

# UTAH STATE BULLETIN

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

The *Utah State Bulletin (Bulletin)* is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.state.ut.us/>

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# SPECIAL NOTICES

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## EXECUTIVE ORDER

**Whereas**, in 1866 the United States Congress passed a law, commonly known as R.S. 2477, which granted a right for the construction of roads over public lands;

**Whereas**, R.S. 2477 was instrumental in facilitating and promoting the settlement of the West;

**Whereas**, in reliance upon the authority of, and the property interest granted by, R.S. 2477, thousands of miles of roads were established in the state of Utah;

**Whereas**, approximately 6,000 R.S. 2477 rights-of-way exist nationally, 5,000 of which are in Utah;

**Whereas**, these rights-of-way are a crucial means of access to property within the state and have been essential for ranching and other traditional activities for more than a century;

**Whereas**, Congress repealed R.S. 2477 effective October 21, 1976, although the repealer could not affect existing rights-of-way because they were vested property rights;

**Whereas**, because R.S. 2477 granted rights-of-way by operation of law and without the necessity of notice to the federal government, documentation for the rights-of-way is sometimes lacking or questionable;

**Whereas**, in recent years, federal agencies have acknowledged the theoretical existence of R.S. 2477 rights-of-way but have been unwilling to identify specific roads as R.S. 2477 rights-of-way or to specify the scope of the rights-of-way necessary for use, maintenance, and improvement;

**Whereas**, attempts to negotiate a greater level of certainty and a recognition of these rights-of-way have not born fruit;

**Whereas**, the state of Utah holds with the counties of Utah the joint and undivided title to R.S. 2477 rights-of-way in this state;

**Whereas**, the Legislature, in its 2000 general session, made possible an annual appropriation of up to \$2 million to fund the resolution of this question, by litigation if necessary;

**Whereas**, the state and its counties have agreed to move forward jointly to assert, defend, and litigate their rights under R.S. 2477;

**Whereas**, the partnership between the state and its counties is an unprecedented, cooperative effort that presents an ideal opportunity to resolve these issues;

**Whereas**, a massive, statewide quiet title action, while requiring a tremendous effort, will introduce a new dynamic into the effort to achieve certainty about the future of public lands in Utah;

**Now, Therefore**, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and laws of the State of Utah, hereby order as follows:

1. The attorney general shall file appropriate documents to put the federal government on notice that the state and its political subdivisions intend to quiet title to R.S. 2477 rights-of-way throughout the state.

2. The attorney general shall gather evidence, in partnership with the counties, and prepare and file a quiet title action after the expiration of the required six-month notice.

**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 State Capitol in Salt Lake City, Utah, this 5th day of May, 2000.

(State Seal)

**Michael O. Leavitt**  
**Governor**

Attest:

**Olene S. Walker**  
**Lieutenant Governor**

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**EXECUTIVE ORDER**

**Whereas**, severe drought conditions exist and continue to worsen in San Juan County, Utah, and present a serious threat to human life, private property, agriculture and the economy; and

**Whereas**, the current drought conditions have and will continue to cause adverse effects to agricultural producers, the tourism industry and threatens the culinary water needs of the residents of San Juan county; and

**Whereas**, there are fire restrictions currently in place and more restrictive conditions are anticipated in the near future; and

**Whereas**, the potential for wildfires throughout the entire State of Utah is very high and the threat is increasing as drought conditions persist and may require additional firefighting resources which are expected to be very limited due to high fire potential throughout the western part of the United States; and

**Whereas**, the forecast for continuing and worsening drought in San Juan County and the State of Utah are not expected to change in the near future; and

**Whereas**, the situation has the potential to greatly worsen if left unattended; and

**Whereas**, immediate action is required to protect public health and safety, public and private property, agriculture and the environment; and

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

**Now Therefore**, I, Michael O. Leavitt, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah,

**Do Hereby Order That:** It is found, determined and declared that a "State of Emergency" exists due to the aforesaid drought conditions and wildfire potential in San Juan County and is declared to be a disaster requiring aid, assistance and relief available pursuant to the provisions of the state statutes, and the State Emergency Operations Plan, which is hereby activated.



**In Testimony, Whereof**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 28th day of June, 2000.

(State Seal)

**Michael O. Leavitt**  
**Governor**

Attest:

**Olene S. Walker**  
**Lieutenant Governor**

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**EXECUTIVE ORDER**

**Whereas**, the danger from wildland fires is extremely high throughout the State of Utah; and

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

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

**Whereas**, immediate action is required to suppress the fires to protect public safety, property, natural resources and the environment; and

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

**Now, Therefore**, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah;

**Do Hereby Order That:** It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 30, 2000, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**In Testimony, Whereof**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 30th day of June, 2000.

(State Seal)

**Michael O. Leavitt**  
**Governor**

Attest:

**Olene S. Walker**  
**Lieutenant Governor**

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**PROCLAMATION**

**WHEREAS**, since the close of the 2000 General Session of the 53rd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

**NOW, THEREFORE, I, MICHAEL O. LEAVITT**, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 53rd Legislature of the State of Utah into an Eleventh Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 12th day of July, 2000, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2000 General Session of the 53rd Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 27th day of June, 2000.

(STATE SEAL)

**MICHAEL O. LEAVITT**  
Governor

**OLENE S. WALKER**  
Lieutenant Governor

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**DEPARTMENT OF WORKFORCE SERVICES**

**PUBLIC NOTICE**  
**CHANGES IN THE FAMILY EMPLOYMENT PROGRAM CONCERNING**  
**TIME LIMITS (20% RULE)**

The Department of Workforce Services published two rule changes in the March 15, 2000, issue of the *Utah State Bulletin* concerning extensions to the Family Employment Program time limit (DAR No. 22689 and DAR No. 22690). In essence, both changes taken together have come to be known as the "20% rule." The Department of Workforce Services was urged to make changes to the proposed "20% rule" at a public hearing held on April 3, 2000. The incorporation of those changes resulted in a major re-write of the "20% rule."

In fairness to the public, the Department has determined that another public hearing should be held on the changes made in response to the concerns voiced at the last public hearing. Since the Department was in the process of re-writing all the rules for the public assistance programs administered by the Department, the Department will publish the new changes to the "20% rule" together with all of the other rewritten rules, within the next 45 days. The proposed rule changes which were published in the March 15, 2000, *Bulletin* are being allowed to lapse (as of July 13, 2000).

*Questions regarding these changes may be directed to Suzan Pixton at Workforce Services, Employment Development, Second Floor, 140 East 300 South, PO Box 45244, Salt Lake City, UT 84145-0244, or by phone at (801) 526-9645, by FAX at (801) 526-9244, or by Internet E-mail at [wsadmpo.spixton@state.ut.us](mailto:wsadmpo.spixton@state.ut.us).*

## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 16, 2000, 12:00 a.m., and June 30, 2000, 11:59 p.m., are included in this, the July 15, 2000, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least August 14, 2000. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through November 12, 2000, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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

Administrative Services, Fleet  
Operations  
**R27-1**  
Definitions

**NOTICE OF PROPOSED RULE**

(New)

DAR FILE NO.: 22977

FILED: 06/26/2000, 12:52

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To give definition to words and phrases used in the agency rules.

SUMMARY OF THE RULE OR CHANGE: Explains terms used in the agency rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-9-401

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will cause no cost to the state budget due to the fact that the rule is definitions only.
  - ❖ LOCAL GOVERNMENTS: This rule will cause no cost to local government due to the fact that the rule is definitions only.
  - ❖ OTHER PERSONS: This rule will cause no cost to any persons due to the fact that the rule is definitions only.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule as it is definitions only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is an accurate interpretation of the terms used throughout DFO's proposed rules as well as the rules already in effect.

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

Administrative Services  
Fleet Operations  
4120 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alison Taylor at the above address, by phone at (801) 538-3306, by FAX at (801) 538-1773, or by Internet E-mail at ataylor@fo.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Steve Saltzgeber, Director

**R27. Administrative Services, Fleet Operations.**

**R27-1. Definitions.**

**R27-1-1. Authority.**

(1) Pursuant to Section 63A-9-401 the Department of Administrative Services is responsible for establishing rules regarding the State fleet.

**R27-1-2. Definitions.**

(1) "Accident" means any vehicular occurrence, in which a state-owned vehicle or personal vehicle, being used to conduct state business, regardless of total cost of damage repair. May also be referred to as an incident.

(2) "Agency" as used in this rule is the same as found in Subsections 63A-9-101.1(a), 63A-9-101.1(b), and 63A-9-101.1(c).

(3) "Agency Motor Vehicle Policy (AMV)" refers to the policy that covers agency-specific needs that are not addressed by state vehicle rules. Agencies shall not adopt policies which are less restrictive than the state vehicle rules.

(4) "Alternative Fuel Vehicle (AFV)" refers to a vehicle either designed and manufactured by an original equipment manufacturer or a converted vehicle designed to operate in either a dual-fuel, flexible-fuel, or dedicated modes on fuels other than gasoline or diesel. Examples of alternative fuel types are electricity, bio-diesel, fossil-fuel hybrids, compressed natural gas, propane, hydrogen, methanol, ethanol, and any other vehicle fuel source approved by the Federal government's Department of Energy (DOE). AFVs shall be tracked in the division's fleet system.

(5) "Authorized Carrier" means a common or contract carrier connected with the freight business that is regulated by the Public Service Commission or the Interstate Commerce Commission or successor agencies.

(6) "Authorized Driver" is a current state officer, employee, volunteer or their designee who is conducting state business and who holds a valid driver license in accordance with the vehicle type that will be operated. Authorized Drivers may also be referred to as operator, employee or customer.

(7) "Authorized Passenger" is any person or animal that has been pre-approved by department head to accompany the driver or designee.

(8) "Commuter Use" refers to an employee driving a state-owned vehicle from the employee's place of business to the employee's place of residence, until the start of the next business day for more than five calendar days per month.

(9) "Computerized Automotive Resource System (CARS)" refers to the Division of Fleet Operations', modular-based, fleet information tracking system.

(10) "Compressed Natural Gas Vehicle (CNG)" refers to a vehicle which is fueled by compressed natural gas.

(11) "Department" is the Department of Administrative Services.

(12) "Division" is the Division of Fleet Operations.

(13) "Emergency Vehicle" refers to state-owned fire personnel vehicles, medical assistance vehicles and police vehicles.

(14) "Expansion vehicle" is a vehicle purchased when an agency requires an additional vehicle in order to complete the duties assigned to the requesting agency and will increase the size of the state fleet.

(15) "Extreme Duty Vehicle" includes, but is not limited to, emergency vehicles and vehicles driven primarily off-road or in dirty conditions.

(16) "Central Fleet" is all Division of Fleet Operations managed vehicles.

(17) "Fixed costs" are the cost of capital, licensing, overhead, depreciation, replacement, betterments, insurance, title and registration fees.

(18) "FO number" refers to a vehicle specific number assigned to each state-owned vehicle for tracking purposes.

(19) "Fuel Network" is the state program that provides an infrastructure of fueling, maintenance and repair facilities for the care of state vehicles.

(20) "Heavy-duty Vehicle" refers to motor vehicles greater than 10,000 Gross Vehicle Weight Range (GVWR). This classification of vehicle includes licensed, non-licensed, off-road and construction type vehicles greater than 10,000 GVWR. Heavy-duty vehicles shall be tracked in the divisions' fleet tracking system.

(21) "Light-duty Vehicle" refers to motor vehicles between 3,000 GVWR and 10,000 GVWR. Light-duty vehicles shall be tracked in the divisions' fleet tracking system.

(22) "Miscellaneous Equipment" includes non-fleet-related equipment such as transits, surveying equipment, traffic counters, semaphores, and diagnostic related equipment. Such items are not required to be tracked with the division's system, but they may be tracked at the option of each agency and with the approval of the division.

