the designee;

(iv) the landowner's signature or the lessee's and landowner's signature when the applicant is the lessee's designee; and

(v) verification that the designee will not pay or receive any form of compensation for taking prairie dogs on the landowner's or lessee's property.

(b) An application for a certificate of registration must be submitted to the division's southern region office [~~online or~~] at 1470 North Airport Road, Suite 1, Cedar City, Utah [~~84721~~]84721 or online when available.

(c) A maximum of two designee certificates of registration may be issued per landowner and lessee each year.

(d) Each designee application shall be considered individually based upon the information, explanation and justification provided.

(e) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(f)(i) After review of the application, a certificate of registration may be issued.

(ii) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

(iii) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(g) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

R657-70-15. Monthly Reports on Take of Utah Prairie Dogs.

(1) The following information must be reported every 30 days to the division's southern region office [~~online or~~] at 1470 North Airport Road, Suite 1, Cedar City, Utah 84720, [~~every 30 days~~] or online when available:

(a) the name and signature of the landowner, lessee, or certificate of registration holder;

(b) the person's certificate of registration number (where applicable);

(c) the number of prairie dogs taken; and

(d) the location and method of disposal of each prairie dog taken during the 30-day period.

(2) Failure to report the information required in Subsection (1), within 30 days, may result in the denial of future opportunity to take prairie dogs.

R657-70-16. Take on Protected Land.

(1) Notwithstanding any other provision in this chapter authorizing take of prairie dogs, a person may not take a Utah prairie dog on protected land set aside by contractual agreement or law for the protection and conservation of Utah prairie dogs.

KEY: wildlife, game laws

Date of Enactment or Last Substantive Amendment: [~~May 8,~~] 2015

Authorizing, and Implemented or Interpreted Law: 23-14-1; 23-14-3; 23-14-18; 23-14-19

Pardons (Board of), Administration **R671-201** Original Parole Grant Hearing Schedule and Notice

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39419
FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the definition of a homicide offense and reduce the time frame for setting a hearing on a third degree felony sex offense from 12 months to 6 months.

SUMMARY OF THE RULE OR CHANGE: The original hearing date for most offenses is set according to a schedule. However, when an offense involves death, the Board reviews the file and makes a decision about when the original hearing will be conducted. The proposed change clarifies the definition of homicide offense. Currently third degree felony sex offenses are set for an original hearing in 12 months. The proposed change will shorten the time to 6 months.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-5 and Section 77-27-7 and Section 77-27-9

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Hearings are already conducted for each eligible sentence. The proposed changes do not increase or decrease the number of hearings. The change is to the timing of the hearing or how the date is set. The proposed changes do not increase costs or create savings for the state.

◆ **LOCAL GOVERNMENTS:** Local governments do not participate in parole hearings. Changing the schedule does not affect local governments.

◆ **SMALL BUSINESSES:** Small businesses do not participate in parole hearings. Changing the schedule does not affect small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Unless an individual is sentenced to life without parole, the individual will have a hearing with the Board. The proposed changes do not limit the hearings. The change is in how the hearing is scheduled.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to the individual for a parole hearing. The proposed change is in the way the original hearing date will be determined.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Business does not participate in parole hearings. There is no fiscal impact to business.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 07/13/2015 08:00 AM, Board of Pardons, 448 E Winchester, Suite 300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/10/2015

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.

R671-201. Original [Parole Grant] Hearing Schedule and Notice.

R671-201-1. Schedule and Notice.

(1)(a) Within six months of an offender's commitment to prison the Board shall give notice of the month and year in which the inmate's original hearing will be conducted.

(b) A minimum of seven days prior notice should be given regarding the specific day and approximate time of such hearing.

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

(b) Sexual offense commitment, for purposes of this rule, means a prison commitment to serve a sentence for a conviction of any crime for which an offender is defined as a kidnap offender pursuant to Utah Code Ann. Subsection 77-41-102(9); or for which an offender is defined as a sex offender pursuant to Utah Code Ann. Subsection 77-41-102(16); or any attempt, conspiracy or solicitation to commit any of the offenses listed in those sections.

(3)(a) All homicide offense commitments eligible for parole shall be routed to the Board as soon as practicable for the determination of the month and year for an original hearing.

(b) The Board shall determine, by majority vote, the month and year of an original hearing for an offender serving a homicide offense commitment.

(c) In setting an original hearing for a homicide offense commitment, the Board shall only consider information available to the court or offender at the time of sentencing.

(d)(b) Homicide offense commitments not eligible for parole (including sentences of life without parole or death) shall not be scheduled for original hearings.

(4) If the offender is less than 18 years of age at the time of commitment and the offense is eligible for parole, the case shall be routed to the Board as soon as practicable for the determination, by majority vote, of the month and year for an original hearing.

(5) When an offender's prison commitment does not include a homicide offense commitment, an offender is eligible to have an original hearing before the Board as follows:

(a) After the service of fifteen years for first degree felony commitments when the most severe sentence imposed and being served is a sentence greater than 15 years to life, excluding enhancements.

(b) After the service of seven years for first degree felony commitments when the most severe sentence imposed and being served is a sentence of 10 years to life, or 15 years to life, excluding enhancements.

(c) After the service of three years for all other first degree felony commitments.

(d) After the service of eighteen months if the most serious offense of incarceration is a second degree felony sexual offense commitment.

(e) After the service of six months for all other second degree felony commitments.

(f) After the service of ~~twelve~~six months if the most serious offense of incarceration is a third degree felony sexual offense commitment.

(g) After the service of three months for all other third degree felony and class A misdemeanor commitments.

(6)(a) An offender may request that their original appearance and hearing before the Board be scheduled other than as provided by this rule. An offender's request shall specify the extraordinary circumstances or reasons which give rise to the request. The Board may grant or deny the offender's request in its sole discretion.

(b) The Board may, in its discretion, depart from the schedule as provided by this rule ~~based upon~~if:

(i) an offender[s] requests a continuance due to extraordinary circumstances,[-when]

(ii) an offender has unadjudicated criminal charges pending at the time a hearing would normally be scheduled[;];

(iii) a Class A misdemeanor commitment has expired prior to an original hearing; or

(iv) the Board determines that other unusual or extraordinary circumstances impact the setting of an original hearing[-upon its own motion].

KEY: parole, inmates, hearings

Date of Enactment or Last Substantive Amendment: [~~March 24,~~ 2015

Notice of Continuation: September 22, 2014

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

Pardons (Board of), Administration
R671-205
Credit for Time Served

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39420

FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 348 from the 2015 General Session expands the definition of credit for time served against a prison sentence. The Board is updating the rule to comply with the statute.

SUMMARY OF THE RULE OR CHANGE: When probation is revoked and the individual sentenced to prison, the proposed change grants credit for time served in jail as a condition of probation or for a probation violation prior to the revocation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 77-18-1(11)(a)(iii) and Subsection 77-18-1(12)(e)(iv)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Granting increased credit for time served may reduce the length of prison stays and may create savings for the Department of Corrections. However, the Board will still be conducting the same number of hearings and will not experience a savings. The Board currently calculates credit for time served. Changing the method of calculation will not increase costs to the Board.

◆ **LOCAL GOVERNMENTS:** The proposed change does not impact local government because the proposed rule affects only the operations of the board. No requirements are placed on local government.

◆ **SMALL BUSINESSES:** The proposed change does not impact small business because the proposed rule affects only the operations of the board. No requirements are placed on small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed rule does not have any fiscal impact on business because the rule applies to internal Board operations. The proposed rule increases the number of circumstances in which the Board will grant credit for time

served against a prison sentence. There are no compliance costs or actions required of anyone outside of the Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost to the individual for a parole hearing. The change expands the definition of credit for time served. It will have the general effect of granting more credit to individuals who were on probation and spent time in jail before being sentenced to prison.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule does not have any fiscal impact on business because the rule applies to internal Board operations. The proposed rule increases the number of circumstances in which the Board will grant credit for time served against a prison sentence.

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

PARDONS (BOARD OF)
 ADMINISTRATION
 ROOM 300
 448 E 6400 S
 SALT LAKE CITY, UT 84107-8530
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 07/13/2015 08:00 AM, Board of Pardons, 448 E Winchester, Suite 300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/10/2015

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.

R671-205. Credit for Time Served.

R671-205-1. Definitions[Policy].

(1) "Custody", for purposes of this rule, means that a person is held in jail or prison, and includes a person who is:

(a) in the custody of a peace officer pursuant to a lawful arrest;

(b) a minor confined in a facility operated by the Division of Juvenile Justice Services, following conviction as an adult in district court, when the district court obtained jurisdiction over the minor pursuant to Utah Code sections 78A-6-701, 78A-6-702, or 78A-6-703; or

(c) committed to the Department of Corrections, but who is housed at the Utah State Hospital or other medical facility.

(2)(a) "Sentence", for purposes of this rule, means a judgment, sentence, or commitment issued by a district court pursuant to Utah Code Section 77-18-1 for a criminal conviction and over which the Board has prison release jurisdiction.

(b) When a person is sentenced to prison after being convicted in multiple counts in the same criminal case, or after being convicted in multiple cases, credit for time served will be calculated separately for each sentence.

R671-205-2. Credit for Time Served.

(1) Credit for time served shall be granted by the Board against the expiration date of a prison sentence for time an offender actually served in custody if, prior to being sentenced to prison, the offender was held in custody in connection with the specific sentence:

(a) while awaiting trial, conviction, or imposition of the sentence;

(b) while on probation and awaiting a hearing or decision regarding probation violation allegations;

(c) as a condition of probation following the imposition of a suspended prison sentence, if the offender is later committed to prison on or after October 1, 2015;

(d) as a sanction for a violation of probation, following the revocation and re-start or re-imposition of probation, if the offender is later committed to prison on or after October 1, 2015;

(e) as a response to a violation of probation, pursuant to the AP&P Response and Incentive Matrix, if the offender is later committed to prison on or after October 1, 2015.

(1) Credit for time served will be granted against the expiration date on a crime of commitment when:

(a)(f) [a conviction] that is reversed, vacated, or otherwise set aside, if [and there is] a subsequent prison sentence [commitment] is imposed for the same criminal conduct;

(b)(g) [a commitment is made] at [to] the Utah State Hospital following [pursuant to] a "guilty and mentally ill" conviction; or

(c)(h) [time is spent in custody] outside the State of Utah based solely on [the] a Utah warrant [issued in connection with the sentence under Board jurisdiction.