(23) "Motorized Equipment" are small utility vehicles or specialized equipment less than 3,000 GVWR used to perform routine tasks in a specific, controlled or confined work environment. The vehicles include, but are not limited to the following examples: golf carts; all terrain vehicles (ATVs); lawn mowers; farm tractors; snowmobiles; motorized rubber rafts; motorized carts; boats; weed-trimmers; trenchers; compressors; snow-blowers; pallet-jacks; forklifts; and generators. Such items are not required to be tracked with the division's system, but they may be tracked at the option of each agency and with the approval of the division.

(24) "Motor Pool" is the program within the Department of Administrative Services, Fleet Operations, which is responsible for all motor vehicles owned or leased by an agency on a daily basis.

(25) "Motor Vehicle" as used in this rule is the same as found in Subsections 63A-9-101.6(a) and 63A-9-101.6(b).

(26) "Motor Vehicle Review Committee (MVRC)" refers to the panel which oversees the Division of Fleet Operations (DFO) and duties are as specified in Section 63A-9-302.

(27) "Non-Preventable Accident" is defined by the National Safety Council as any occurrence involving an accident/incident in which everything that could have been reasonably done to prevent it was done and the accident/incident still occurred. Non-preventable accidents shall include vandalized state-owned vehicles or personal vehicles, being used to conduct state business.

(28) "Official University Business" refers to authorized activities in which university employees (faculty or staff), students or designated agents related to approved programs or functions of

the universities, colleges, departments, operating units and related organizations may use a state-owned vehicle.

(29) "Other Equipment" is used as a category on the state vehicle report to group vehicles and equipment not specifically identified in a standard reporting category.

(30) "Personal Use" is the use of a state-owned vehicle to conduct an employee's personal affairs, not related to state business.

(31) "Preventable Accident" is defined by the National Safety Council as any occurrence involving a company, or in this case a state-owned vehicle, which results in property damage and/or personal injury, regardless of who was injured, what property was damaged, to what extent, or where it occurred, in which the authorized driver in question failed to do everything that could have reasonably been done to prevent it.

Preventable accidents are not limited to collisions, it also includes damage to the interior of the state-owned vehicle due to improperly locked doors, smoke or burn damage caused by smoking in the vehicle or lack of general care of the vehicles interior.

(32) "Preventive Maintenance (PM)" refers to vehicle services which include lube, oil and filter changes conducted at regular time intervals to deter mechanical breakdowns.

(33) "Regular Duty Vehicle" is a vehicle that is driven primarily on paved roads under normal driving conditions.

(34) "Replacement cycle" means the criteria established to determine when the replacement of a state-owned vehicle is necessary. A replacement cycle is established according to vehicle type and use.

(35) "Replacement vehicle" refers to a vehicle purchased to replace a state-owned vehicle which has met replacement cycle criteria.

(36) "Required State Vehicle" includes all Light-duty, Heavy-duty, replacement vehicles, and Alternative Fuel Vehicles (AFV) owned, operated, or in the possession of a state agency.

(37) "Service Level Agreement (SLA)" refers to an agreement, signed annually, between an agency and DFO in which the agency agrees to follow all rules, policies and procedures published by DFO concerning the use of state-owned vehicles. This document also clearly defines the level of service between DFO and agencies.

(38) "State of Utah Fuel Card" refers to a credit card issued to vehicles by the fuel network program, to be used when purchasing fuel, fluids, wiper blades, car washes, preventive maintenance and minor repairs which cost less than \$250, unless otherwise authorized.

(39) "State-owned vehicle" as used in this rule is the same as found in Section 63A-9-101.7.

(40) "Unique Equipment" refers to high-cost vehicles and equipment such as trains; locomotives; airplanes; jets; mobile power stations; and helicopters. Unique equipment shall be tracked with the fleet system.

(41) "Variable costs" include, but are not limited to fuel, oil, tires, services, repairs, maintenance and preventive maintenance.

(42) "Vehicle Identification Number (VIN)" refers to the number issued by the vehicle manufacturer to identify the vehicle in the event of a theft; this number can be found on the driver's side of the dashboard below the windshield.

(43) "Vendor" refers to the person or persons offering sales or services for state-owned vehicles, such as preventive maintenance or repair services.

**KEY: definitions**  
**2000**

**63A-9-401**

◆ ----- ◆  
**Health, Health Systems Improvement,  
Health Facility Licensure  
R432-100-33  
Medical Records**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 22976  
FILED: 06/23/2000, 00:01  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 1998, the legislature amended Section 26-10-6. This amended law requires hearing tests for newborns and established time frames for implementation. Section R432-100-33 (Medical Records) did not reflect the statutory change. This rulemaking corrects that omission and clarifies the hospital's responsibility to perform and document the results of newborn hearing screening.  
**(DAR Note:** S.B. 40 is found at 1998 Utah Laws 162, and was effective July 1, 1998.)

SUMMARY OF THE RULE OR CHANGE: The rule requires that medical records for newborn infants shall contain the record and results of the newborn hearing screening.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21; and Section 26-10-6

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: It is not anticipated that there will be an additional cost to the state. The cost for printing and disseminating rules can be borne within the current budget.
- ❖LOCAL GOVERNMENTS: The requirement for the hearing screening is in statute and other rule. This rule only applies to the record keeping of the results of that screening. Local governments that operate hospitals will experience an annual cost of \$5 per infant based on the number of children born annually to meet the requirements of this amendment.
- ❖OTHER PERSONS: This rule may impose an indirect cost to families of newborn infants. The costs due to this amendment are limited to the incremental cost that hospitals may pass on to them for keeping the screening results in the infants' records. The cost is estimated to be \$225,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Hospitals will incur an estimated annual cost of \$225,000 to comply with this amendment. An individual will incur an estimated cost of \$5 for each newborn infant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in rule is

necessary to conform to statute. The costs to hospitals and individuals is minimal compared to the benefit of early diagnosis of hearing deficits--Rod L. Betit

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

Health  
Health Systems Improvement,  
Health Facility Licensure  
Cannon Health Building  
288 North 1460 West  
PO Box 142003  
Salt Lake City, UT 84114-2003, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Debra Wynkoop at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or by Internet E-mail at [dwynkoop@doh.state.ut.us](mailto:dwynkoop@doh.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

**R432. Health, Health Systems Improvement, Health Facility Licensure.**

**R432-100. General Hospital Standards.**

**R432-100-33. Medical Records.**

(1) The hospital shall establish a medical records department or service that is responsible for the administration, custody and maintenance of medical records.

(a) The administrative direction of the department shall be established by the hospital administrator and correspond to the organizational structure and policies of the hospital.

(b) The medical records department shall retain the technical services of either a Registered Records Administrator (RRA) or an Accredited Records Technician (ART) through employment or consultation. If retained by consultation, visits shall be at least quarterly and documented through written reports to the hospital administrator.

(2) The medical records department shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.

(a) Medical records shall be available for use or review by members of the medical and professional staff; authorized hospital personnel and agents; persons authorized by the patient through a consent form; and Department representatives to determine compliance with licensing rules.

(b) Medical records may be stored in multiple locations providing the record is able to be retrieved or accessed in a reasonable time period.

(c) If computer terminals are utilized for patient charting, the hospital shall have policies governing access and identification codes, security, and information retention.

(d) The hospital medical record shall be indexed according to diagnosis, procedure, demographic information and physician or licensed health practitioner. The indexes shall be current within six months following discharge of the patient.

(e) Original medical records are the property of the hospital and shall not be removed from the control of the hospital or the hospital's agent as defined by policy except by court order or subpoena.

(f) Medical records for persons who have received or requested admission to alcohol or drug programs shall comply with 42 CFR Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records."

(3) All medical record entries shall be legible, complete, authenticated, and dated by the person responsible for ordering the service, providing or evaluating the service, or making the entry. Prepared transcriptions of dictated reports, evaluations and consultations must be reviewed by the author before authentication.

(a) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.

(b) Use of computer key or other methods to identify the author of a medical record entry is not assignable or to be delegated to another person.

(c) There shall be a current list of persons approved to use these methods of authentication. Hospital policies shall include appropriate sanctions for the unauthorized or improper use of computer codes.

(d) Verbal orders for the care and treatment of the patient shall be accepted and transcribed by qualified personnel and authenticated as stated in hospital policy.

(4) Patient records shall be organized according to hospital policy.

(a) Medical records shall be reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy.

(b) Records of discharged patients shall be collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge.

(c) Medical records shall be retained for at least seven years. Medical records of minors shall be kept until the age of eighteen plus four years, but in no case less than seven years.

(d) Medical records may be destroyed after being retained the minimum length of time, according to hospital policy. Prior to destruction of the record, the following information shall be extracted and retained:

(i) patient name, medical record number, next of kin, date of birth, admission and discharge date(s); and,

(ii) the name of attending physician(s), admitting and discharge diagnoses, surgical procedures(s) and pathological and diagnostic findings.

(e) If a hospital ceases operation, the hospital shall make provision for secure, safe storage and prompt retrieval of all medical records, patient indexes and discharges for the period specified in R432-2-14. The hospital may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.

(5) A complete medical record shall be established and maintained for each patient admitted to, or who receives hospital

services. Emergency and outpatient records shall document the service rendered, and shall contain other pertinent information in accordance with hospital policy.

(a) Each medical record shall contain patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and next of kin.

(b) Each medical record shall contain initial or admitting medical history, physical and other examinations or evaluations. Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status.

(c) Each medical record shall contain admitting, secondary and principal diagnoses.

(d) Each medical record shall contain results of consultative evaluations and findings by persons involved in the care of the patient.

(e) Each medical record shall contain documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia.

(f) Each medical record shall contain properly executed informed consent documents for all procedures and treatments ordered for, and received by, the patient.

(g) Each medical record shall document that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Personal Choice and Living Will Act, UCA 75-2-1102.

(h) Each medical record shall contain all practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs and other information that documents the patient condition and status.

(i) Each medical record shall contain a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.

(j) Medical records of deceased patients shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form which has been approved by the Utah Department of Health as required by Section 26-28-6, UCA.

(k) Medical records of surgical patients shall contain a pre-operative history and physical examination; surgeon's diagnosis; an operative report describing a description of findings; an anesthesia report including dosage and duration of all anesthetic agents and all pertinent events during the induction, maintenance, and emergence from anesthesia; the technical procedures used; the specimen removed; the post-operative diagnosis; and the name of the primary surgeon and any assistants written or dictated by the surgeon within 24 hours after the operation.

(l) Medical records of obstetrical patients shall contain a relevant family history, a pre-natal examination, the length of labor and type of delivery with related notes, the anesthesia or analgesia record, the Rh status and immune globulin administration when indicated, a serological test for syphilis, and a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.

(m) Medical records of newborn infants shall contain the following documentation in addition to the requirements for obstetrical medical records:

(i) Documentation must include a copy of the mother's delivery room record. In adoption cases where the identity of the mother is confidential, inclusion and access to the mother's delivery room record shall be according to hospital policy.

(ii) Documentation must include the date and hour of birth, period of gestation, sex, reactions after birth, delivery room care, temperature, weight, time of first urination, and number, character, and consistency of stools.

(iii) Documentation must include a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in R398-1.

(iv) If the infant is discharged to any person other than the infant's parents, the hospital shall record the authorization by the parents, state agency, or court authority. and

(v) Documentation of the record and results of the newborn hearing screening according to Section 26-10-6, UCA.

(n) Emergency department patient medical records shall be integrated into the hospital medical record and include time and means of arrival, emergency care given to the patient prior to arrival, history and physical findings, lab and x-ray reports, diagnosis, record of treatment, and disposition and discharge instructions.