(d)(2) [the] The Board [deems such] may, in its discretion, grant credit for time served in other, extraordinary circumstances, [credit just under the circumstances; or

(e) credit is otherwise required by law.]

R671-205-3. Exclusions.

Credit for time served may not be granted for any period of custody served:

(1) for an arrest, pre-trial detention, probation, commitment, case, conviction, or sentence over which the Board has no jurisdiction;

(2) [No credit will be given for time spent in custody] at the Utah State Hospital or comparable non-prison, psychiatric facility while [the] an offender; (a) is undergoing pre-trial competency proceedings or investigations; or (b) has been committed to a facility for competency restoration following a [judicially-declared incompetent.] judicial finding of incompetence;

(3) in a medical or other treatment facility while under court supervision;

(4) under home-confinement, house arrest, in a community correctional center, or in any other treatment facility while under court supervision; or

(5) for an arrest, pre-trial detention, probation, commitment, or sentence while under the jurisdiction of the federal government.

R671-205-4. Concurrent and Consecutive Sentencing.

(1) If an offender is committed to prison for more than one sentence, credit for time served shall be calculated for each sentence separately.

(2) If an offender is committed to prison to serve consecutive sentences, only the credit for time served attributable to the consecutive sentence shall be granted against that sentence, and the consecutive sentence shall begin only following the expiration of all prior sentences.

(3) If an offender is serving one or more prison sentences, and a subsequent prison sentence is imposed concurrently, credit for time served shall begin on the date the subsequent prison sentence is imposed.

(4) If an offender is serving one or more prison sentences, and a subsequent prison sentence is imposed consecutively, credit for time served may not be granted toward the consecutive sentence, and the consecutive sentence shall begin only following the expiration of all prior sentences.

R671-205-5. Verification of Time Served Required.

(1) The Board shall only grant credit for time served if [If no record of official detention time is found in the Board file, the Board will presume that none was served] the time in custody is documented in official records of the court and facility of custody.

(2) If an [In cases where the] offender desires credit in addition to that granted by the Board, the offender bears the burden [is on the offender] to [request it] petition for, and [to] provide copies of records supporting, the [claim of time spent in custody] additional credit.

KEY: [capital punishment,] credit for time served, prison release, parole [government hearings]

Date of Enactment or Last Substantive Amendment: [December 9, 1998] 2015

Notice of Continuation: January 31, 2012

Authorizing, and Implemented or Interpreted Law: Art. VII, Sec. 12; 77-18-1(11)(a)(iii); 77-18-1(12)(e)(iv); 77-27-5; 77-27-7; 77-27-9; 77-19-7]

Pardons (Board of), Administration **R671-316** Redetermination

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39421

FILED: 06/02/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed change clarifies the circumstances when an individual is eligible to apply to have the Board review redetermine a prior decision.

SUMMARY OF THE RULE OR CHANGE: When an original hearing date was set in compliance with Rule R671-201, an individual may not ask for the date to be redetermined. Case workers may submit a recommendation in support of the redetermination.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-5 and Section 77-27-7 and Section 77-27-9 and Subsection 63G-3-201(3)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** No significant change is expected in the number of requests for redeterminations. Therefore, the Board does not anticipate any fiscal impact.

♦ **LOCAL GOVERNMENTS:** Local governments do not have a role in requesting or reviewing redeterminations. The proposed change does not impact local government because the proposed rule affects only the operations of the board. No requirements are placed on local government.

♦ **SMALL BUSINESSES:** The proposed change does not impact small business because the proposed rule affects only the operations of the board. No requirements are placed on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Incarcerated individuals who want the Board to reconsider decisions may be limited in the number of requests the individual can submit to the Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no fee to submit a redetermination request.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule does not have any fiscal impact on business because the rule applies to internal Board operations and to incarcerated individuals. There are no compliance costs or actions required of anyone outside of the Board.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 07/13/2015 08:00 AM, Board of Pardons, 448 E Winchester, Suite 300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/10/2015

AUTHORIZED BY: Angela Micklos, Chair

R671. Pardons (Board of), Administration.

R671-316. Redetermination.

R671-316-1. Redetermination Review.

(1) ~~An offender [A redetermination is a petition filed by an offender in which the offender] may [requests that] submit a redetermination request to the Board [of Pardons and Parole] requesting that the Board reconsider [an earlier] a prior decision, if:~~

~~(a) the prior decision granted parole, terminated the offender's sentence, ordered the expiration of the offender's sentence or ordered a re-hearing; and~~

~~(b) [-and when-] the offender's current release or rehearing date is more than five years in the future, [-or the decision was for expiration of a life sentence].~~

~~(2)[A:] An offender may not seek a redetermination regarding an original hearing scheduled by the Board pursuant to Utah Admin. R. 671-201.~~

~~(3)(a) An offender seeking a redetermination of a decision which expired a life sentence is eligible to petition for redetermination not sooner than ten years following the decision, and thereafter in ten year intervals.~~

~~(b) All other offenders seeking redetermination of a parole, termination, expiration or rehearing decision are eligible to petition for redetermination not sooner than five years following the decision, and thereafter in five year intervals.~~

~~(4) [Applications for] A redetermination request [must] shall originate with and be signed by the offender[-], shall state with particularity the grounds or reasons supporting the redetermination request, and shall [-Preferably the applications will] be routed through the offender's case worker. [-However the offender may route the petition directly to the Board.]~~

~~[+](5) A petition [that is-] submitted through a caseworker shall also include a current progress report and, if the caseworker supports the redetermination, a recommendation with supporting rationale.~~

~~2. If the petition is submitted directly from the offender the Board shall request the same information as required in paragraph A: (1). The Department of Corrections shall submit the requested information to the Board within 30 calendar days.~~

~~B. Offenders without a natural life decision may apply for a redetermination five years after the Board's decision and in five year intervals thereafter. Offenders with a natural life decision are eligible to petition in ten year intervals.~~

~~[E:] (6) The Board [ean] may make a decision regarding a redetermination request with or without a hearing. All decisions are final and non-appealable.~~

KEY: parole, inmates

Date of Enactment or Last Substantive Amendment: [~~October 4, 2012~~2015]

Notice of Continuation: January 31, 2012

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

**School and Institutional Trust Lands,
Administration
R850-1-200
Definitions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39430

FILED: 06/04/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the rule change is to add the term and definition for "High Value Grazing Lands" to the list of definitions.

SUMMARY OF THE RULE OR CHANGE: "High Value Grazing Lands" and its respective definition was added to the list of terms defined in the agency's general rules. Re-numbering of the terms and definitions allowed this term to be inserted into its proper place alphabetically.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53C-1-302(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no costs or savings to the state as a result of adding this new term and definition.

♦ **LOCAL GOVERNMENTS:** Local government will not be affected by the addition of this new term and definition to the rules.

♦ **SMALL BUSINESSES:** Small businesses will not be affected by the addition of this new term and definition to the rules.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities will not be affected by the addition of this new term and definition to the rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the addition of this new term and definition to the rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that this amendment to definitions will

impose any fiscal impact on business since it is only for clarification purposes for existing practices.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Kevin Carter, Director

R850. School and Institutional Trust Lands, Administration.

R850-1. Definition of Terms.

R850-1-200. Definitions.

1. Animal unit (AU): is equal to one cow and calf or their equivalent.
2. Beneficiaries:
 - (a) as to school and institutional trust lands: The public school system and other institutions granted properties by the United States under the Enabling Act to the state of Utah in trust.
3. Board: School and Institutional Trust Lands Board of Trustees.
4. Board policy: Actions taken by the School and Institutional Trust Lands Board of Trustees which comply with the definition of Policies found in Section 53C-1-103(5).
5. Carrying capacity: the acreage required to adequately provide forage for an animal unit (AU) for a specified period without inducing range deterioration.
6. Commercial gain: compensation, in money, in services, or other valuable consideration rendered for products provided.
7. Cultural Resources: prehistoric and historic materials, features, artifacts.
8. Cultural Resource Survey:
 - (a) Class I: literature and site files search.
 - (b) Class II: sample field surface survey or inspection.
 - (c) Class III: intensive field surface survey.
9. Director: the director of the School and Institutional Trust Lands Administration.
10. Agency: School and Institutional Trust Lands Administration.
11. Easements: a right to use or restrict use of land or a portion of a real property interest in the land for a particular purpose granted by the agency to a qualified applicant including but not limited to transmission lines, canals and ditches, pipelines, tunnels, fences, roads and trails.

12. General Management Plans: plans prepared for school and institutional trust lands which guide the implementation of the school and institutional trust land management objectives.

13. High Value Grazing Lands: Trust lands used for grazing which are not located within the boundaries of a federal allotment and which are not managed by a federal agency, or trust lands which are located such that they can be managed independent of the influence of a federal agency, or trust lands for which management agreements with a federal agency are in place, or any other trust lands which the director has designated as High Value Grazing Land.

[13]14. In-kind use: occupancy or use by a beneficiary of its institutional trust land for authorized purposes as a direct economic benefit to the institution.

[14]15. Management Plans: General Management Plans, Resource Plans and Site-Specific Plans.

[15]16. Multiple-use: the management of various surface and sub-surface resources so that they are utilized in the combination that will best meet the present and future needs of the beneficiaries.

[16]17. Paleontological Resources (fossils): the remains or traces of organisms, plant or animal, that have been preserved by various means in the earth's crust.

[17]18. Paleontological Resource Survey: an evaluation of the scientific literature or previous paleontological survey reports to assess the potential for discovery or impact to fossils by a proposed development, followed by a pedestrian examination of the exposed geological formations suspected of containing fossils of significance.

[18]19. Paleontological Site: an exposure of a geologic formation having fossil evidence of scientific value as determined by professional consensus.

[19]20. Planning Unit: the geographical basis of a general management plan; a consolidated block of state land, or a group of isolated state land sections or parts thereof, or a combination of blocks and isolated sections which provide common management opportunities or which have common commercial gain, natural or cultural resource concerns.

[20]21. Preliminary Development Plan: the submittal, both of maps and written material, which shall identify and determine the extent and scope on a proposed unit development of the entire acreage under application. It shall illustrate, in phases, the development of the entire acreage and include a time table of the estimated schedule of development. The preliminary development plan shall identify density, open space, environmental reserves, site features, services and utilities, land ownerships, local master planning, zoning compliance and basic engineering feasibility.

[21]22. Preliminary Development Plat: a plat which shall outline and specify the number of dwelling units, the type of dwelling units, the anticipated location of the transportation systems and description of water and sewage systems for the developed area on a Unit Development Lease.

[22]23. Private Exchange: An exchange of trust lands, for land or other assets of equal or greater value, with a political subdivision of the state or agency of the federal government. Lands involved in a private exchange are not required to be advertised as open for competing exchange, lease, and sale applications.

[23]24. Range condition: the relation between current and potential condition of the range site.

[24]25. Record of Decision: a written finding describing an agency action, relevant facts, and the basis upon which the decision for action was made.

[25]26. Resource Plans: a plan prepared for a specific resource, such as mining, timber, grazing or real estate.

[26]27. Rights-of-Entry: a right to a specific, non-depleting land use granted by the agency to a qualified applicant that is temporary in nature, generally not to exceed one year in duration, including but not limited to seismic and land surveys, research sites, access across trust lands, and other temporary types of land uses.

[27]28. School and institutional trust lands: those properties granted by the United States in the Utah Enabling Act to the state of Utah in trust, or other properties transferred to the trust, to be managed for the benefit of the public school system and the various institutions of the state in whose behalf the lands were granted.

[28]29. Significant site: any site which is designated by the Division of State History as scientifically worthy of specific management.

[29]30. Site: archaeological and cultural sites are places of prehistoric and historic human activity including aboriginal mounds, forts, buildings, earth works, village locations, burial grounds, ruins, caves, petroglyphs, pictographs, or other locations which are the source of prehistoric cultural features and specimens.

[30]31. Site Specific Plans: plans prepared for trust lands which provide direction for specific actions. Site-specific plans shall include, but not be limited to:

(a) Records of Decision in either narrative or summary form.

(b) Board action that designates specific parcels of land for specific uses(s) or disposition.

[31]32. Specimen: includes all man-made relics, artifacts, remains of a prehistorical, archaeological, or anthropological nature found on or below the surface of the earth, and any remains of prehistoric life.

[32]33. Trust lands: school and institutional trust lands and all other lands administered under the authority of the School and Institutional Trust Lands Board of Trustees.

[33]34. Survey Report: report of the various site files and field surveys or inspections.

[34]35. Sustained-yield: the achievement and maintenance of maximum non-depleting level of annual or periodic production of the various renewable resources of land without impairment of the productivity of the land.

[35]36. Trust land use(s): any use of school and institutional trust lands based on multiple-use, sustained-yield principles or practices designed to maximize support of the beneficiaries.

KEY: administrative procedures, definitions

Date of Enactment or Last Substantive Amendment:
[1993]August 7, 2015

Notice of Continuation: May 23, 2012

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii)

**School and Institutional Trust Lands,
Administration
R850-50
Range Management**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39429

FILED: 06/04/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended in an effort to clarify various aspects and bring it up-to-date with board policy.

SUMMARY OF THE RULE OR CHANGE: The proposed changes allow for: 1) the publishing of notice for expiring grazing permits; 2) clarifying of procedures for the reimbursement to permittees who lose the use of an approved range improvement; 3) prohibiting the extension of time for a grazing permit beyond 15 years; and 4) aligning the rule with existing board policy addressing grazing tenure of permits associated with land exchanges, which calls for two-term non-compete protections for grazing permits transferring from BLM to the agency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53C-5-102 and Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is a potential for the state to receive an increase in the amount of revenue generated by publishing notice of expiring permits and by not allowing extensions of permits beyond 15 years. The increase in revenue would be dependent upon the amount of competition for a permit and the offered bonus bid.

◆ **LOCAL GOVERNMENTS:** Local government would be affected only if they were competing for a grazing permit, which would be very unlikely.

◆ **SMALL BUSINESSES:** Small businesses could potentially be affected if they were competing for a grazing permit and there was competition for it. The financial impact would depend totally on the amount of competition and the small businesses' desires to be successful in obtaining the permit.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities could potentially be affected if they were competing for a grazing permit and there was competition for the permit. The financial impact would depend totally on the amount of competition and the persons' desires to be successful in obtaining the permit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons would be dependent upon whether or not a competing bid is submitted for a grazing permit and the amount offered as a bonus bid.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements minor notification practices which comport with the agency's duty to receive fair-market-value for use of trust resources. Consequently, it may require incumbent permittees to expend additional funds if they choose to meet a competing bid.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Kevin Carter, Director

R850. School and Institutional Trust Lands, Administration.

R850-50. Range Management.

R850-50-400. Permit Approval Process.

Applications shall be accepted on lands available for permitting under R850-50-300 or upon termination of an existing permit as follows:

1. On trust lands that are open and unpermitted and which are available for grazing,~~but are not subject to an existing permit,~~ applications may be solicited through advertising or any other method the agency determines is appropriate, including notification of adjacent landowners and other permittees in an allotment.

2. On trust lands subject to an expiring grazing permit, competing applications shall be accepted from April 1 to April 30, or the next working day if either of these days is a weekend or holiday, of the year in which the permit terminates.

(a). All expiring grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires. The website notice shall include any reimbursable investment made by the existing permittee on a range improvement. Notice that expiring grazing permits may be found on the agency's website may also be published.

(b). Grazing permits issued on trust lands acquired through an exchange with the federal government (after the expiration of the federal permit) shall not be subject to the provisions of this rule for two successive 15-year terms unless the permit has been sold or otherwise terminated.

3. ~~[If no competing applications are received, the]~~The person holding ~~[the]~~an expiring grazing permit shall have the right to renew the permit, provided that no competing applications are received, by submitting a completed application along with the first year's rent and other applicable fees.

4. Persons desiring to submit a competing application ~~[shall]~~must do so on forms acceptable to the agency. Forms ~~[may be acquired]~~are available at the offices listed in R850-6-200(2)(b) ~~or from the agency's website~~. Applications shall include ~~[payment in the amount of the]~~a non-refundable application fee, ~~[and the]~~a one-time bonus bid, and an amount determined by the agency pursuant to R850-50-1100(7), which will be required to reimburse the holder of an authorized range improvement project should the competing application be accepted. Bonus bids and range improvement reimbursements~~[-Bids]~~ shall be refunded to unsuccessful applicants. Upon establishment of the yearly rental rate, the successful applicant shall be required to submit the first year's rental and other required fees.

5. Applications shall be evaluated by the agency and ~~[shall]~~may be accepted only if the agency determines that the applicant's grazing activity ~~[shall]~~will not create unmanageable problems of trespass, range and resource management, or access.

(a) For purposes of this evaluation, adjoining permittees and lessees, adjoining property owners, ~~[or]~~and adjoining federal permittees ~~[shall]~~may be considered acceptable as competing applicants unless specific problems are clearly demonstrated.

(b) Applicants not meeting the requirements in (a) above, whose uses would not unreasonably conflict with the uses of other permittees ~~[of trust lands]~~in the area, ~~[shall]~~may nevertheless be accepted if the size of the grazing area, the access to the grazing area, and other factors demonstrate that the applicant is able to utilize the area without adverse impact on the range resources, adjoining lands, or beneficiaries of affected trust lands.

(c) For purposes of evaluating an applicant's acceptability for a grazing permit, the agency may consider the applicant's ability to maintain any water rights appurtenant to the lands described in the application.

6. ~~[An existing permittee]~~The holder of a permit which is expiring, on which a competing application has been received, shall have a preference right to permit the property provided he agrees to pay an amount equal to the highest bonus bid submitted by a competing [application]applicant.

(a) In the event that the existing permittee fails to match the highest bonus bid, the permittee may be refunded the value of the amount the permittee contributed to the cost of any approved range improvement project at the expense of the successful bonus bid applicant.

(b) In the event that all, or a portion of, the property on which a bonus bid was submitted is sold, exchanged, or otherwise made unavailable, the permittee shall receive the refund of a prorated amount of the bonus bid based on the AUMs lost to the use of the permittee.

R850-50-500. AUM Assessments and Annual Adjustments.

1. An annual assessment shall be charged for each AUM used by livestock on trust lands. This assessment shall be established by the board and shall be reviewed annually and adjusted if appropriate.

2. Grazing fees for lands designated as "High Value Grazing Lands" will be assessed at a higher rate than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. Blocked or scattered lands may be designated as High Value Grazing Land through a Director's Finding.

3. In the event that the agency acquires High Value Grazing Lands through an exchange with the federal government, the application of the agency's grazing fees to the holders of grazing privileges on the acquired land shall be phased in over a five-year period in equal increments after the term of the federal permit has expired.

4. The application of the agency's grazing fees on lands acquired through an exchange with the federal government, and not designated as High Value Grazing Lands, shall be phased-in over a three-year period in equal increments after the term of the federal permit has expired.

R850-50-600. Grazing Permit Terms.

~~[No grazing]~~Grazing permits shall be issued for a ~~[period of time exceeding]~~maximum of 15 years. ~~[The agency may at its discretion, however, extend the period of time beyond 15 years if it determines that substantial range improvements approved pursuant to R850-50-1100 warrant such an extension.—]~~Every grazing permit ~~[executed]~~issued under these rules shall include the following terms and conditions:

1. Terms, conditions, and provisions that shall protect the interests of the trust beneficiaries with reference to securing the payment to the agency of all amounts owed.

2. Terms, conditions, and provisions that shall protect the range resources from improper and unauthorized grazing uses.

3. Other terms, conditions, and provisions that may be deemed necessary by the agency or board in effecting the purpose of these rules and not inconsistent with any of its provisions.

4. The agency may cancel or suspend grazing permits, in whole or in part, after 30 days notice by certified mail to the permittee for a violation of the terms of the permit, or of these rules, or upon the issuance of a lease or permit, the purpose of which the agency has determined to be a higher and better use, or disposal of the trust land. Failure to pay the required rental within the time prescribed shall automatically work a forfeiture and cancellation of the permits and all rights thereunder.

5. Locked gates on trust land without written approval are prohibited. If such approval is granted, keys shall be supplied to the agency and other appropriate parties requiring access to the area as approved by the agency, including those with fire and regulatory responsibilities.

6. Supplemental livestock feeding on trust grazing lease lands may be permitted subject to written authorization by the agency with the designation of a specific area, length of time, number and class of livestock, and subject to a determination that this shall not inflict long term damage upon the land. The agency may assess an

additional fee for authorized supplemental feeding. Emergency supplemental feeding shall be allowed for ten days prior to notification.