(o) Patient medical social services records shall include a medical-social or psycho-social study of referred inpatients and outpatients; the financial status of the patient, social therapy and rehabilitation of patients, environmental investigations for attending physicians, and cooperative activities with community agencies.

(p) Medical records of patients receiving rehabilitation therapy shall include a written plan of care appropriate to the diagnosis and condition, a problem list, and short and long term goals.

(6) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.

(7) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. The medical records department shall report vital statistics data in accordance with the Vital Statistics Act, Utah Health Code, (26-2, UCA).

**KEY: health facilities**

~~[April 7, 1999]~~2000

Notice of Continuation December 15, 1997

26-21-5

26-21-2.1

26-21-20



**Natural Resources, Wildlife Resources**

**R657-6**

**Taking Upland Game**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22972

FILED: 06/22/2000, 11:39

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings

conducted annually for taking public input and reviewing the division's upland game program.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to comply with federal regulations in taking upland game birds on or over lands or areas that are not otherwise baited areas. Provisions are added to provide ptarmigan, band-tailed pigeon, sage grouse, and sharp-tailed grouse permits free of charge from division offices. Application procedures for sharp-tailed grouse permits is being deleted, and provisions of this rule are being amended to clarify and make consistent application and drawing procedures for wild turkey permits. A provision is added to provide that any person hunting upland game species while on a temporary game preserve may not use or possess broadheads, unless that person possesses a valid big game permit. Also, this amendment allows a person to register online to obtain his or her Migratory Game Bird Harvest Information Program registration number. Other changes are being made for consistency and clarity.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 20 (1999)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment provides additional hunting opportunities, and clarifies the procedures and requirements for obtaining permits and hunting upland game species. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget.

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

❖OTHER PERSONS: The amendments provide additional hunting opportunities and provide procedures and requirements for obtaining permits to hunt upland game species; therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing procedures for obtaining upland game species permits. The DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

Natural Resources  
Wildlife Resources



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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: John Kimball, Director

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

**R657-6. Taking Upland Game.**

**R657-6-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, [~~1998~~1999] edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

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

**R657-6-2. Definitions.**

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

(2) In addition:

(a) [~~"Baited area"~~]"Bait" means [~~any area where-~~]shelled, shucked or unshucked corn, wheat or other grain, salt[~~;- or other feed whatsoever capable of luring, attracting, or enticing migratory and upland game birds is directly or indirectly~~] or other feed that lures, attracts or entices birds.

(b) "~~Baited area~~" means any area on which shelled, shucked or unshucked corn, wheat or other grain, salt or other feed has been placed, exposed, deposited, distributed[~~;- or scattered, and such area shall remain a baited area for ten days following complete removal of all such corn, wheat,;~~] or scattered, if that shelled, shucked or unshucked corn, wheat or other grain, salt[~~;- or other feed:~~

~~(b)] or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take migratory game birds. Any such area will remain a baited area for ten days following the complete removal of all such shelled, shucked or unshucked corn, wheat or other grain, salt or other feed.~~

(c) "Baiting" means the direct or indirect placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat[~~;~~] or other grain, salt[~~;~~] or other feed [~~so as to constitute~~]that could serve as a lure[~~;~~] or attraction [or

~~enticement]~~for migratory game birds to, on, or over any [area]areas where hunters are attempting to take migratory [~~and upland~~]game birds.

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

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

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

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

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

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

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

(iii) a migratory bird preservation facility; or

(iv) a post office or common carrier facility.

(~~f~~)(i) "Immediate family" means the landowner's spouse, children, father, mother, brother, sister, stepchildren and grandchildren.

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

(~~f~~)(k) "Migratory game bird" means, for the purposes of this rule, mourning dove, band-tailed pigeon, and sandhill crane.

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

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

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

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

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

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

(~~f~~)(r) "Upland game" means pheasant, quail, chukar partridge, Hungarian partridge, sage grouse, ruffed grouse, blue grouse, sharp-tailed grouse, cottontail rabbit, snowshoe hare, white-tailed ptarmigan, wild turkey, and the following migratory game birds: mourning dove, band-tailed pigeon, and sandhill crane.

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

(1) A person must obtain a Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds (mourning dove, band-tailed pigeon and sandhill crane).

(2)(a) A person ~~[must]~~ may call 1-800-WETLAND (1-800-938-5263) or register online at [www.nr.state.ut.us/dwr/dwr.htm](http://www.nr.state.ut.us/dwr/dwr.htm) to obtain their HIP registration number. Use of a public pay phone will not allow access to 1-800-WETLAND.

(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 code key;
- (c) name;
- (d) address;
- (e) phone number;
- (f) birth date; and

~~[(f)]~~(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.

**R657-6-4. Permits for Ptarmigan~~[-and]~~, Band-tailed Pigeon, Sage Grouse and Sharp-tailed Grouse.**

(1) A person may not take or possess:

- (a) ptarmigan without first obtaining a ptarmigan permit;~~[-or]~~
- (b) band-tailed pigeon without first obtaining a band-tailed pigeon permit~~[-];~~

~~[(2) Ptarmigan and band-tailed pigeon permits are]~~(c) sage grouse without first obtaining a sage grouse permit; or

(d) sharp-tailed grouse without first obtaining a sharp-tailed grouse permit.

(2)(a) There will be 663 two-bird, sharp-tailed grouse permits available.

(b) The sharp-tailed grouse permit will be available on a first-come, first-served basis.

(3)(a) Ptarmigan, band-tailed pigeon, sage grouse and sharp-tailed grouse permits will be available from Division offices and through the mail, by the first week in August, free of charge.

**R657-6-5. Application Procedure for Sandhill Crane.**

(1)(a) Applications ~~[are]~~ will be available from Division offices and license agents. Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for sandhill crane is published in the proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the upland game proclamation may be rejected.~~[Late applications will be returned unopened.]~~

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

(3)(a) Late applications will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

- (i) future pre-printed applications;
- (ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of Division or third-party errors.

(b) The handling fee will be used to process the late application. Any license or Wildlife Habitat Authorization fees submitted with the application will be refunded.

(4) Group applications for sandhill crane will not be accepted.  
~~[(4)(a)]~~(5)(a) A person may obtain only one sandhill crane permit each year.

(b) A person may not apply more than once annually.

~~[(5)]~~(6) Each application must include:

- (a) a \$5 nonrefundable handling fee;
- (b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;

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

~~[(6)]~~(7) A Wildlife Habitat Authorization and a small game license or combination license may be purchased before applying, or the Wildlife Habitat Authorization and small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

~~[(7)(a)]~~(8)(a) Personal checks, money orders, cashier's checks and credit cards are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

~~[(8)]~~(9) The date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.

~~[(9)]~~(10) Any permits remaining after the drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

(11) To apply for a resident permit or license, a person must establish residency at the time of purchase.

(12) The posting date of the drawing shall be considered the purchase date of a permit.

**R657-6-6. Application Procedure~~[-for Sharp-Tailed Grouse]~~, Waiting Period and Bonus Points for Wild Turkey.**

(1)(a) Applications are available from Division offices and license agents. Applications must be mailed by the date prescribed in the ~~[proclamation]~~ Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for ~~[sharp-tailed grouse]~~ wild turkey is published in the ~~[proclamation]~~ Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the ~~[upland game proclamation may be rejected. Late applications will be returned unopened.]~~ Turkey Addendum to the Upland Game Proclamation may be rejected.

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

(3)(a) Late applications will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

(i) future preprinted applications;  
 (ii) notification by mail of late application and other draw opportunities; and

(iii) reevaluation of division and third party errors.  
 (b) The \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

~~(4)(a) Group applications for [sharp-tailed grouse are not accepted.]wild turkey will not be accepted.~~

~~[(4)(a)](b) Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.~~

~~(5)(a) A person may obtain only one [sharp-tailed grouse permit each year.]wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit.~~

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

~~[(5) Each application must include:~~

~~(a) a \$5 nonrefundable handling fee;~~

~~(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;~~

~~(c) the small game or combination license fee, if it has not yet been purchased;](c) A turkey permit allows a person using any legal weapon to take one male turkey within the area and season specified on the permit.~~

(6) A Wildlife Habitat Authorization and [a-]small game license or combination license may be purchased before applying[;] or the Wildlife Habitat Authorization and small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

~~(7)](a) Each application must include:~~

~~(a) the \$5 nonrefundable handling fee;~~

~~(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;~~

~~(c) the small game or combination license fee, if it has not yet been purchased; and~~

~~(d) the wild turkey permit fee.~~

(8)(a) Personal checks, money orders, cashier's checks and credit cards are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

~~[(8) The date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.~~

~~(11) Any permits remaining after the drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.~~

**~~R657-6-7. Application Procedure, Waiting Period and Bonus Points for Wild Turkey.~~**

~~(1)(a) Applications are available from Division offices and license agents. Applications must be mailed by the date prescribed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.~~

~~(b) Residents and nonresidents may apply.~~

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

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

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

~~(3)(a) Late applications will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:~~

~~(i) future preprinted applications;~~

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

~~(iii) reevaluation of division and third party errors.~~

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

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

~~(b) Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.~~

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

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

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

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

~~(7) Each application must include:~~

~~(a) the \$5 nonrefundable handling fee;~~

~~(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;~~

~~(c) the small game or combination license fee, if it has not yet been purchased; and~~

~~(d) the wild turkey permit fee.~~

~~(8)(a) Personal checks, money orders, cashier's checks and credit cards are accepted.~~

~~(b) Personal checks drawn on an out-of-state account are not accepted.~~

~~(c) Credit cards must be valid at least 30 days after the drawing results are posted.~~

~~(d) Handling fees shall be charged to the credit card when the application is processed.~~

~~(e) An application is voidable if the check is returned unpaid from the bank, or the credit card is invalid or refused.~~

~~(9) The date the drawing results are posted is published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.~~

~~(10) Any permits remaining after the drawings are available by mail-in application on a first-come, first-served basis beginning on the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.~~

~~(11) Unsuccessful applicants will receive a refund in March.~~

~~(12) Any person who obtained a Rio Grande turkey permit during the preceding year may not apply for or obtain a Rio Grande~~

turkey permit for the following two years. Any person who obtains a Rio Grande turkey permit in the current year, may not apply for or obtain a Rio Grande turkey permit for a period of two years, except:

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

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

(13)(a) A bonus point is awarded for a valid unsuccessful application in the drawing.

(b) Bonus points are forfeited if the person obtains a permit.

(c) Bonus points are not transferable.

(d) Bonus points are tracked by using the applicant's Social Security number or division-issued hunter identification number.

#### **R657-6-[8]7. Landowner Permits.**

(1)(a) Up to an additional 20 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to private landowners through a drawing.

(b) Landowners interested in obtaining landowner permits must contact the regional Division office in their area before December 15 to be eligible for the landowner permit drawing.

(c) Landowner permit applications that are not signed by the local Division representative will be rejected.

(d) Landowner permit applications must be received in the Salt Lake Division Office by the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(2)(a) A landowner who owns at least 640 acres of critical habitat that supports wild Merriam's turkeys or at least 20 acres of critical habitat that support wild Rio Grande turkeys within any of the open limited entry areas for wild turkeys is eligible to participate in the drawing for available landowner turkey permits.

(b) "Critical habitat" means areas where wild turkeys regularly and consistently roost, feed, loaf, nest or winter.

(3)(a) A landowner who applies for a landowner permit may:

(i) be issued the permit; or

(ii) designate a member of the landowner's immediate family or landowner's regular full-time employee to receive the permit.

(b) The landowner permit may be used only on the open limited entry area in which the landowner's property is located during the open season established for hunting wild turkeys.

(4) The drawing results for landowner permits shall be posted on the date published in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game.

(5)(a) Any landowner permits remaining after the landowner drawing shall be converted to public limited entry permits for that specific unit.

(b) These permits shall be issued through the limited entry drawing. Therefore, the number of permits listed in the Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game, may increase.