R850-50-1100. Range Improvement Projects.

1. Range Improvement Projects shall be submitted for approval on appropriate application forms. Range Improvement Projects shall be approved or denied by the agency based on a written finding.

2. All range improvement activity ~~[shall]~~ must be approved by the agency in writing before construction begins. Line cabins and similar structures ~~[shall]~~ will not be authorized as range improvement projects. ~~They may, however, [and shall]~~ be authorized by a special use lease pursuant to R850-30.

3. Agency authorization for range improvement projects shall be valid for periods of time not to exceed two years from the date the applicant is notified of the authorization. Extensions of time may be granted only in extraordinary circumstances.

4. Range improvements constructed or placed upon trust land without prior approval shall become the property of the agency.

5. Range improvements shall not be authorized if they would be:

(a) located on a parcel that the agency has determined has potential for sale, lease or exchange and the possibility exists that improvements may encumber these actions.

(b) located on a parcel designated for disposal.

(c) a project or structure that does not fill a critical need or enhance the value of the resource.

6. Range improvements which are necessary to rehabilitate lands whose forage production has been diminished by poor grazing practices or poor stewardship of the permittee shall not be considered a reimbursable improvement but rather a requirement to keep the grazing permit in effect.

7. Authorized Range Improvement Projects shall be depreciated using schedules consistent with typical schedules published by the USDA ~~[Soil]~~ Natural Resources Conservation Service or any other depreciation schedules approved by the board. In the event ~~[of disposal of the] that the property~~, ~~the issuance of a permit to a competing applicant, or withdrawal of the property,~~ on which an approved range improvement project is located is sold, exchanged, or withdrawn from use, the permittee shall receive no more than the amount the permittee contributed towards the original cost of the range improvement project, minus the indicated depreciation ~~[costs]~~ amount; or in the alternative, shall be allowed 90 days to remove improvements pursuant to section 53C-4-202(6).

8. If the range improvement project is designed to increase carrying capacity, the permittee shall agree to pay for the increase in AUMs annually starting no later than two years after project completion. The agency may allow any increase in fees to be phased-in at 20% per year.

9. The agency may participate in cost-sharing of designated range improvement projects, or maintenance of existing range improvement projects, by providing funding in amounts and at rates determined by the agency.

10. The agency's cost/share portion of the project may be in the form of project materials. In these instances, the permittee shall be required to provide all necessary equipment and manpower to complete the project to specifications required by the agency.

KEY: administrative procedures, range management

Date of Enactment or Last Substantive Amendment: ~~[June 7, 2010]~~ August 7, 2015

Notice of Continuation: June 27, 2012

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-5-102

Tax Commission, Auditing **R865-4D-21** Consistent Basis for Diesel Fuel Reporting Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-307

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39437

FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment deletes an outdated form name.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes an outdated form name. The most current information regarding tax forms is on the Tax Commission website.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-13-301 and Section 59-13-307

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--The amendment deletes an outdated form name.

◆ **LOCAL GOVERNMENTS:** None--The amendment deletes an outdated form name.

◆ **SMALL BUSINESSES:** None--The amendment deletes an outdated form name.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The amendment deletes an outdated form name.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment deletes an outdated form name. The most current information regarding tax forms is on the Tax Commission website.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adoption of this amendment will create no fiscal impact on business.

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

TAX COMMISSION
AUDITING
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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Robert Pero, Commissioner

R865. Tax Commission, Auditing.

R865-4D. Special Fuel Tax.

R865-4D-21. Consistent Basis for Diesel Fuel Reporting Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-307.

~~[A-](1)~~ Definitions.

~~[+](a)~~ "Gross gallon" means the United States volumetric gallon with a liquid capacity of 231 cubic inches.

~~[2-](b)~~ "Net gallon" means the gross metered gallon with temperature correction in volume to 60 degrees Fahrenheit.

~~[B-](2)~~ All Utah licensed special fuel suppliers shall elect to calculate the tax liability ~~[on the Utah Special Fuel Supplier Tax Return]~~ on a consistent and strict gross gallon or net gallon basis. The election must be declared in writing and must be sent to the Tax Commission. The declared basis must be the exclusive basis used for 12 consecutive months. Any supplier failing to make an election will default to the gross gallon basis and must then report and pay the excise tax on that basis. Request for changes in the reporting basis must be submitted in writing and approved by the Tax Commission prior to any change in the reporting basis. Changes in basis may occur only on January 1 and must remain in effect 12 consecutive months.

~~[C-](3)~~ All invoices, bills of lading, and special fuel tax returns must include both the gross and net gallon amounts. Conversion from gross to net must conform to the ASTM-API-IP Petroleum Measurement Tables.

~~[D-](4)~~ All transactions, such as purchases, sales, or deductions ~~[, reported on the Special Fuel Supplier Tax Return]~~ must be reported on a consistent and exclusive basis. The taxpayer shall not alternate the two methods on any return or during any 12-month period.

~~[E-](5)~~ This rule shall take effect July 1, 1997.

KEY: taxation, fuel, special fuel

Date of Enactment or Last Substantive Amendment:
~~[December 22, 2011]~~ 2015

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: 59-13-102; 59-13-301; 59-13-302; 59-13-303; 59-13-304; 59-13-305; 59-13-307; 59-13-312; 59-13-313; 59-13-501

Tax Commission, Auditing
R865-20T-10
Procedures for the Revocation,
Renewal, and Reinstatement of
Licenses Issued Pursuant to Utah
Code Ann. Sections 59-14-202, 59-14-
203.5, and 59-14-301.5

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39438

FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since it is unnecessary.

SUMMARY OF THE RULE OR CHANGE: The provisions of this section are unnecessary. Statutory provisions adequately describe period of a license revocation. In addition, the Tax Commission website contains the most current tax form requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-14-202 and Section 59-14-203.5 and Section 59-14-301.5

ANTICIPATED COST OR SAVINGS TO:

- ♦ **THE STATE BUDGET:** None--The removal of this section has no impact on practice.
- ♦ **LOCAL GOVERNMENTS:** None--The removal of this section has no impact on practice.
- ♦ **SMALL BUSINESSES:** None--The removal of this section has no impact on practice.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The removal of this section has no impact on practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The removal of this section has no impact on practice. The provisions of this rule can be found in statute and on the Tax Commission website.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adoption of this amendment will create no fiscal impact on business.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Robert Pero by phone at 801-297-3800, or by Internet E-mail at rpero@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Robert Pero, Commissioner

R865. Tax Commission, Auditing.

R865-20T. Tobacco Tax.

~~[R865-20T-10. Procedures for the Revocation, Renewal, and Reinstatement of Licenses Issued Pursuant to Utah Code Ann. Sections 59-14-202, 59-14-203.5, and 59-14-301.5.~~

~~_____ A. In order to renew a license issued under Sections 59-14-202 and 59-14-301, a licensee shall file form TC-38B, Cigarette and Tobacco Products License Renewal Application, with the Tax Commission on or before the last day of the month prior to the month in which the license expires.~~

~~_____ 1. The form shall be accompanied by the statutory renewal fee.~~

~~_____ B. A license revoked pursuant to Section 26-42-103 shall be revoked for a period of one year commencing on the date the commission receives notification to revoke by the enforcing agency.~~

~~_____ C. In order to reinstate a license revoked or suspended, or allowed to expire, a licensee shall file form TC-69, Utah State Business and Tax Registration, with the Tax Commission.~~

~~_____ 1. The form shall be accompanied by the statutory reinstatement fee.~~

~~_____ D. A revoked or suspended license may not be reinstated prior to the expiration of the revocation or suspension period.~~

[KEY: taxation, tobacco products

Date of Enactment or Last Substantive Amendment: [August 21, 2014]2015

Notice of Continuation: January 3, 2012

Authorizing, and Implemented or Interpreted Law: 59-14-102; 59-14-202; 59-14-203.5; 59-14-204 through 59-14-206; 59-14-210; 59-14-212; 59-14-301 through 59-14-303; 59-14-401; 59-14-404; 59-14-603; 59-14-607

Technology Services, Administration **R895-14** Access to Information Technology for Users with Disabilities

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39427

FILED: 06/04/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is a result of H.B. 122 passed in the 2015 General Session, sponsored by Representative Romero. Information Technology (IT) accessibility ensures that people with and without disabilities can access the same information, perform the same tasks, and receive the same services using information technology. It is the digital equivalent to accessibility in the physical environment. While IT accessibility can provide usability benefits to everyone who uses IT, accessibility is vital to many people with disabilities. This rule is established under the authority of Sections 63F-1-102, 63F-1-205, and 63F-1-206 as amended, and 63F-1-210 as enacted.

SUMMARY OF THE RULE OR CHANGE: Each state agency shall develop, procure, maintain, and use accessible electronic information and IT acquired on or after 06/01/2015, that conforms to the applicable provisions set forth by Section 508 of the Rehabilitation Act of 1973, as amended, and 29 USC Section 794(d), including the regulations set forth under 36 CFR part 1194, and the voluntary guidelines reflected in the W3C Web Content Accessibility Guidelines (WCAG) Version 2.0.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-206 and Section 63F-1-210

MATERIALS INCORPORATED BY REFERENCES:

- ♦ Adds W3C Web Content Accessibility Guidelines (WCAG), published by W3C, 2.0
- ♦ Adds W3C Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT), published by W3C, 2.0

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. If compliance with this rule causes an undue burden to agencies, agencies may propose an alternative method of access that allows users with disabilities to use information and data.

- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. This rule applies only to state government, and does not apply to local government.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule applies only to state government, and does not apply to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to other persons. This rule applies only to state government, and does not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs to affected persons. If compliance with this rule causes an undue burden to agencies, agencies may propose an alternative method of access that allows users with disabilities to use information and data.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses. This rule applies only to state government, and does not apply to small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TECHNOLOGY SERVICES
 ADMINISTRATION
 ROOM 6000 STATE OFFICE BUILDING
 450 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Mark VanOrden, Executive Director and CIO

R895. Technology Services, Administration.
R895-14. Access to Information Technology for Users with Disabilities.
R895-14-1. Purpose and Authority.

Each state agency shall develop, procure, maintain, and use accessible electronic information and Information Technology (IT) acquired on or after June 1, 2015, that conforms to the applicable provisions set forth by s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194, and the voluntary guidelines reflected W3C Web Content Accessibility Guidelines (WCAG) Version 2.0.

Information Technology accessibility ensures that people with and without disabilities can access the same information, perform the same tasks, and receive the same services using information technology. It is the digital equivalent to accessibility in the physical environment. While IT accessibility can provide usability benefits to everyone who uses IT, accessibility is vital to many people with disabilities. This rule is established under the authority of Sections 63F-1-102; 63F-1-205; and 63F-1-206 as amended, and 63F-1-210 as enacted.

(1) Undue Burden to Agencies.

If compliance with this rule causes an undue burden to agencies; agencies may propose an alternative method of access that allows users with disabilities to use information and data. The alternative method must be submitted to the CIO in writing, and the CIO must approve.

(2) Accessibility Testing Protocols.

The Department of Technology Services provides guidelines for accessibility testing and revises them on a regular schedule for use by State Agencies. Current testing protocols measure accessibility against United States Public Access Board Guidelines of 2015, including Section 508 of the Rehabilitation Act of 1973 as amended, and W3C Web Content Accessibility Guidelines (WCAG) Version 2.0.

R895-14-2. Scope of Application.

This rule is applicable to all State of Utah Executive Branch Agencies that are under the jurisdiction of the State CIO per Title 63F, The Utah Technology Governance Act.

(1) Exceptions.

Agencies excepted include only those agencies specifically excluded by statute in Title 63F, The Utah Technology Governance Act as amended.

(2) Conditions.

The intent of this rule is to provide a best effort approach to accessibility that ensures that people with and without disabilities can access the same information, perform the same tasks, and receive the same services using information technology.

(3) Limitations.

This rule does not apply to information technology deployed prior to June 1, 2015.

R895-14-3. Accessibility Criteria for Agency Websites.

Agency websites created after adoption of this rule will conform at minimum to W3C Web Content Accessibility Guidelines (WCAG) Version 2.0. Testing will reflect compliance based upon no errors at then current DTS accessibility guideline recommendations.

(1) Incorporations by Reference.

W3C Web Content Accessibility Guidelines (WCAG) Version 2.0 is incorporated by reference as published at <http://www.w3.org/TR/WCAG20>.

(2) Agency Discretion.

Agency websites for public and internal use shall comply with accessibility guidelines irrespective of then current audience accessibility needs.

(3) Vendor Accessibility Certification.

Vendors developing new websites or applications for agencies are required to meet accessibility guidelines subject to this

rule. The contractor must correct new websites that do not meet accessibility guidelines without cost to the agency.

R895-14-4. Accessibility Criteria for Hardware and Software.

Hardware and software products acquired after June 1, 2015 shall comply with W3C Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT), which is incorporated by reference. These guidelines are published at <http://www.w3.org/TR/wcag2ict>.

(1) Agency Discretion.

Agency hardware and software procurements shall comply with accessibility guidelines irrespective of then current known user accessibility needs, or the agency must provide individuals with disabilities with an alternative method of access that allows the individual to use the hardware and software.

(2) Vendor Accessibility Certification.

Vendors proposing IT products and services for use by the State of Utah shall provide Voluntary Product Accessibility Template (VPAT) documents. (A VPAT is a document provided by a vendor documenting compliance with Section 508.) Vendors will also meet accessibility requirements included in State of Utah Standard Terms and Conditions for IT contracts.

R895-14-5. Accessibility for Existing Legacy Information Systems used by Executive Branch Agencies.

Agencies shall ensure that plans are developed to address IT accessibility issues once identified in existing systems, subject to available funding. Corrective actions in project plans, procurement of more accessible IT, and providing alternate means of access to the IT product or service are examples of possible remediation. Such changes are voluntary and are not mandated by this rule.

(1) Agency Discretion.

Agencies will make reasonable efforts to comply with accessibility guidelines for legacy information systems and at minimum, must provide individuals with disabilities with an alternative method of access that allows the individual to use the hardware and software associated with the legacy information system.

R895-14-6. Grievance Reporting Procedures.

The Department of Technology Services shall provide accessible forms for reporting accessibility issues that can be accessed in the standard Utah.gov Website footer used by agency Websites. In addition, a contact number is provided on agency Websites to report accessibility issues.

(1) Responding to Accessibility Violations.

DTS shall respond to accessibility violation reports within 30 working days with suggestions for remediation and possible timelines as appropriate.

KEY: accessibility guidelines, information technology for users with disabilities, web accessibility

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implemented or Interpreted Law: 63F-1-206; 63F-1-210

Transportation, Operations, Traffic and Safety

R920-8

Flashing Light Usage on Highway Construction or Maintenance Vehicles

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39433

FILED: 06/09/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 41-6a-1617(1) requires that the Utah Department of Transportation (UDOT) shall make rules providing specifications governing the design and use of special flashing lights on vehicles engaged in highway construction or maintenance operations. This rule satisfies that statutory requirement.

SUMMARY OF THE RULE OR CHANGE: This rule requires vehicles and equipment engaged in highway construction or maintenance operations to be equipped with proper flashing lighting systems to make them more visible to the traveling public and to persons working on such projects. This rule also includes specifications governing the design and use of the flashing light systems.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 41-6a-1617(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** UDOT will not suffer additional costs since it currently installs flashing lighting systems on the majority of its vehicles and equipment including all vehicles and equipment used on highway construction or maintenance operations.

◆ **LOCAL GOVERNMENTS:** There may be a slight increase for local governments as they typically have a select few pieces of equipment on which they currently install flashing lighting systems. While this rule allows the local jurisdiction the ability to determine the appropriate use of flashing lights on non-state roadways, it may require them to install these systems on vehicles when working on a state roadway, but the ability to be seen better and avoid an accident could easily offset the cost of installing a flashing lighting system.

◆ **SMALL BUSINESSES:** There may be a slight increase in costs suffered by small businesses as they too typically have a select few pieces of equipment that they currently install flashing lighting systems on. This rule may require them to install these systems on additional vehicles, however the ability to be seen better and avoid an accident could easily offset the cost of installing a flashing lighting system.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The general public may experience a savings as they are better able to see vehicles and equipment working near their methods of transportation and reduce the potential for harm or accident. The benefits this rule should provide everyone who travels on state highways on which construction or repairs are being done will likely outweigh any additional costs the rule may cause.

COMPLIANCE COSTS FOR AFFECTED PERSONS: UDOT's research shows prices starting at \$75 for a single SAE Class I beacon (Section R920-8-6 minimum requirement) that has 360-degree visibility. Advanced lighting kits that offer multiple lights for various locations on a vehicle can exceed \$3,000. Costs for affected persons will vary base upon the number and types of equipment they use in their work.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As the Flashing Light Committee created and modified this new rule, the Committee enlisted the help of the UDOT Equipment Manager, Construction and Maintenance personnel, the AGC Highway Safety Committee (comprising several large construction company's safety managers), the AGC Heavy Highway Committee (comprising several large construction companies upper managers) and the Joint Highway Committee. The final text of this rule was voted upon and accepted by the members of these various committees. While there may be an increase of cost to some of the construction companies engaged in work on the state's highways due to this new rule, the general consensus was that there could be a cost benefit by being more visible to those approaching or being around these vehicles and equipment engaged in such work.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TRANSPORTATION
 OPERATIONS, TRAFFIC AND SAFETY
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Carlos Braceras, Executive Director

R920. Transportation, Operations, Traffic and Safety.

R920-8. Flashing Light Usage on Highway Construction or Maintenance Vehicles.

R920-8-1. Purpose.

This rule provides specifications governing the design and use of special flashing lights on vehicles engaged in highway construction and maintenance operations.

R920-8-2. Authority.

This rule is required and authorized by Section 41-6a-1617.

R920-8-3. Definitions.

In addition to the terms defined in Section 41-6a-102, the following terms are defined:

(1) "Engaged" means performing tasks for roadway surface and shoulder maintenance or construction purposes.

(2) "Flashing Amber Lighting System" means one or more amber flashing light(s).

(3) "Flashing lights" means bursts of light which are distinguishable and capture attention.

(4) "Headlight, taillight, or brake light flashers" (also known as "wigwags") means a device used to alter or modify the original vehicle manufacturer's electronically controlled lighting system.

(5) "Highway construction and maintenance vehicles" means both on-road and off-road vehicles or equipment.

(6) "360-degree visibility" means the ability to be seen from all angles.

R920-8-4. Requirements for All Vehicles Engaged in Highway Construction or Maintenance Operations on State Highways.

(1)(a) Except as provided under Subsection (1)(b), beginning July 1, 2015, vehicles engaged in highway construction or maintenance operations on state highways that are not protected by traffic control devices compliant to the current Utah Manual on Uniform Traffic Control Devices, must have a flashing amber lighting system with 360-degree visibility.

(b) When the flashing amber lighting system does not provide 360-degree visibility, vehicle hazard lights shall be used in addition to the flashing amber lighting system.

(2) Flashing amber lighting systems may be supplemented with flashing white lights on the front and flashing red lights on the rear that do not alter or modify the original manufacturer's electronically controlled lighting system.

R920-8-5. Requirements for All Vehicles Engaged in Highway Construction or Maintenance Operations on Non-State Highways.

(1) Local jurisdictions will determine the appropriate use of flashing lights on construction or maintenance vehicles engaged in construction or maintenance operations on non-state roadways.

R920-8-6. Visibility.

(1) Flashing amber lighting systems shall meet or exceed the Society of Automotive Engineers (SAE) Class I certification.

(2) Flashing lights shall be positioned on the vehicle so as to not interfere with the ability to see standard vehicle lighting.

(a) Operation of flashing lights must be used in conjunction with standard vehicle lighting.

R920-8-7. Specific Limitations.

For vehicles engaged in highway construction or maintenance operations, not including the Utah Department of Transportation's Incident Management Team units:

- (1) no red light may be visible from the front of a vehicle;
- (2) no flashing white light may be visible from the rear of a vehicle;
- (3) blue lights are prohibited; and
- (4) headlight, taillight, and brake light flashers (wigwags) are prohibited.

R920-8-8. Exceptions.