(6)(a) A waiting period does not apply to landowners applying for landowner permits.

(b) A landowner may apply once annually for a landowner permit and a limited entry permit, but may only draw or obtain one permit.

#### **R657-6-[9]8. Purchase of Wildlife Habitat Authorization, License, or Permit by Mail.**

(1) A ~~nonresident~~ person may obtain a license and Wildlife Habitat Authorization by mail by sending the following information to ~~the Salt Lake~~ any Division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, driver license number (if available), proof of hunter education certification and fees.

(2) A person may obtain a ptarmigan ~~permit~~, band-tailed pigeon ~~permit~~, sage grouse, or sharp-tailed grouse permit by mail by sending the following information to ~~the Salt Lake~~ any Division office: full name, complete mailing address, phone number, Wildlife Habitat Authorization number and hunting license number.

(3)(a) Personal checks, cashier's checks, or money orders are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

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

#### **R657-6-[10]9. Firearms and Archery Tackle.**

(1) A person may not use any weapon or device to take upland game except as provided in this section.

(2)(a) Upland game may be taken with archery equipment, or a shotgun no larger than 10 gauge, or a handgun. Loads for shotguns and handguns must be one-half ounce or more of shot size between no. 2 ~~or smaller~~ and no. 8 ~~or larger~~, except:

(i) migratory game birds may not be taken with a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(ii) wild turkey may be taken only with a bow and broadhead arrows or a shotgun no larger than 10 gauge and no smaller than 20 gauge, firing shot sizes between BB ~~or smaller~~ and no. 6 ~~or larger~~;

(iii) cottontail rabbit and snowshoe hare may be taken with ~~archery equipment or~~ any firearm not capable of being fired fully automatic; ~~and~~

(iv) a person hunting upland game species on a temporary game preserve as defined in Rule R657-5 may not use or possess any broadheads unless that person possesses a valid big game archery permit for the area being hunted; and

(v) only shotguns, firing shot sizes no. 4 or smaller, may be used on temporary game preserves as specified in the Big Game Proclamation.

(b) Crossbows are not legal archery equipment for taking upland game species.

(3) A person may not use:

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

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

#### **R657-6-[11]10. Nontoxic Shot.**

(1) Only nontoxic shot may be used to take sandhill crane.

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

(3) A person may not possess or use lead shot or any other shot that has not been approved by the U.S. Fish and Wildlife Service for taking migratory game birds while hunting sandhill

crane or while on federal refuges or the following state wildlife management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadows, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Scott M. Matheson Wetland Preserve, Stewart Lake, and Timpie Springs.

**R657-6-[12]11. Use of Firearms and Archery Tackle on State Wildlife Management Areas.**

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

**R657-6-[13]12. Use of Firearms and Archery Tackle on State Waterfowl Management Areas.**

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

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

**R657-6-[14]13. Shooting Hours.**

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

(i) Mourning dove, band-tailed pigeon and sandhill crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage grouse, ruffed grouse, blue grouse, sharp-tailed grouse, white-tailed ptarmigan, chukar partridge, Hungarian partridge, pheasant, quail, wild turkey, cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

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

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

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

**R657-6-[15]14. State Parks.**

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of Parks and Recreation in Rule R651-[603-5]614-4.

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

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

**R657-6-[16]15. Falconry.**

(1)(a) Falconers must obtain an annual Wildlife Habitat Authorization, a small game or combination license and a falconry license to hunt upland game and must also obtain:

(b) a ptarmigan permit before taking ptarmigan;

(c) a band-tailed pigeon permit before taking band-tailed pigeon;

(d) a sage grouse permit before taking sage grouse;

(e) a sharp-tailed grouse permit before taking sharp-tailed grouse; or

~~(f)~~(f) a sandhill crane permit before taking sandhill crane.

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

**R657-6-[17]16. Live Decoys and Electronic Calls.**

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

**R657-6-[18]17. Baiting Upland Game.**

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

~~[(2) It is not necessary for the hunter to know an area is baited to be in violation:]~~(a) the taking of any migratory game bird on or over the following lands or areas that are not otherwise baited areas:

(i) standing crops or flooded standing crops (including aquatics), standing, flooded or manipulated natural vegetation, flooded harvested croplands, or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

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

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

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

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

**R657-6-~~19~~18. Turkeys.**

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

**R657-6-~~20~~19. Use of Motorized Vehicles.**

Motorized vehicle travel on all state wildlife management areas is restricted to county roads and improved roads that are not posted closed.

**R657-6-~~21~~20. Possession of Live Protected Wildlife.**

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

**R657-6-~~22~~21. Tagging Requirements.**

(1) The carcass of a sandhill crane or turkey must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue sandhill crane, sharp-tailed grouse or turkey after any of the notches have been removed from the tag or the tag has been detached from the permit.

**R657-6-~~23~~22. Identification of Species and Sex.**

(1) One fully feathered wing must remain attached to each upland game and migratory game bird taken, except wild turkey, while it is being transported to allow species identification.

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

**R657-6-~~24~~23. Waste of Upland Game Birds.**

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

**R657-6-~~25~~24. Utah Pheasant Project.**

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

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

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

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

**R657-6-~~26~~25. Use of Dogs.**

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

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

(3) State wildlife management and waterfowl management areas are listed under Sections R657-6-12 and R657-6-13.

**R657-6-~~27~~26. Closed Areas.**

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

(1) Salt Lake County Airport boundaries as posted.

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

(3) Waterfowl Management Areas:

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

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

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

**R657-6-~~28~~27. Live Decoys and Electronic Calls.**

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

**R657-6-~~29~~28. Baiting Migratory Game Birds.**

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

(1) the taking of sandhill crane, mourning dove, and band-tailed pigeon on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(2) the taking of sandhill crane, mourning dove, and band-tailed pigeon on or over any lands where feed has been distributed or scattered solely as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes.

**R657-6-~~30~~29. Transporting Another Person's Birds.**

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

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

**R657-6-~~31~~30. Gift of Migratory Game Birds.**

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

**R657-6-~~32~~31. Shipping.**

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

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

**R657-6-~~33~~32. Importation Limits.**

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

**R657-6-~~34~~33. Transfer of Possession.**

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

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

**R657-6-34. Spotlighting.~~35. Waste of Migratory Game Birds:~~**

~~No person shall kill or cripple any migratory game bird without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and his automobile or principle means of land transportation; and either his personal abode or temporary or transient place of lodging; or a migratory bird preservation facility or a post office or a common carrier facility.~~

**R657-6-36. Spotighting:]**

(1) Except as provided in Section 23-13-17:

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

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

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

**R657-6-~~37~~35. Wild Turkey Poaching Reported Reward Permits.**

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of

a wild turkey under Section 23-20-4, within any limited entry area may receive a permit from the Division to hunt wild turkey in the following year on the same limited entry area where the violation occurred, except as provided in Subsection (2).

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

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

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

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

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

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

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

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

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

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

**R657-6-~~38~~36. Invalid Permits.**

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

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

**R657-6-~~39~~37. Season Dates, Bag and Possession Limits, and Areas Open.**

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

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

**KEY: wildlife, birds, rabbits\*, game laws**

**~~January 18,~~2000**

**23-14-18**

**Notice of Continuation June 16, 1997**

**23-14-19**

◆ \_\_\_\_\_ ◆

Natural Resources, Wildlife Resources  
**R657-21**  
 Cooperative Wildlife Management  
 Units for Small Game and Waterfowl

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22973

FILED: 06/22/2000, 11:39

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the Wildlife Board meeting conducted for taking public input and reviewing the division's cooperative wildlife management unit program for small game and waterfowl.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to add the acronym and definition of Bureau of Land Management (BLM) and Cooperative Wildlife Management Unit (CWMU). A definition of "general public" is also being added. Other provisions are being amended to provide clarification on the operation of a CWMU, including the restriction that units organized for hunting small game and waterfowl shall consist of private land. Provisions are being amended to provide the procedures and requirements for obtaining a Certificate of Registration to operate a CWMU, and renewal of a Certificate of Registration. Other provisions are also being amended to provide clarification and requirements of: appointing CWMU agents; use of CWMU authorizations; and posting CWMU boundaries. Other changes are being made for consistency and clarity.

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

## ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These amendments provide clarification, and the procedures and requirements for obtaining Certificates of Registration for operating CWMU's for small game and waterfowl. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget.

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

❖OTHER PERSONS: These amendments provide procedures and requirements for obtaining Certificates of Registration to operate a CWMU for small game and waterfowl, and provide clarification. Therefore, these amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing procedures

for obtaining Certificates of Registration for operating a CWMU for small game and waterfowl. The DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.****R657-21. Cooperative Wildlife Management Units for Small Game and Waterfowl.****R657-21-1. Purpose and Authority.**

Under authority of Section 23-23-3, this rule provides the procedures, standards, and requirements for Cooperative Wildlife Management Units for the hunting of small game and waterfowl.

**R657-21-2. Definitions.**

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

(2) In addition:

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

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

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

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

**R657-21-3. Operation by Landowner Association.**

(1)(a) Cooperative Wildlife Management units shall be operated by a landowner or landowner association that owns land within the [~~Cooperative Wildlife Management unit~~]CWMU.



(b) Any person hunting on a [~~Cooperative Wildlife Management unit~~]CWMU must comply with all rules established by the Wildlife Board.

(2)(a) Cooperative Wildlife Management units organized for hunting small game and waterfowl shall consist of private land.

(b) The minimum acreage accepted for a [~~Cooperative Wildlife Management unit~~]CWMU is 320 contiguous acres.

(3)(a) Seventy-five percent of the enrolled land shall be open to hunting.

(b) All land open to private hunters shall be open to public hunters.

(c) All hunters shall be given an equal opportunity. [(b) The Wildlife Board may approve a Cooperative Wildlife Management unit that is less than 320 contiguous acres only if it is in the best interest of wildlife, landowners, and the public.]

#### **R657-21-4. Application for Certificate of Registration.**

(1) Applications for [~~Cooperative Wildlife Management units~~]a CWMU are available from division offices.

(2) In addition to the application, the landowner or landowner association must provide:

(a) a petition containing the dated signature and acreage of each participating landowner agreeing to terms of this rule;

(b) [~~a map to scale showing~~]two original 1:100,000 scale BLM Surface Management Status maps showing all interior and exterior boundaries, lands enrolled and not enrolled within the exterior boundaries [~~of the proposed posted hunting unit~~], and the county identification tax numbers; and

(c) a \$5 non refundable application fee.

[(\*)](3) The division may return any application that is incomplete or completed incorrectly.

[(\*)](4) Applications must be completed and returned to the [~~Salt Lake division office~~]respective division regional office, in which the CWMU is located, 60 days prior to the applicable [~~seasons~~]hunting season.

[(\*)](5)(a) Upon receipt of the completed application, the division may issue a certificate of registration to a landowner or landowner association to operate a [~~Cooperative Wildlife Management unit~~]CWMU.

(b) Division review of the application may require up to 45 days.

(c) If an application is rejected, the division shall provide the landowner or landowner association with written notification of the reasons for rejection within 30 days from the date of rejection.

[(\*)](6) Certificates of registration are issued annually and are effective from [~~July 1, or~~]the date of issuance[:] through June 30 of the following year.

#### **R657-21-5. Renewal of a Certificate of Registration.**

(1)(a) The landowner or landowner association may renew the certificate of registration for the [~~Cooperative Wildlife Management unit~~]CWMU by completing and submitting a renewal application, CWMU authorization sales report and a non refundable \$5 renewal fee.

(b) The renewal application must be submitted at least 60 days prior to the applicable seasons.

(2) Any changes from the previous year's certificate of registration must be indicated on the renewal application.