- (1) When multiple vehicles are engaged in highway construction and maintenance operations, and are concentrated within a small area in a work zone, it is acceptable for those vehicles within the perimeter of vehicles to reduce the intensity or turn off the flashing amber lighting systems and/or supplemental flashing lighting systems to minimize the distractions to motorists and other workers in the work zone.
- (2) Delivery vehicles are not required to have a flashing amber lighting system, but must use vehicle hazard lights when entering or exiting a work zone.

R920-8-9. Recommended Placement Practice.

Flashing amber lighting systems should be placed as high on the vehicle as reasonably capable of being placed.

KEY: flashing lights, highways, construction, maintenance
Date of Enactment or Last Substantive Amendment: 2015
Authorizing, and Implemented or Interpreted Law: 41-6a-1617

Workforce Services, Administration
R982-402-8
 Eligible HEAT Household

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 39441
 FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with and clarify current law.

SUMMARY OF THE RULE OR CHANGE: Section 35A-8-1402 provides that HEAT assistance be available to "low-income families and individuals in the payment of home energy costs". The Department interprets that to mean funds are to reduce an energy burden, restore service, or prevent service from being shut-off. If the funds available to the family or individual are insufficient to prevent shut-off or

restore service, the household is not eligible as it does not meet legislative goals.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-8-1403 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This is a federally-funded program and there are no substantive changes which will impact the costs of the program so there are no costs or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: This is a federally-funded program and there are no substantive changes which will impact the costs of the program so there are no costs or savings to any local government.
- ◆ SMALL BUSINESSES: This is a federally-funded program and there are no substantive changes which will impact the costs of the program so there are no costs or savings to any small business.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs to persons other than small businesses, businesses, or local government 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 for this change to anyone, including persons affected by this change.

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
 ADMINISTRATION
 140 E BROADWAY
 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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Jon Pierpont, Executive Director

R982. Workforce Services, Administration.
R982-402. Energy Assistance Programs Standards.
R982-402-8. Eligible HEAT Household.

- (1) Household members need not be related.
- (2) Multiple dwellings including duplexes and apartment buildings are considered separate households.
- (3) If the HEAT benefit, combined with other available funds, will not prevent shut-off, or reconnect a utility that has already been disconnected, the household will be denied.

KEY: energy assistance, residency requirements, opening and closing dates, HEAT
Date of Enactment or Last Substantive Amendment: [~~October 1, 2014~~2015
Authorizing, and Implemented or Interpreted Law: 35A-8-1403

**Workforce Services, Employment
 Development
 R986-200
 Family Employment Program**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 39439
 FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify procedure, meet an ongoing need, and comply with federal law.

SUMMARY OF THE RULE OR CHANGE: The Department has always allowed clients to verbally request a good cause determination. The current rule provides it must be written. The Department is eliminating that to reflect practice. Federal law requires the Department to recognize Native American specified relatives if the child is Native American even if there is no blood tie between the two. This change is to comply with this federal requirement. Additionally, the Department sees refugee children who are here with an adult but they are either not related or documentation to prove a blood relationship cannot be obtained. The Department will now recognize the adult as a specified relative.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-302(5)(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 applies to federally-funded programs so there are no costs or savings to local governments.
- ♦ **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 persons other than small businesses, businesses, or local government 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 for this change to anyone, including persons affected by this change.

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 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Jon Pierpont, Executive Director

R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-208. Good Cause for Not Cooperating With ORS.

- (1) The Department is responsible for determining if the client has good cause or other exception for not cooperating with ORS.
- (2) To establish good cause for not cooperating, the client must file a ~~written~~ request for a good cause determination and provide proof of good cause within 20 days of the request.
- (3) A client has the right to request a good cause determination at any time, even if ORS or court proceedings have begun.

(4) Good cause for not cooperating with ORS can be shown if one of following circumstances exists:

(a) The child, for whom support is sought, was conceived as a result of incest or rape. To prove good cause under this paragraph, the client must provide:

- (i) birth certificates;
- (ii) medical records;
- (iii) Department records;
- (iv) records from another state or federal agency;
- (v) court records; or
- (vi) law enforcement records.

(b) Legal proceedings for the adoption of the child are pending before a court. Proof is established if the client provides copies of documents filed in a court of competent jurisdiction.

(c) A public or licensed private social agency is helping the client resolve the issue of whether to keep or relinquish the child for adoption and the discussions between the agency and client have not gone on for more than three months. The client is required to provide written notice from the agency concerned.

(d) The client's cooperation in establishing paternity or securing support is reasonably expected to result in physical or emotional harm to the child or to the parent or specified relative. If harm to the parent or specified relative is claimed, it must be significant enough to reduce that individual's capacity to adequately care for the child.

(i) Physical or emotional harm is considered to exist when it results in, or is likely to result in, an impairment that has a substantial effect on the individual's ability to perform daily life activities.

(ii) The source of physical or emotional harm may be from individuals other than the noncustodial parent.

(iii) The client must provide proof that the individual is likely to inflict such harm or has done so in the past. Proof must be from an independent source such as:

(A) medical records or written statements from a mental health professional evidencing a history of abuse or current health concern. The record or statement must contain a diagnosis and prognosis where appropriate;

(B) court records;

(C) records from the Department or other state or federal agency; or

(D) law enforcement records.

(5) If a claim of good cause is denied because the client is unable to provide proof as required under Subsection (4) (a) or (d) the client can request a hearing and present other evidence of good cause at the hearing. If the ALJ finds that evidence credible and convincing, the ALJ can make a finding of good cause under Subsections (4) (a) or (d) based on the evidence presented by the client at the hearing. A finding of good cause by the ALJ can be based solely on the sworn testimony of the client.

(6) When the claim of good cause for not cooperating is based in whole or in part on anticipated physical or emotional harm, the Department must consider:

(a) the client's present emotional health and history;

(b) the intensity and probable duration of the resulting impairment;

(c) the degree of cooperation required; and

(d) the extent of involvement of the child in the action to be taken by ORS.

(7) The Department recognizes no other exceptions, apart from those recognized by ORS, to the requirement that a client cooperate in good faith with ORS in the establishment of paternity and establishment and enforcement of child support.

(8) If the client has exercised his or her right to an agency review or adjudicative proceeding under Utah Administrative Procedures Act on the question of non-cooperation as determined by ORS, the Department will not review, modify, or reverse the decision of ORS on the question of non-cooperation. If the client did not have an opportunity for a review with ORS, the Department will refer the request for review to ORS for determination.

(9) Once a request for a good cause determination has been made, all collection efforts by ORS will be suspended until the Department has made a decision on good cause.

(10) A client has the right to appeal a Department decision on good cause to an ALJ by following the procedures for appeal found in R986-100.

(11) If a parent requests a hearing on the basis of good cause for not cooperating, the resulting decision cannot change or modify the determination made by ORS on the question of good faith.

(12) Even if the client establishes good cause not to cooperate with ORS, if the Department supervisor determines that support enforcement can safely proceed without the client's cooperation, ORS may elect to do so. Before proceeding without the client's cooperation, ORS will give the client advance notice that it intends to commence enforcement proceedings and give the client an opportunity to object. The client must file his or her objections with ORS within 10 days.

(13) A determination that a client has good cause for non-cooperation may be reviewed and reversed by the Department upon a finding of new, or newly discovered evidence, or a change in circumstances.

R986-200-214. Assistance for Specified Relatives.

(1) Specified relatives include:

(a) grandparents;

(b) brothers and sisters;

(c) stepbrothers and stepsisters;

(d) aunts and uncles;

(e) first cousins;

(f) first cousins once removed;

(g) nephews and nieces;

(h) people of prior generations as designated by the prefix grand, great, great-great, or great- great-great;

(i) brothers and sisters by legal adoption;

(j) the spouse of any person listed above;

(k) the former spouse of any person listed above;

(l) individuals who can prove they met one of the above mentioned relationships via a blood relationship even though the legal relationship has been terminated; ~~and~~

(m) former stepparents[:];

(n) a Native American adult who has a Native American child placed in, or living in that adult's home, and both the child and the adult are members of, or eligible for membership in, a federally recognized tribe; and

(o) an adult of the same ethnicity, culture, country of origin, religion, language and/or nationality as the refugee/asylee child in his or her care.

(2) The specified relative must provide proof of relationship to the child. If the specified relative is unable to provide proof, but DCFS has determined that one of the relationships in subparagraph (1) of this section exists, the Department will accept the DCFS determination. DCFS will not be liable for any potential overpayment resulting from a determination made regarding relationship.

(3) The Department shall require compliance with Section 30-1-4.5

(4) A specified relative may apply for financial assistance for the child. If the child is otherwise eligible, ~~the~~FEP rules apply, ~~with the following exceptions:~~

(~~a~~)5) The child must have a blood or a legal relationship to the specified relative even if the legal relationship has been terminated, or have a blood relationship to a dependent child who is in the home and who is included in the household for assistance purposes~~;~~. This does not apply to specified relatives who are eligible under subsection (1)(n) and (o) of this section:

(~~b~~)6) Both parents must be absent from the home where the child lives. This is true even for a parent who has had his or her parental rights terminated;

(~~e~~)7) The child must be currently living with, and not just visiting, the specified relative;

(~~d~~)8) The parents' obligation to financially support their child will be enforced and the specified relative must cooperate with child support enforcement; and

(~~e~~)9) If the parent(s) state they are willing to support the child if the child would return to live with the parent(s), the child is ineligible unless there is a court order removing the child from the parent(s)' home.

(~~5~~)10) If the specified relative is currently receiving FEP or FEPTP, the child must be included in that household assistance unit.

(~~6~~)11) The income and resources of the specified relative are not counted unless the specified relative requests inclusion in the household assistance unit.

(~~7~~)12) If the specified relative is not currently receiving FEP or FEPTP, and the specified relative does not want to be included in the financial assistance payment, the specified relative shall be paid, on behalf of the child, the full standard financial assistance payment for one person. The size of the financial assistance payment shall be increased accordingly for each additional eligible child in the household assistance unit excluding the dependent child(ren) of the specified relative. Since the specified relative is not included in the household assistance unit, the income and assets of the specified relative, or the relative's spouse, are not counted.

(~~8~~)13) The specified relative may request to be included in the household assistance unit. If the specified relative is included in the household assistance unit, the household must meet all FEP eligibility requirements including participation requirements and asset limits.

(~~9~~)14) Income eligibility for a specified relative who wants to be included in the household assistance unit is calculated according to R986-200-241.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: [~~October 1, 2014~~]2015

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

Workforce Services, Unemployment Insurance **R994-312-103** Confidentiality of Records

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39440

FILED: 06/11/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with recently enacted legislation.

SUMMARY OF THE RULE OR CHANGE: H.B. 65 passed during the 2015 General Session provides that the Department can share certain data with the U.S. Department of Labor and instructed the Department to write rules for when the information is shared. This is to effectuate that new legislation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-4-315(5)(p)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally funded program so there are no costs of savings to local government.
- ◆ **SMALL BUSINESSES:** There are no costs or savings to any small businesses as there are no fees associated with this program and it is federally funded.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact the contribution rate of any employer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change.

There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2015

AUTHORIZED BY: Jon Pierpont, Executive Director

R994. Workforce Services, Unemployment Insurance.

R994-312. Employing Units Records.

R994-312-103. Confidentiality of Records.

(1) Employers and individuals have a legitimate expectation of privacy in the information they provide to the Department. Therefore, consistent with federal and state requirements of confidentiality, it is the intent of this rule to limit access to Department records for use in:

(a) administration of the programs of the Department and the other divisions of the Department of Workforce Services;

(b) the detection and avoidance of duplicate or fraudulent claims against public assistance funds, or to avoid significant risk to public safety; and

(c) as specifically mandated by federal or state law. Department records shall not be published or open to public inspection in any manner revealing the employer's or the individual's identity except upon written request which shall set forth one or more of the following reasons for disclosure:

(i) Records used in making an initial determination or any decision by the Department may be provided to all interested parties prior to the rendering of any decision to the extent necessary for the proper presentation of the case.

(ii) Any information requested by employers concerning claims for benefits with respect to former or current employees may be provided where the employer's reason for seeking the information is directly related to the unemployment insurance program. Information in the records may be made available to the party who submitted the information to the Department; and an individual's wage data submitted by an employer may be made available to that individual.

(iii) Information in the record may be made available to the public for any purpose following a written waiver by all parties of their rights to non-disclosure.

(iv) Employment and claim information may be disclosed by the Department to other divisions of the Department of Workforce Services for the purpose of carrying out the programs administered by the Department for the protection of workers in the work place; to the Governor's office and other governmental agencies administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation; and to any other governmental agency which is specifically authorized by federal or state law to receive such information, subject to the requirements of Subsection R994-312-304(2).

(v) Employment and claim information may be disclosed by the Department to any other public employees in the performance of their public duties only upon a determination by the Department that such disclosure will not discourage the willingness of employers to report wage and employment information or individuals to file claims for unemployment benefits, and such disclosure:

(A) is directly related to the detection or avoidance of duplicate, inconsistent or fraudulent claims against public assistance funds, or the recovery of overpayments of such funds; or

(B) is necessary to avoid a significant risk to public safety; and Disclosure pursuant to R994-312-304(1)(vi)(B) shall be subject to the requirements of Subsection R994-312-304(2).

(vi) No disclosure of employment or claim information may be made by the Department other than as set forth above. All requests for information must comply with the requirements and procedures contained in this rule. The Department will request a judicial or administrative body to withdraw any subpoena issued by that body if the subpoena does not conform to the Act and this rule.

(vii) The Department will provide aggregate information to the Wage and Hour Division of the U. S. Department of Labor on certain employers found to have misclassified workers. Once the Department finds that ten or more workers have been misclassified, the employer will be given 90 days from the date of the final audit report to cure the misclassification by resolving any outstanding amounts due, including contributions, interest and penalties. If an employer appeals the audit report, the 90 days runs from the date the final Department decision is issued. An employer can resolve the outstanding amount due by paying it in full, making payment arrangements or making other reasonable efforts to satisfy the outstanding contributions. If an employer does not cure the misclassification within 90 days, the information will be provided to the Wage and Hour Division of the U. S. Department of Labor.

(2) Employment and claim information may be disclosed to the divisions of the Department of Workforce Services, other governmental agencies, and other public employees only upon completion of a written agreement containing all of the following terms and conditions:

(a) The requesting division or agency must specify a bona fide need for the information, and must agree to use the information only to the extent necessary to assist in its valid administrative needs.

(b) The requesting division or agency must identify all agency officials, by position, authorized to request and receive information.

(c) The methods and timing of requests for information must be agreed upon by the Department and the requesting division or agency, and there must be provision for the appropriate

reimbursement of the Department for the costs associated with furnishing the requested information.

(d) The requesting division or agency must agree to implement, at a minimum, the following requirements for safeguarding disclosed information:

(i) the disclosed information may not be used by the requesting division or agency for any purposes not specifically authorized; and

(ii) the information must be stored by the requesting division or agency in a secure place, and electronically stored information must be secured so that unauthorized persons cannot access the information; and

(iii) the requesting division or agency must instruct all persons authorized to request and receive information as to the confidential nature of the information and of the legal sanctions for unauthorized disclosure; and

(iv) the requesting division or agency must permit the Department to make on-site inspections to insure that there is a genuine need for the information, that the information is being used only for that purpose, and that state and federal confidentiality requirements are being met; and

(v) the head of the requesting division or agency must sign a written acknowledgment attesting to the confidentiality requirements of this rule.

KEY: unemployment compensation, confidentiality of information

Date of Enactment or Last Substantive Amendment: [~~April 15, 2014~~2015]

Notice of Continuation: July 1, 2014

Authorizing, and Implemented or Interpreted Law: 35A-4-312

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 help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Natural Resources, Wildlife Resources **R657-6** Taking Upland Game

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39431
FILED: 06/08/2015

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-6 were received since 07/08/2010, 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 R657-6 provides the procedures, standards, and requirements for taking upland game. The provisions adopted in this rule are effective in providing the standards and requirements for taking upland game birds. Continuation of this rule is necessary for continued success of this program.

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: Gregory Sheehan, Director

EFFECTIVE: 06/08/2015

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Administrative Services

Purchasing and General Services

No. 39271 (AMD): R33-26. State Surplus Property

Published: 05/01/2015

Effective: 06/10/2015

Commerce

Consumer Protection

No. 39273 (AMD): R152-1. Utah Division of Consumer

Protection: "Buyer Beware List"

Published: 05/01/2015

Effective: 06/08/2015

Occupational and Professional Licensing

No. 38957 (AMD): R156-61. Psychologist Licensing Act
Rule

Published: 12/15/2014

Effective: 06/15/2015

No. 38957 (CPR): R156-61. Psychologist Licensing Act Rule

Published: 05/01/2015

Effective: 06/15/2015

Education

Administration

No. 39285 (R&R): R277-114. Corrective Action and
Withdrawal or Reduction of Program Funds

Published: 05/01/2015

Effective: 06/08/2015

No. 39286 (AMD): R277-459. Classroom Supplies

Appropriation

Published: 05/01/2015

Effective: 06/08/2015

No. 39287 (AMD): R277-474. School Instruction and Human
Sexuality

Published: 05/01/2015

Effective: 06/08/2015

No. 39288 (AMD): R277-475. Patriotic, Civic and Character
Education

Published: 05/01/2015

Effective: 06/08/2015

No. 39289 (AMD): R277-516-3. Licensed Public Education

Employee Personal Reporting of Arrests

Published: 05/01/2015

Effective: 06/08/2015

No. 39290 (AMD): R277-517-5. Board Disciplinary Actions

Published: 05/01/2015

Effective: 06/08/2015

Environmental Quality

Air Quality

No. 39167 (AMD): R307-110-17. Section IX, Control
Measures for Area and Point Sources, Part H, Emissions
Limits

Published: 04/01/2015

Effective: 06/04/2015

No. 39166 (AMD): R307-110-28. Regional Haze

Published: 04/01/2015

Effective: 06/04/2015

No. 39168 (AMD): R307-210. Stationary Sources

Published: 04/01/2015

Effective: 06/04/2015

NOTICES OF RULE EFFECTIVE DATES

No. 39169 (AMD): R307-214. National Emission Standards for Hazardous Air Pollutants
Published: 04/01/2015
Effective: 06/04/2015

Radiation Control

No. 39277 (AMD): R313-12-3. Definitions
Published: 05/01/2015
Effective: 06/16/2015

No. 39274 (AMD): R313-19-34. Terms and Conditions of Licenses
Published: 05/01/2015
Effective: 06/16/2015

No. 39275 (AMD): R313-24-4. Clarifications or Exceptions
Published: 05/01/2015
Effective: 06/16/2015

No. 39276 (AMD): R313-36-3. Clarifications or Exceptions
Published: 05/01/2015
Effective: 06/16/2015

Health

Family Health and Preparedness, Emergency Medical Services

No. 39265 (AMD): R426-8. Emergency Medical Services Ambulance Rates and Charges
Published: 05/01/2015
Effective: 06/08/2015

Family Health and Preparedness, Licensing

No. 39232 (AMD): R432-725. Personal Care Agency Rule
Published: 04/01/2015
Effective: 06/02/2015

Human Services

Child and Family Services

No. 39284 (AMD): R512-1. Description of Division Services, Eligibility, and Service Access
Published: 05/01/2015
Effective: 06/15/2015

Recovery Services

No. 39262 (NEW): R527-254. Limitations on Collection of Arrears
Published: 05/01/2015
Effective: 06/09/2015

Workforce Services

Employment Development

No. 39261 (AMD): R986-100-113. A Client Must Inform the Department of All Material Changes
Published: 04/15/2015
Effective: 07/01/2015

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, 2015 through June 15, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 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

<p>AMD = Amendment (Proposed Rule) CPR = Change in Proposed Rule EMR = 120-Day (Emergency) Rule EXD = Expired Rule EXP = Expedited Rule EXT = Five-Year Review Extension GEX = Governor's Extension</p>	<p>LNR = Legislative Nonreauthorization NEW = New Rule (Proposed Rule) NSC = Nonsubstantive Rule Change R&R = Repeal and Reenact (Proposed Rule) REP = Repeal (Proposed Rule) 5YR = Five-Year Notice of Review and Statement of Continuation</p>
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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	39033	R&R	03/03/2015	2015-2/4
R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
<u>Finance</u>					
R25-25-7	Travel-Related Reimbursements for State Employees	39160	AMD	04/21/2015	2015-6/10
<u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
R33-26	State Surplus Property	39271	AMD	06/10/2015	2015-9/4
R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
<u>Plant Industry</u>					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39237	5YR	03/24/2015	2015-8/33
R68-12	Quarantine Pertaining to Mint Wilt	39408	5YR	05/21/2015	2015-12/33
R68-22	Industrial Hemp Research	39148	NEW	04/22/2015	2015-6/14
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39223	5YR	03/16/2015	2015-7/57