(3)(a) If the landowner or landowner association requests additional land to be included in the [~~Cooperative Wildlife Management unit~~]CWMU, the application must contain the [~~signatures of the additional landowners and a map~~]dated signature of each additional landowner, the county identification tax numbers of the additional land, and two 1:100,000 scale BLM Surface Management Status maps showing the new proposed [~~boundary~~]interior and exterior boundaries.

(b) If the landowner or landowner association requests land to be withdrawn from the [~~Cooperative Wildlife Management unit~~]CWMU, the application must include a copy of the previously submitted petition with the appropriate landowners' signatures deleted and [~~a map showing the new proposed boundary~~]two 1:100,000 scale BLM Surface Management Status maps showing the land to be withdrawn and the new proposed interior and exterior boundaries.

#### **R657-21-6. Cooperative Wildlife Management Unit Agents.**

[A](1) A landowner or landowner association may appoint one [~~Cooperative Wildlife Management unit~~]CWMU agent per 100 acres up to a maximum of 30 agents to monitor access and protect the private property of the [~~Cooperative Wildlife Management unit~~]CWMU.

[R657-21-7. Permits:](2) Each CWMU agent shall wear or each agent shall possess a form of identification prescribed by the Wildlife Board, which indicates that the person is a CWMU agent.

[(+)-Permits](3) A CWMU agent may refuse entry onto enrolled private land within a CWMU to any person, except the landowner, landowner association members and landowner association operators, who:

(a) does not have a CWMU authorization;

(b) endangers, or has endangered, human safety;

(c) damages, or has damaged, property within the CWMU; or

(d) fails, or has failed to, comply with reasonable guidelines and rules of the landowner or landowner association.

#### **R657-21-7. Cooperative Wildlife Management Unit Authorizations.**

(1) At least 50% of the CWMU authorizations shall be offered for sale to the general public at the times and places designated on the application for the certificate of registration.

(2) Cooperative Wildlife Management Unit Authorizations may not be sold more than 15 days before the start of the first applicable hunting season.

[(\*)](3) The division shall provide, to the public, a complete list of the current year's [~~Cooperative Wildlife Management units~~]CWMUs, wildlife to be hunted, [~~date~~]dates, time, place and number of [~~permits~~]CWMU authorizations for public sale at least 15 days before the first applicable hunting season.

[(\*)-A permit](4) A CWMU authorization entitles the holder to hunt only small game and waterfowl [~~in the Cooperative Wildlife Management unit~~]within the CWMU as specified on the [~~permit~~]CWMU authorization.

#### **[R657-21-8. Permit Number:]R657-21-8. Cooperative Wildlife Management Unit Authorization Numbers.**

(1)(a) The division and landowner or landowner association, acting jointly, shall determine the number of [~~permits~~]CWMU

authorizations available for each [~~Cooperative Wildlife Management unit~~]CWMU.

(b) If the division and the landowner or landowner association disagree over the number of [~~permits~~]CWMU authorizations, the Wildlife Board may mediate and determine the number of [~~permits~~]CWMU authorizations to be issued.

(2)(a) The division and the landowner or landowner association, acting jointly, shall determine the cost of the [~~permits~~]CWMU authorizations.

~~(b) Permit~~(b) Cooperative Wildlife Management Unit Authorization fees should not be so prohibitively expensive that buyers resist purchase of the [~~permits~~]CWMU authorizations available for general public sale.

#### **R657-21-9. Season Dates.**

~~(1) A landowner association may petition the Wildlife Board for variances from~~Season dates for hunting on a CWMU shall be within the general statewide season dates for each small game and waterfowl species as specified in the annual proclamations[~~]~~

~~(2) Any petition for a variance in season dates must be made at a regularly scheduled meeting~~ of the Wildlife Board [~~at least 45 days prior to the applicable season~~]for taking upland game and waterfowl.

#### **~~R657-21-10. Rights-of-Way~~R657-21-10. Bag and Possession Limits.**

~~[Landowner associations]~~Bag and possession limits on a CWMU shall be the same as the bag and possession limits for each small game and waterfowl species as specified in the annual proclamations of the Wildlife Board for taking upland game and waterfowl.

#### **R657-21-11. Rights-of-Way.**

(1) Each landowner or landowner association shall:

(a) clearly post all boundaries of the CWMU every 1,320 feet:

(i) including all corners, roads, trails, gates, and rights-of-way entering the unit;

(ii) with signs provided by the division; and

(iii) provide a written copy of guidelines and maps of the CWMU to each CWMU authorization holder.

(2) A landowner or landowner association may not restrict established public access to public or private land [~~which~~]that is enclosed by the [~~posted hunting unit~~]CWMU.

#### **R657-21-~~11~~12. Habitat Improvement.**

(1) The Wildlife Board encourages landowners or landowner associations to improve wildlife populations by developing wildlife habitat on their lands using some of the funds received from [~~permit~~]the CWMU authorization sales.

(2)(a) The division may provide technical assistance, seed and [~~seedlings~~]seedlings, species specific habitat information and wildlife stock, and may cooperate in water development projects for wildlife after the landowner or landowner association has written an approved Wildlife Habitat Management Plan.

(b) The Wildlife Habitat Management Plan may be in the form of a memorandum of understanding between the landowner or landowner association and the division.

~~(c) The division may contribute the landowner's share in ASCS Agricultural Conservation Practices for wildlife, provided the landowner agrees not to graze or harvest crops on the land.]~~

**KEY: wildlife, small game, wildlife law**

~~[1990]2000~~

23-23-3

Notice of Continuation May 22, 2000



## Natural Resources, Wildlife Resources **R657-28**

### Use of Division Lands - Rights-of-Way, Leases, and Special Use Permits

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22974

FILED: 06/22/2000, 11:39

RECEIVED BY: NL

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the Wildlife Board meeting conducted for taking public input and reviewing the Use of Division Lands rule.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to add the definition of "commercial gain." Other provisions are being amended to provide clarification, requirements, and restrictions on the use of Division of Wildlife Resources' (DWR) lands. Provisions are being added to provide guidelines for determining whereby the division shall receive compensation for all right-of-ways, leases, and special use permits. Other changes are being made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-8

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These amendments provide clarification, requirements, and restrictions on the use of Division of Wildlife Resources' lands. The compensation that division may receive on all right-of-ways, leases, and special use permits will not amount to any additional costs or savings. Therefore, the DWR determines that these amendments do not create a cost or savings impact to the state budget or to the DWR's budget.

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

❖OTHER PERSONS: These amendments provide procedures and restrictions for the use of Division of Wildlife Resources' lands. Therefore, these amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing restrictions on the use of Division of Wildlife Resources' lands. The DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.  
R657-28. Use of Division Lands - Rights-of-Way, Leases, and Special Use Permits.**

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**R657-28-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Commercial gain" means compensation in money, services, or other valuable consideration as part of a scheme or effort to generate income or financial advantage.
  - (b) "Lease" means an agreement that authorizes use of division land for a specified term, purpose, and for a specified fee.
  - (~~(b)~~)(c) "Right-of-way" means an easement right for a specific use of division land including transmission lines, canals, ditches, pipelines, tunnels, fences, roads, and trails.
  - (~~(c)~~)(d) "Special use permit" means a temporary authorization for a specific, non-depleting land use including seismic or land surveys, research sites, or physical access on division lands.

**R657-28-3. Application Procedures - Required Information - Conditional Approval.**

- (1) To apply for a right-of-way, lease, or special use permit on division lands a person shall:
  - (a) submit a completed application, provided by the division, to the [~~lands coordinator in the Salt Lake~~]regional supervisor in the appropriate division regional office;
  - (b) pay a nonrefundable application fee;
  - (c) submit the application and application fee at least [~~90~~]120 days prior to the proposed construction or occupancy date; and
  - (d) include the following information with the application:
    - (i) A 7.5-minute topographic map or aerial photo showing the proposed project area. Map scale may be larger but must identify township and range sections, UTM coordinates, and give appropriate scale.
    - (ii) A project plan that includes:
      - (A) project alternatives that were considered[~~;~~ and] but rejected, and specific reasons those alternatives were rejected;
      - (B) identification of adverse impacts associated with the proposed use and how they will be avoided, minimized, or mitigated; and
      - (C) project alternatives which do not affect division land.
- (2) Upon receiving the application, application fee, and the information prescribed in Subsection (1)(d) the director shall either deny the application or grant a conditional approval within [~~30~~]60 days.
- (3) If the application is denied, the director shall provide a written notice to the applicant.
- (4) Before final approval is granted the division may require the applicant to provide the following additional information:
  - (a) A certified copy of a survey of the area affected by the proposed project signed by a licensed surveyor. A centerline survey indicating the width of the proposed right-of-way is adequate for a pipeline, road, power line, or similar use.
  - (b) Evidence that the applicant has given the State Historic Preservation Officer a reasonable opportunity to review and comment on the proposed project as required by Section 9-8-404.
  - (c) Evidence that the applicant has given the [~~State~~]Natural Resources Conservation Service a reasonable opportunity to review and comment on the proposed project.
  - (d) A biological assessment including an analysis of the potential and cumulative effects on wildlife, wildlife habitat, and user opportunity, including beneficial effects, resulting from the proposed project.
  - (e) A survey of threatened[~~and~~], endangered and candidate plant and animal species and [~~native~~]Utah wildlife species of special concern conducted on and adjacent to the proposed project.

**R657-28-4. Final Determination - Project Review - Contract Provisions.**

- (1) Within 60 days of receiving the application fee and information required in Section R657-28-3 the director shall make a final determination to approve or deny the application.
- (2)(a) The director shall deny an application if:
  - (i) the application does not include the required information;
  - (ii) the known potential impact to wildlife, wildlife habitat, public recreation, or cultural or historic resources is unacceptable; or

(iii) the applicant has not, in the opinion of the division, adequately considered ways to avoid or minimize impacts, including alternative sites, or proposed adequate mitigation plans for unavoidable impacts, including cumulative impacts.

(b) If the application is denied, the division shall provide a written notice to the applicant.

(3) A right-of-way or lease may include provisions requiring the applicant to:

(a) restore all structures including fences, roads, and existing facilities, and regrade and revegetate the impacted area to division specifications;

(b) adhere to the terms of the applicant's approved project plan prescribed in Subsection R657-28-3(1)(d)(ii);

(c) pay for surveys, appraisals, restoration, revegetation, mitigation, and all other expenses associated with the project; and

(d) obtain division approval to sublease or assign any rights granted from a right-of-way or lease.

(4) A special use permit shall include any applicable provision prescribed in Subsection (3).

#### **R657-28-5. Bonding Provisions.**

(1) Prior to approval and issuance of a right-of-way, lease, or special use permit the division may require the applicant to post a surety bond in an amount determined by the division.

(2) The division may use the surety bond to pay for reclamation, mitigation, payment of any money owed the division, or any other unpaid cost incurred by the holder of the right-of-way, lease, or special use permit according to the terms and conditions set therein.

(3) The division may require a reasonable increase in the amount of the bond after providing the holder of the right-of-way, lease, or special use permit 30 days written notice.

(4) Following completion of a lease, right-of-way or special use permit, the division shall release any unused bonds back to the lessee within six months.

#### **R657-28-6. [Fees]Compensation.**

~~[(1) Fees for rights-of-way]~~(1) The division shall receive compensation for all right-of-ways, leases, and special use permits [are based on the cost incurred by the division in administering]as provided in Subsections (a) through (d).

(a) Compensation for rights-of-ways, leases, and special use permits may be based on:

(i) the cost incurred to the division in evaluating and preparing the right-of-way, lease, or special use permit[; impacts to wildlife and wildlife habitat, and the fair market value of the use];

[(2) Fees for rights-of-way and leases shall be based on](ii) the cost incurred by the division in administering the right-of-way, lease, or special use permit;

~~(iii) the appraised value of the [property involved and loss of the land for wildlife or public use as determined by the director;]affected property;~~

~~[(3) In lieu of all or part of the assessed fee, the division may accept land enhancements including habitat improvement, land exchange, hunting or fishing access, or other factors](iv) the fair market value of the use;~~

(v) impacts to wildlife and wildlife habitat;

(vi) impacts to public access; and

(vii) impacts to public opportunities to engage in wildlife related activities.