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-3	General Policies	39156	AMD	04/28/2015	2015-6/16
R81-1-6	Violation Schedule	39158	AMD	04/28/2015	2015-6/18
R81-2-1	Special Orders of Liquor by Public	39154	AMD	04/28/2015	2015-6/22
R81-3-5	Special Orders of Liquor by Public	39155	AMD	04/28/2015	2015-6/23
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39032	AMD	03/26/2015	2015-2/34
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39099	AMD	03/26/2015	2015-4/4
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39363	EMR	05/12/2015	2015-11/171

AUDITOR

Administration

R123-6	Allocation of Money in the Property Tax Valuation Agency Fund	39136	AMD	04/08/2015	2015-5/8
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CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	39025	AMD	02/24/2015	2015-2/41
R131-9	Art and Exhibits	39266	EXD	04/08/2015	2015-9/87

COMMERCE

Administration

R151-4-109	Extension of Time and Continuance of Hearing	39144	AMD	04/10/2015	2015-5/9
R151-14-3	Adjudicative Proceedings	39034	AMD	02/24/2015	2015-2/49

Consumer Protection

R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39281	5YR	04/15/2015	2015-9/83
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39273	AMD	06/08/2015	2015-9/5
R152-39	Child Protection Registry Rules	39282	5YR	04/15/2015	2015-9/83

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R156-17b	Pharmacy Practice Act Rule	39056	5YR	01/05/2015	2015-3/69
R156-17b	Pharmacy Practice Act Rule	39018	AMD	02/24/2015	2015-2/51
R156-20a	Environmental Health Scientist Act Rule	39306	5YR	04/27/2015	2015-10/101
R156-24b-302b	Qualifications for Licensure - Examination Requirements	39092	AMD	03/24/2015	2015-4/9
R156-26a-501	Unprofessional Conduct	39055	AMD	04/02/2015	2015-3/7
R156-28-304	Continuing Professional Education	39233	AMD	05/27/2015	2015-8/6
R156-31b	Nurse Practice Act Rule	39132	AMD	04/07/2015	2015-5/10
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-37	Utah Controlled Substances Act Rule	39015	AMD	02/24/2015	2015-2/80
R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-44a-609	Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah	39176	AMD	05/11/2015	2015-7/2
R156-47b	Massage Therapy Practice Act Rule	38915	AMD	04/21/2015	2014-22/16
R156-47b	Massage Therapy Practice Act Rule	38915	CPR	04/21/2015	2015-6/42

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R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
R156-60d	Substance Use Disorder Counselor Act Rule	38964	AMD	01/22/2015	2014-24/17
R156-61	Psychologist Licensing Act Rule	38957	AMD	06/15/2015	2014-24/19
R156-61	Psychologist Licensing Act Rule	38957	CPR	06/15/2015	2015-9/80
R156-70a-302	Qualification for Licensure - Examination Requirements	39177	AMD	05/27/2015	2015-7/3
R156-71-202	Naturopathic Physician Formulary	39151	AMD	04/21/2015	2015-6/25
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	39298	5YR	04/23/2015	2015-10/102
<u>Real Estate</u>					
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	39249	5YR	03/31/2015	2015-8/33
R162-2c-201	Licensing and Registration Procedures	38999	AMD	02/10/2015	2015-1/8
R162-2e	Appraisal Management Company Administrative Rules	39291	5YR	04/17/2015	2015-10/102
R162-2e-401	Unprofessional Conduct	38971	AMD	01/28/2015	2014-24/26
R162-2f-206	Certification of Continuing Education Course	38972	AMD	01/21/2015	2014-24/28
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<u>Securities</u>					
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<u>Administration</u>					
R277-111	Sharing of Curriculum Materials by Public School Educators	39077	5YR	01/15/2015	2015-3/71
R277-111	Sharing of Curriculum Materials by Public School Educators	39078	AMD	03/10/2015	2015-3/13
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	39335	5YR	05/01/2015	2015-10/104
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	39285	R&R	06/08/2015	2015-9/10
R277-116-1	Definitions	39218	AMD	05/08/2015	2015-7/7
R277-419-9	Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors	39080	EMR	01/15/2015	2015-3/63
R277-459	Classroom Supplies Appropriation	39336	5YR	05/01/2015	2015-10/104
R277-459	Classroom Supplies Appropriation	39286	AMD	06/08/2015	2015-9/12
R277-468	Parent/Guardian Review of Public Education Curriculum and Review of Complaint Process	39079	NEW	03/10/2015	2015-3/14
R277-474	School Instruction and Human Sexuality	39337	5YR	05/01/2015	2015-10/105
R277-474	School Instruction and Human Sexuality	39287	AMD	06/08/2015	2015-9/13
R277-475	Patriotic, Civic and Character Education	39338	5YR	05/01/2015	2015-10/105
R277-475	Patriotic, Civic and Character Education	39288	AMD	06/08/2015	2015-9/16
R277-487	Public School Data Confidentiality and Disclosure	38956	AMD	01/07/2015	2014-23/6
R277-497	School Grading System	39007	AMD	02/09/2015	2015-1/11
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39008	AMD	02/09/2015	2015-1/13
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39219	AMD	05/08/2015	2015-7/8
R277-516-3	Licensed Public Education Employee Personal Reporting of Arrests	39289	AMD	06/08/2015	2015-9/18
R277-517-5	Board Disciplinary Actions	39290	AMD	06/08/2015	2015-9/19

R277-520	Appropriate Licensing and Assignment of Teachers	39371	5YR	05/15/2015	2015-11/185
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R280-200	Rehabilitation	39220	AMD	05/08/2015	2015-7/13
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<u>Administration</u>					
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R307-110-28	Regional Haze	39166	AMD	06/04/2015	2015-7/15
R307-120	General Requirements: Tax Exemption for Air Pollution Control Equipment	38998	AMD	03/05/2015	2015-1/17
R307-165	Emission Testing	39110	5YR	02/05/2015	2015-5/102
R307-201	Emission Standards: General Emission Standards	39111	5YR	02/05/2015	2015-5/103
R307-202	Emission Standards: General Burning	39113	5YR	02/05/2015	2015-5/103
R307-203	Emission Standards: Sulfur Content of Fuels	39112	5YR	02/05/2015	2015-5/104
R307-204	Emission Standards: Smoke Management	39114	5YR	02/05/2015	2015-5/104
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R307-206	Emission Standards: Abrasive Blasting	39116	5YR	02/05/2015	2015-5/105
R307-207	Residential Fireplaces and Solid Fuel Burning Devices	39117	5YR	02/05/2015	2015-5/106
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R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	AMD	02/04/2015	2014-19/44
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	CPR	02/04/2015	2015-1/48
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>abrasive blasting</u>					
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	39256	R850-27	5YR	04/01/2015	2015-8/40
	39295	R850-90	NSC	05/11/2015	Not Printed

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	39243	R597-3-3	AMD	05/27/2015	2015-8/15	
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	39051	R595-4	5YR	01/02/2015	2015-3/73
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	39243	R597-3-3	AMD	05/27/2015	2015-8/15
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School and Institutional Trust Lands, Administration	39295	R850-90	NSC	05/11/2015	Not Printed
<u>land managers</u>					
Environmental Quality, Air Quality	39114	R307-204	5YR	02/05/2015	2015-5/104
<u>landowner permits</u>					
Natural Resources, Wildlife Resources	38995	R657-43	AMD	02/09/2015	2015-1/33
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Environmental Quality, Air Quality	39123	R307-841	5YR	02/05/2015	2015-5/109
	39124	R307-842	5YR	02/05/2015	2015-5/110
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<u>lead-based paint renovation</u>					
Environmental Quality, Air Quality	39123	R307-841	5YR	02/05/2015	2015-5/109
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School and Institutional Trust Lands, Administration	39253	R850-24	5YR	04/01/2015	2015-8/38
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	39254	R850-25	5YR	04/01/2015	2015-8/39
	39255	R850-26	5YR	04/01/2015	2015-8/39
	39256	R850-27	5YR	04/01/2015	2015-8/40
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	39132	R156-31b	AMD	04/07/2015	2015-5/10
	38981	R156-31b-202	AMD	01/22/2015	2014-24/13
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	39015	R156-37	AMD	02/24/2015	2015-2/80
	39020	R156-37f-102	AMD	02/24/2015	2015-2/84
	39176	R156-44a-609	AMD	05/11/2015	2015-7/2
	38915	R156-47b	AMD	04/21/2015	2014-22/16
	38915	R156-47b	CPR	04/21/2015	2015-6/42
	39238	R156-47b-302a	AMD	05/28/2015	2015-8/7
	38979	R156-60a	AMD	01/22/2015	2014-24/15

	38964	R156-60d	AMD	01/22/2015	2014-24/17
	38957	R156-61	AMD	06/15/2015	2014-24/19
	38957	R156-61	CPR	06/15/2015	2015-9/80
	39177	R156-70a-302	AMD	05/27/2015	2015-7/3
	39151	R156-71-202	AMD	04/21/2015	2015-6/25
	39298	R156-83	5YR	04/23/2015	2015-10/102
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	39363	R105-1	EMR	05/12/2015	2015-11/171
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	39073	R58-11	5YR	01/13/2015	2015-3/67
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<u>MACT</u>					
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	39150	R918-7	AMD	04/23/2015	2015-6/36
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	39238	R156-47b-302a	AMD	05/28/2015	2015-8/7

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	39005	R414-19A	AMD	02/18/2015	2015-1/24
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	38984	R414-310-7	AMD	02/01/2015	2014-24/32

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	39161	R392-600	NEW	05/01/2015	2015-6/27

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minimum sizing

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<u>multiple stage bidding</u>						
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<u>NESHAP</u>						
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	38980	R156-31b-609	AMD	01/22/2015	2014-24/14	
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	39363	R105-1	EMR	05/12/2015	2015-11/171
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	39166	R307-110-28	AMD	06/04/2015	2015-7/15
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	39124	R307-842	5YR	02/05/2015	2015-5/110
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	39089	R651-634	5YR	01/22/2015	2015-4/39
	39141	R651-635	5YR	02/12/2015	2015-5/113
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<u>peer review</u>					
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