(b) In addition to any other compensation assessed, the division may require annual compensation for administration costs.

(c) In lieu of part or all of the assessed compensation, the division, at its sole discretion, may accept mitigation including land enhancements, habitat improvements, land exchange, public access for wildlife related activities, or other forms of mitigation that are beneficial to wildlife management and the division's statutory responsibilities.

(d) When effective mitigation opportunities are limited, the division may accept partial or full compensation in the form of a negotiated payment.

(2) Every right-of-way, lease, and special use permit shall be documented in writing by agreement and contain the following information:

(a) the names of the parties and other persons involved in the transaction;

(b) the signature of the parties and other persons involved in the transaction;

(c) a detailed description of the compensation, including mitigation;

(d) a detailed description of the location, terms, and conditions of the right-of-way, lease, or special use permit;

(e) a statement that the parties and signatories to the transaction enter therein voluntarily and mutually agree to its terms and conditions;

(f) the commencement and termination date of the right-of-way, lease, or special use permit.[-

~~(4) In addition to any other fee assessed, the division may charge an annual fee for administration costs.]~~

#### **R657-28-7. Termination of Rights-of-Way, Leases, and Special Use Permits.**

(1) A right-of-way may only be granted for a maximum of 30 years from the date of signing.

(2) The termination date for a lease will be determined by the division after assessing the activity applied for and the needs of the lessee.

(3) A special use permit may only be granted for a maximum of one year from the date of signing.

(4)(a) A person may request termination of ~~his~~their right-of-way or lease by submitting a written request to the division at least 60 days prior to the requested date of termination.

(b) A person may request termination of ~~his~~their special use permit by submitting a written request to the division at least 10 days prior to the beginning date of the special use permit.

(c) Before the division may grant the request for termination of a right-of-way, lease, or special use permit, the required reclamation and any mitigation for impacts incurred by the project must be completed.

(5)(a) The division may terminate a right-of-way, lease, or special use permit and require full reclamation of disturbed areas if the person violates any of the conditions of the right-of-way, lease, or special use permit.

(b) Before terminating a right-of-way, lease, or special use permit the division shall:

- (i) give written notice of the intended agency action to the holder of the right-of-way, lease, or special use permit by certified mail;
- (ii) document noncompliance; and
- (iii) allow the holder of the right-of-way, lease, or special use permit 30 days to comply with the terms set therein.

**R657-28-8. Renewal of Rights-of-Way and Leases.**

- (1) A person may apply for a renewal of a right-of-way or lease by:
  - (a) submitting a written request to the division;
  - (b) updating the original application; and
  - (c) paying a renewal fee.
- (2) A renewal may be requested no earlier than ~~90~~120 days and no later than ~~30~~60 days prior to the expiration date of the right-of-way or lease.
- (3) A request for a change in the size or use of an area or for an additional area or use shall be applied for as a new right-of-way or lease.
- (4) The division may deny a renewal of a right-of-way or lease for any of the following reasons:
  - (a) Impacts to wildlife, wildlife habitat, public recreation, or cultural or historic resources are unacceptable;
  - (b) Continuation of the right-of-way or lease is, in the opinion of the division, incompatible with the intended uses of the land;
  - (c) The person has not complied with terms and conditions of the contract; or
  - (d) The management goals for the area have changed to the extent that the right-of-way or lease is no longer compatible.
- (5) The division shall provide a written notice to the applicant stating the reason for denial.

**R657-28-9. Unlawful Uses and Activities on Division Lands.**

- (1) Except as authorized by statute, rule, contractual agreement, certificates of registration, or public notice, a person, on division land, may not:
  - (a) remove, extract, use, consume, or destroy any mineral resource, gravel, sand, soil, vegetation except as provided in R657-18 Wood Products on division lands, cultural or historic resource, or improvement;
  - (b) graze livestock;
  - (c) enter, use, or occupy division land when posted against such entry, use, or occupancy;
  - (d) use, occupy, destroy, move, or construct any structure including fences, water control devices, roads, surveys and section markers, or signs;
  - (e) ~~knowingly or willfully use division land~~ solicit, promote, negotiate, barter, sell or trade any product or service for commercial gain;
  - (f) park a motor vehicle or trailer or camp for more than 21 consecutive days unless posted for a different duration;
  - (g) light a fire without adequate provision to prevent spreading or leave a fire unattended;
  - (h) use fireworks, explosives, poisons, herbicides, insecticides, or pesticides;
  - (i) release or permit a domestic pet to run at large not under the owner's control; or

(j) use division lands for any purpose that otherwise violates applicable land use restrictions imposed in statute, rule, or by the division.

(2) The provisions of this Section do not apply to division employees in the performance of their duties.

(3) Except as otherwise provided by statute, the penalty for a violation of any provision of this Section is prescribed in Section 23-13-11.

**KEY: wildlife, right-of-way\*, leases, land use[;]**  
~~1993~~2000 23-13-8  
 Notice of Continuation June 23, 1997



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

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 22975  
 FILED: 06/22/2000, 11:39  
 RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended to provide provisions whereby the Wildlife Board may make variances on big game CWMUs.

**SUMMARY OF THE RULE OR CHANGE:** This amendment provides criteria whereby the Wildlife Board may approve Cooperative Wildlife Management Units (CWMUs) for deer or pronghorn that are less than 10,000 contiguous acres, provided the CWMU is at least 5,000 contiguous acres. This amendment also provides that the Wildlife Board may make variances to season dates provided the variance is requested by the deadline for the application for a Certificate of Registration for the CWMU.

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

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦THE STATE BUDGET: This amendment allows variances to landowners who qualify for a CWMU and allows the adjustment of season dates of CWMUs. This amendment may increase cost to the Division of Wildlife Resources (DWR) in administering the CWMU program. However, the increased cost associated is unknown because the DWR does not know at this time how many landowners may opt to operate a CWMU less than 10,000 contiguous acres for deer or pronghorn. In addition, the division may generate a savings in making big game depredation payments because landowners may opt to operate a CWMU. However, the dollar amount is unknown.

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

❖OTHER PERSONS: This amendment allows variances to landowners who qualify for a CWMU and allows the adjustment of season dates of CWMUs. There are no cost or savings impacts to other persons as a result of this amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment allows variances to landowners who qualify for a CWMU and allows the adjustment of season dates of CWMUs. Therefore, the amendment does not create compliance costs for affected persons. However, if a landowner chose to apply for a CWMU, and if approved, the landowner is required to purchase a CWMU certificate of registration.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment to this rule does not create an impact on businesses. However, if a landowner opts to operate a CWMU, the landowner could potentially generate revenue and perhaps reduce costs associated with big game depredation.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: John Kimball, Director

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

**R657-37. Cooperative Wildlife Management Units for Big Game.**

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

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

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

(2)(a) The Wildlife Board may renew a CWMU that is less than 10,000 acres provided the CWMU legally possessed a 1999 CWMU Certificate of Registration, allowing for acreage less than 10,000 contiguous acres or allowing noncontiguous land parcels; or  
(b) the Wildlife Board may approve a new CWMU for deer or pronghorn that is at least 5,000 contiguous acres provided:

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

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

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

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

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

(b) The Wildlife Board may approve a CWMU containing public land only if:

(i) the public land is completely surrounded by private land or is otherwise inaccessible to the general public;

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

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

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

(d) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportional habitat on public land to private land within the CWMU.

**R657-37-12. Season Lengths.**

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

(a) archery buck deer and archery bull elk seasons may be established beginning with the opening of the general archery deer season through October 31;

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

(c) muzzleloader deer seasons may be established September 1, 1999 through November 14, 1999;

(d) beginning January 1, 2000, muzzleloader deer seasons may be established September 1 through October 31, or the closing date of the muzzleloader deer season on the state wildlife management unit that contains the CWMU, whichever is later;

(e) muzzleloader elk seasons may be established September 1 through the end of the general muzzleloader elk season;

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

(f) antlerless deer seasons may be established August 15 through December 31.

(2) The Wildlife Board may make variances to the seasons provided in Subsection (1) for good cause if the variance was requested by the deadline for the application for the new or renewal certificate of registration as provided in Sections R657-37-5 and R657-37-6.

**KEY: wildlife, cooperative wildlife management unit**  
**[October 16, 1999]2000** 23-23-3  
**Notice of Continuation May 3, 1999**



## Public Safety, Driver License **R708-37**

### Certification of Licensed Instructors of Commercial Driver Training Schools to Administer Driving Skills Tests

**NOTICE OF PROPOSED RULE**  
(New)  
DAR FILE NO.: 22980  
FILED: 06/28/2000, 11:12  
RECEIVED BY: MB

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Driver License Division needs, as per H.B. 371, to have a rule to establish standards and procedures to certify teachers of commercial driver training schools to administer driving skills tests.

**(DAR Note:** H.B. 371 is found at 2000 Utah Laws 239, and was effective July 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: This rule establishes standards and procedures that tell applicants how to become a certified and licensed tester for commercial driver education schools. The rule also includes information regarding notification of accidents during skills tests, test completion requirements, and grounds for cancellation and suspension of testing certification.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-510

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: The Driver License Division will need to fund two new positions, a program coordinator and a secretary, to administer the program. The cost for these two positions will be approximately \$64,000, per year which includes salaries, benefits, etc. There will be some savings to the division because the division will save man-hours by not having to administer the skills tests to those individuals that will be tested through commercial driver training schools.
- ❖LOCAL GOVERNMENTS: There will be no cost impact because there is no associated cost with this rule to local government.

❖OTHER PERSONS: Other persons may need to pay a fee to a commercial driver training school for skills testing, but there will be no fee charged by the division.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A person may need to pay a fee to a commercial driver training school, determined by the school, for skills testing but there will be no fee charged by the division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have any fiscal impact on commercial driver training schools. It is anticipated the school will be able to provide the skills testing within existing staff. Furthermore, any costs the schools accrue will be offset by fees the schools can charge for administering the tests.

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

Public Safety  
Driver License  
Calvin Rampton Building  
4501 South 2700 West  
PO Box 30560  
Salt Lake City, UT 84130-0560, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at (801) 965-4456, by FAX at (801) 965-4496, or by Internet E-mail at vroos@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 08/08/2000, 9:30 a.m., UDOT (Utah Department of Transportation) main conference room (First Floor), Calvin Rampton Building, 4501 South 2700 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: David A. Beach, Director

**R708. Public Safety, Driver License.**  
**R708-37. Certification of Licensed Instructors of Commercial Driver Training Schools to Administer Driving Skills Tests.**  
**R708-37-1. Purpose.**

The purpose of this rule is to establish standards and procedures to certify instructors of commercial driver training schools to administer driving skills tests.

**R708-37-2. Authority.**  
This rule is authorized by Section 53-3-510.

**R708-37-3. Definitions.**  
(1) "Cancellation" means action taken by the division that voids an instructor's testing certification.

(2) "Certification" means the process by which commercial driver training instructors are certified by the division to administer driving skills tests.

(3) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons to drive motor vehicles, and to prepare applicants for examinations prerequisite to their obtaining driver licenses or learner permits.

(4) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside and outside mirrors which are positioned for use by the instructor for the purpose of observing rearward.

(5) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.

(6) "Division" means the Driver License Division of the Utah Department of Public Safety.

(7) "Instructor" means a person who is authorized to teach driver education in an approved commercial driver training school.

(8) "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school.

(9) "Suspension" means action taken by the division that temporarily voids an instructor's testing certification. The certification may be reinstated whenever the instructor follows a division-approved plan and complies with reinstatement procedures.

(10) "Test" means a driving skills test approved by the division.

(11) "Tester" means an instructor who is certified to administer driving skills tests.

#### **R708-37-4. Application Procedures.**

(1) An instructor shall become a certified tester by making application and by meeting the requirements of this rule. Application shall be made on a form furnished by the division and shall include the following information:

(a) the name of the instructor who is applying for tester certification;

(b) the name and address of the school where the instructor is employed; and

(c) the signature of the school owner indicating approval of the instructor for tester certification and consent to the use of school vehicles, facilities, etc. for the purpose of testing.

(2) The division will offer training to instructors regarding minimum standards which must be met in the administration and scoring of tests.

(3) The division may authorize, train, and approve persons outside the division to provide the training. Instructors are responsible for any costs associated with training provided by approved organizations, agencies, or individuals.

(4) The division shall maintain a list of approved testers and shall assign testers identification numbers.

#### **R708-37-5. Tests.**

(1) When testing students for driver licenses, instructors certified as testers shall administer tests developed in accordance with these rules which meet or exceed minimum division testing standards.

(2) Tests shall be conducted:

(a) on test routes approved by the division;

(b) by certified testers who are also certified instructors;

(c) in vehicles provided by schools which have been inspected and approved for use in driver training by the division or in a personal vehicle provided by the applicant. Each school shall notify the division of any vehicle added to or deleted from their fleet. No vehicle owned by a school may be used for testing until it passes an inspection by the division;

(d) using division approved content, forms, and scoring procedures;

(e) only for students who have completed a course of driver education;

(f) with only the student and the tester occupying the vehicle. The tester shall be seated next to the student. No other passengers or observers shall occupy the vehicle during the test, except upon approval and written consent by the division; and

(g) only for students who have in their possession a learner permit or an instruction permit issued by the division.

(h) only for students who have in their possession adequate verification of their identity.

#### **R708-37-6. Test Requirements.**

(1) A tester may not administer a skills test to a student who:

(a) completed the driver training course at the same school in which the tester is employed as an instructor; or

(b) completed the driver training course at a school that is owned completely or partially by an individual or individuals who possess any ownership in the school in which the tester is employed as an instructor.

(2) A student who fails the skills test given by a tester may:

(a) apply to the same tester for additional testing;

(b) apply to a different tester for additional testing; or

(c) complete the skills test at a division office.

(3) The written test shall be administered by the division.

#### **R708-37-7. Notification of Accident.**

If any vehicle is involved in an accident during the skills test the tester shall notify the division of the accident in a written report on a form supplied by the division within five working days of the date of the accident.

#### **R708-37-8. Evidence of Test Completion.**

(1) The tester shall furnish a certificate of test completion to the student in a sealed envelope with the tester's signature signed over the seal. The certificate shall be a form approved by the division and shall contain the results of tests taken, the signature and certification number of the tester who administered the tests, and the dates the tests were completed. The test results are valid for a period of one year from the test completion date.

(2) A student, under this rule, must submit a certificate of completion of a driver education course and a certificate of successful test completion, issued by a tester, to the division and make an application in order to obtain a Class D Driver License.

(3) The school shall maintain records of all tests administered for a period of three years. Records shall be maintained in separate files for each tester for auditing purposes. The records shall be subject to inspection by the division during business hours.



**R708-37-9. Refusal to Certify, Grounds for Cancellation and Suspension of Testing Certification.**

(1) The division may refuse to certify tester applicants who do not meet the standards for training or who submit an application that contains false or incomplete information.

(2) The tester certification shall remain effective as long as the tester retains the status of instructor for a school or until the tester certification is canceled or suspended by the division. A school may initiate suspension or cancellation of the testing certification held by one of their instructors by providing the division with acceptable justification in the form of a written request.

(3) The tester certification shall be canceled or suspended upon cancellation or suspension of the tester's instructor certification. Grounds for cancellation or suspension of the tester certification shall include all items listed in R708-2-23.

(4) Certification may be canceled or suspended for non-compliance with these rules.

(5) Certification may be canceled or suspended for failure to participate in any in-service training required by the division.

(6) When the division determines it is necessary to cancel or suspend a tester certification, it shall determine an appropriate course of action from the following options:

(a) suspension, pending a remedial plan leading to reinstatement; or

(b) cancellation.

(7) Action by the division to cancel, suspend, or refuse to issue a tester certification is designated as an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(8) Reinstatement following cancellation of certification shall consist of completing an approved training plan and making application for a new certification. Instructors and testers must have a driving record free of suspensions or revocations of their driving privilege resulting from moving violations, chargeable accidents, and drug or alcohol related offenses, in all states, for a two year period immediately prior to application and during employment.

(9) Certification shall be canceled when testers are no longer employed as instructors in commercial schools. Testers who discontinue employment as instructors with a school and subsequently return to instruct and test under the sponsorship of a different school must make a new application with the division for a new instructor certification and tester certification. If the period of cancellation of testing certification exceeds six months the applicant shall complete a course of approved training.

**R708-37-10. Advertising.**

(1) No advertisement shall indicate in any way that a school or a tester can issue or guarantee the issuance of a driver license, or imply that the testing program, except for reporting test scores, can in any way influence the division in the issuance of a Class D driver license; or imply that preferential or advantageous treatment can be obtained from the division through participation in their testing program.

(2) No tester, employee, or agent of a school shall be permitted to advertise or solicit business or cause business to be solicited in its behalf, or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

**KEY: driver training, skills tests****2000****53-3-510**

Public Safety, Fire Marshal

**R710-2****Rules Pursuant to the Utah Fireworks Act****NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22981

FILED: 06/28/2000, 11:30

RECEIVED BY: MB

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met and proposed that Rule R710-2 (Rules Pursuant to the Utah Fireworks Act) be amended. The Board directed that the time of year for testing of fireworks be modified to an annual testing or as needed. The Board directed that the requirement for completion of a safety class and proof of working with a licensed technician be modified. The Board also directed that the reexamination process be modified from taking the full examination every five years to a modified open-book examination that focused on the changes in the last five years to the adopted standards.

SUMMARY OF THE RULE OR CHANGE: The Utah Fire Prevention Board met on May 9, 2000, and proposed that the following changes be made in Rule R710-2 as follows: 1) In Subsection R710-2-6(2), the Board proposes to change the time of testing for Approved Class C Common State Approved Explosives from a semiannual basis to an annual basis or as needed; 2) in Subsection R710-2-7(10)(a), the Board proposes to add that all written examinations are designated as closed book; 3) in Subsection R710-2-7(10)(b), the Board proposes to add the amendment that the person wishing to secure the license can demonstrate to the State Fire Marshal that the person has previous experience which would exempt the requirement to take the safety class; 4) in Subsection R710-2-7(10)(c), the Board proposes to modify the requirement of working with a licensed technician for at least three shows before being licensed to also allow the person to demonstrate previous experience acceptable to the State Fire Marshal; 5) in Subsection R710-2-7(12), the Board proposes to establish a new examination process for the five-year reexamination requirement. Rather than completely retest as now required, the person would be mailed a smaller open book examination dealing with the changes in the previous five-year period to the adopted standards; 6) in Subsection R710-2-7(13), the Board proposes to allow the display or special effects operator to work with another licensed operator to demonstrate proof of competence; 7) in Subsection R710-2-7(16), the Board proposes to establish the requirement that all licensed

technicians complete a Pyrotechnicians After Action Report for Fireworks Display within ten working days after the event and mail it to the State Fire Marshal; and 8) in Subsection R710-2-8(2)(f), the Board proposes to add that failure to complete the Pyrotechnicians After Action Report for Fireworks Display form would be grounds for the State Fire Marshal to deny, suspend, or revoke the person's license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There would also be an anticipated cost of approximately \$150 to reprint the newly adopted rule and send it out to all the affected entities.

❖LOCAL GOVERNMENTS: There is no anticipated cost to local government because this proposed amendment does not affect local government.

❖OTHER PERSONS: There would be an anticipated cost of \$0.33 per envelope for each Pyrotechnicians After Action Report For Fireworks Display that would be sent to the State Fire Marshal. Aggregate impact is impossible to predict due to the unknown number of fireworks shows, which would generate the need to complete the After Action Report at the conclusion of the fireworks show. There would be a savings to the licensee in the fact that the person would no longer have to take the full examination process at the five-year interval, many times requiring the licensee to travel to the State Fire Marshals Office to take the examination, because the reexamination would be sent to the person in the mail. There would also be a savings seen with regard to the fact that the licensee would be allowed to work with another licensed technician rather than have to hire someone specifically to teach them a safety class.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The major compliance cost for affected persons would be the cost of \$0.33 per envelope for each Pyrotechnicians After Action Report For Fireworks Display that would be sent to the State Fire Marshal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After review with the Chief Deputy State Fire Marshal and upon recommendation of the Utah Fire Prevention Board, it was concluded that the minimal impact of \$0.33 per envelope per business to send the State Fire Marshal the Pyrotechnicians After Action Report For Fireworks Display does not create an unreasonable fiscal impact on the affected business and would in fact lessen the licensing requirement each year.

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

Public Safety  
Fire Marshal  
Suite 302  
5272 South College Drive  
Murray, UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at bhallada@dps.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Brent R. Halladay, Chief Deputy

**R710. Public Safety, Fire Marshal.  
R710-2. Rules Pursuant to the Utah Fireworks Act.**

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**R710-2-6. List of Approved Class C Common State Approved Explosives.**

6.1 The State Fire Marshal shall publish a list of approved class C common state approved explosives each year.

6.2 The testing shall be conducted [~~semi~~annually or as needed [~~A test shall be conducted in May and another test in October of each year.~~]

**R710-2-7. Importer, Wholesaler, Display or Special Effects Operator Licenses.**

7.1 Application for a importer, wholesaler, display or special effects operator license shall be made in writing on forms provided by the SFM.

7.2 Application for a license shall be signed by the applicant. If the application is made by a partnership, it shall be signed by all partners. If the application is made by a corporation or association, it shall be signed by a principal officer.

7.3 Original licenses shall be valid from the date of issuance through December 31st of the year in which issued. Licenses issued on or after October 1st, will be valid through December 31st of the following year.

7.4 Application for renewal of license shall be made before January 1st of each year. Application for renewal shall be made in writing on forms provided by the SFM.

7.5 The SFM may refuse to renew any license pursuant to Section [7]§ of these rules. The applicant, upon such refusal, shall also have those rights as are granted by Section [7]§ of these rules.

7.6 Every licensee shall notify the SFM, in writing, within thirty (30) days, of any change of his address or location.

7.7 No licensee shall conduct his licensed business under a name other than the name which appears on his license.

7.8 No license shall be issued to any person as licensee who is under eighteen (18) years of age.

7.9 The holder of any license shall submit such license for inspection upon request of the SFM, his duly authorized deputies, or any authorized enforcement official.

7.10 Every person who wishes to secure a display or special effects operator original license shall demonstrate proof of competence by:

(a) Successfully passing a closed book written examination and obtaining a minimum grade of seventy percent (70%).

(b) Submit written verification with the application of having completed a display or special effects operators safety class or demonstrate previous experience acceptable to the SFM[~~and worked with a licensed display or special effects operator for at least three display shows~~].

(c) Submit written verification with the application that the applicant has worked with a licensed display or special effects operator for at least three shows or demonstrate previous experience acceptable to the SFM.

7.11 The written examination stated in Section 7.10(a) shall be valid for five years from the date of the examination.~~[At the end of the five year period the written examination shall be retaken to establish proof of competency.]~~

7.12 At the end of the five year period the licensed display or special effects operator shall take a re-examination. The re-examination shall be open book and sent to the license holder at least 60 days before the renewal date. The re-examination shall focus on the changes in the last 5 years to the adopted standards. The license holder is responsible to complete the re-examination and return it to the Division in time to renew and also comply with the requirements listed in Section 7.13.

~~[7.12]~~7.13 After the issuance of the original license, and each year thereafter, the display or special effects operator shall complete a minimum of one fireworks performance annually or attend an operator safety class annually or work with another licensed display or special effects operator with a show annually to demonstrate proof of competence.

~~[7.13]~~7.14 When the license has expired for more than one year, an application shall be made for an original license and the initial requirements shall be completed as required in Section 7.10 of these rules.

~~[7.14]~~7.15 Every person who wishes to secure an importer, wholesaler, display or special effects operators license shall be at least 21 years of age.

7.16 Every licensed display or special effects operator shall complete the Pyrotechnician's After Action Report for Fireworks Display form within ten (10) working days after the conclusion of any display or special effects show and mail it to the State Fire Marshal.

**R710-2-8. Adjudicative Proceedings.**

8.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

8.2 The issuance, renewal, or continued validity of a license may be denied, suspended or revoked, if the SFM, or his authorized deputies finds that the applicant, person employed for, the person having authority, or the person in question commits any of the following violations:

- (a) The person or applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) Refusal to allow inspection by the AHJ.
- (d) The person or applicant for a license does not possess the qualifications of skill or competence to conduct operations for which application is made, as evidenced by failure to pass the examination or demonstrate practical skills.

(e) The person or applicant has been convicted of any of the following:

- (i) a violation of the provisions of these rules;
- (ii) a crime of violence or theft; or
- (iii) any crime that bears upon the person or applicant's ability to perform their functions and duties.

(f) Failure to accurately complete the Pyrotechnician's After Action Report for Fireworks Display form.

8.3 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final notice from the AHJ.

8.4 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

8.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

8.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

8.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

8.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63-46b-15.

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**KEY: fireworks**  
**[February 1, 2000]August 15, 2000** 53-7-204  
**Notice of Continuation June 19, 1997**



Public Safety, Fire Marshal  
**R710-4**  
Buildings Under the Jurisdiction of the  
State Fire Prevention Board

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 22982  
FILED: 06/28/2000, 11:30  
RECEIVED BY: MB

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board proposes to make some changes to the currently adopted rule by changing the stated title of "residential health care facility" to the currently adopted statutory usage of "assisted living facility." The Board also wishes to update the rule to the currently adopted International Mechanical Code from the formerly used

Uniform Mechanical Code as so completed under the authority of the Uniform Building Standards Act.

SUMMARY OF THE RULE OR CHANGE: On May 9, 2000, the Utah Fire Prevention Board met and addressed the following proposed changes: 1) In Section R710-4-1, it is proposed to change the title of "residential health care facility" to "assisted living facility." The term residential health care facility is no longer used in the state of Utah. The legislature changed by statute the title to assisted living facility; 2) in Subsection R710-4-1(8), it is proposed to change the currently adopted 1994 Uniform Mechanical Code to the currently adopted 1998 International Mechanical Code, as adopted under the statutory authority of the Uniform Building Standard Act. The International Mechanical Code was adopted earlier by the Building Codes Commission and in error this document was not updated to the newly incorporated reference.

(DAR Note: S.B. 153 is found at 1998 Utah Laws 192, and was effective July 1, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: International Mechanical Code, 1998 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Approximately \$150 is the anticipated cost for the rewritten rule to be copied and the cost to send it to all affected by the amendment.

❖LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this amendment does not affect local government.

❖OTHER PERSONS: There is no anticipated cost or savings to any other persons because this amendment is corrective and only provides clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There would be no compliance cost for affected persons from the proposed amendments to this rule. The proposed amendments are corrective and provide clarification for newly named facilities and adoption of a new mechanical code by the Building Codes Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses from the proposed amendments to this rule.

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

Public Safety  
Fire Marshal  
Suite 302  
5272 South College Drive  
Murray, UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Brent R. Halladay, Chief Deputy

## **R710. Public Safety, Fire Marshal.**

### **R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.**

#### **R710-4-1. Adoption of Fire Codes.**

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used, or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, [~~residential health care~~assisted living facility, children's home or institution, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 1997 edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 12 - New Health Care Occupancies; Chapter 13 - Existing Health Care Occupancies; Chapter 14 - New Detention and Correctional Occupancies; Chapter 15 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only.

1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 1996 edition, except as amended by provisions listed in R710-4-3, et seq.

1.3 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 1996 edition, except as amended by provisions listed in R710-4-3, et seq.

1.4 National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 1996 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

1.5 Uniform Building Code (UBC), Volume 1, 1997 edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

The following UBC appendix chapter is adopted:

Chapter 3 - Division IV, Requirements for Group R, Division 4 Occupancies.

1.6 Uniform Fire Code (UFC), Volume 1, 1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-4-3, et seq.

The following UFC appendix chapters are adopted:

(a) Appendix I-C Stairway Identification.

(b) Appendix III-C Inspection, Testing and Maintenance of Water Based Fire Protection Systems.

(c) Appendix IV-A Interior Floor Finish.

(d) Appendix VI-A Hazardous Materials Classifications.

(e) Appendix VI-E Reference Tables from the Uniform Building Code.

1.7 Uniform Fire Code Standards (UFCS), Volume 2, 1997 edition, as published by the International Fire Code Institute (IFCI).

The following UFCS standards are amended as follows:

(a) UFCS 10-1, Selection, Installation, Inspection, Maintenance and Testing of Portable Fire Extinguishers is amended to adopt NFPA, Standard 10, 1998 edition.

(b) UFCS 10-2, Installation, Maintenance and Use of Fire Protection Signaling Systems is amended to adopt NFPA, Standard 72, 1996 edition.

(c) UFCS 52-1, Compressed Natural Gas (CNG) Vehicular Fuel Systems is amended to adopt NFPA, Standard 52, 1995 edition.

(d) UFCS 79-1, Foam Fire Protection Systems is amended to adopt NFPA, Standard 11, 1994 edition.

(e) UFCS 82-1, Liquefied Petroleum Gas Storage is amended to adopt NFPA, Standard 58, 1995 edition.

1.8 ~~Uniform~~International Mechanical Code (~~U~~IMC), [1994]1998 edition, ~~as published a copyrighted work owned by the International [Conference of Building Officials (ICBO)]Code Council, Inc., and as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.~~

1.9 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

#### **R710-4-2. Definitions.**

"Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

"AWWA" means American Water Works Association.

"Board" means Utah Fire Prevention Board.

"Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.

"Fire Chief or Chief of the Department" means the AHJ.

"Fire Marshal" means the AHJ.

"Fire Department" means the AHJ.

"ICBO" means International Conference of Building Officials.

"IFCI" means International Fire Code Institute.

"IMC" means International Mechanical Code.

"LSC" means Life Safety Code.

"NEC" means National Electric Code.

"NFPA" means National Fire Protection Association.

"SFM" means State Fire Marshal.

"UBC" means Uniform Building Code.

"UCA" means Utah State Code Annotated 1953 as amended.

"UFC" means Uniform Fire Code.

"UFCS" means Uniform Fire Code Standards.[

~~U~~MC" means Uniform Mechanical Code.]

#### **R710-4-3. Amendments and Additions.**

3.0 The following amendments and additions are hereby adopted for those buildings under the jurisdiction of the State Fire Marshal:

##### 3.1 Door Closures

3.1.1 UFC, Article 11, Section 1111.2.2 Operation. Add the following Exception. In Group E Occupancies, Divisions 1 and 2, the door closures may be of the friction hold-open type on classrooms only.

##### 3.2 Dumpsters

3.2.1 UFC, Article 11, Section 1103.2.2, with reference to Group E Occupancies, is amended to add the following requirement:

Dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or greater shall not be stored in buildings or placed within 20 feet of combustible walls, openings or combustible roof eave lines.

##### 3.3 Fire Alarm Systems

###### 3.3.1 General Provisions

The following rules pertain to newly installed systems or changes made to existing systems, except where noted:

(a) Presignal feature type systems are prohibited, except in I-3 Occupancies.

(b) Fire alarm system designs submitted to the AHJ, shall include complete floor plans showing location of all devices, occupancy use of each room, schematic wiring diagrams, battery calculations, and any other items deemed necessary.

###### 3.3.2 Required Installations

(a) Fire alarm systems shall be provided as required in UFC, Article 10, Section 1007, and LSC Chapters as adopted, and in other rules promulgated by the Board.

(b) All state-owned buildings, college and university buildings, other than institutional, with an occupant load of one hundred (100) or more, all schools with an occupant load of fifty (50) or more, shall have an approved fire alarm system with the following features:

(1) Products-of-combustion (smoke) detectors installed throughout all corridors and common areas of egress at the maximum prescribed spacing of thirty feet on center, and no more than fifteen feet from the walls.

(2) In other than fully sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in NFPA, Standard 72, or by their listing.

(3) Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

(4) The fire alarm system shall be connected to a proprietary panel, where provided within the complex.

###### 3.3.3 Main Panel

(a) An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

(b) The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication

of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

3.3.4 System Wiring

(a) System Wiring shall be in accordance with the following:

(1) The Initiating Device circuits (IDC) shall be Style D as defined in NFPA, Standard 72.

(2) The Indicating Appliance circuits (IAC) shall be Style Z as defined in NFPA, Standard 72.

(3) Signaling line circuits shall be Style 6 or 7 as defined in NFPA, Standard 72.

(b) All junction boxes shall be adequately identified as part of the fire alarm system. Covers for the concealed boxes shall be painted red.

3.3.5 System Devices

All equipment and devices shall be listed and/or labeled by a nationally recognized testing laboratory for fire alarm use.

3.3.6 Fan Shut Down

(a) The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

(b) Duct detectors required by the ~~UMC~~IMC, shall be interconnected, and compatible with the fire alarm system.

3.3.7 Maintenance and Tests

The owner/administrator of each building shall insure maintenance and testing as required in UFC, Article 10, Section 1001.4 and 1001.5. A written log, verifying these tests, shall be kept on file for inspection by the AHJ.

3.4 Fireworks

3.4.1 UFC, Article 78, Section 7802.3 is amended to include the following Exception:

Exception No. 3. The use of fireworks for display and retail sales is allowed as set forth in the "Utah Fireworks Act", as adopted in Title 11, Chapter 3, Utah Code Annotated 1953.

3.5 Health Care Facilities

3.5.1 LSC Chapters 12 and 13 Sections 12-1.2.4 and 13-1.2.4 (Exiting Through Adjoining Occupancies) exception is deleted.

3.5.2 LSC Chapter 13, Section 13-3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

3.6 Hydrants, Fire

3.6.1 The fire department connection on automatic fire sprinkler and standpipe systems shall be located a reasonable distance as approved by the AHJ.

3.7 Fire Sprinklers

3.7.1 Class 1 and Class 2 fire protection systems, as defined in AWWA, M14, Second Edition, "Recommended Practice for Backflow Prevention and Cross-Connection Control," shall be provided with a listed alarm check valve with standard trim.

3.7.2 Antifreeze systems installed in Class 1 and Class 2 fire protection systems shall be installed as required in NFPA, Standard 13, and a backflow preventing device shall be installed as required in the Uniform Plumbing Code.

3.8 Water Supply Analysis

3.8.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an

engineer's water supply analysis evaluating the available water supply.

3.8.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.8.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-7-2.1.

3.9 Fire Drills

3.9.1 UFC, Article 13, Section 1303.3.3.2(1) is amended to include the additional Exception:

Exception No. 2. A fire drill in secondary schools shall be conducted at least every two months, to a total of four fire drills during the nine month school year. The first fire drill shall be conducted within the first two weeks of the school year.

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**KEY: fire prevention, public buildings**

~~January 15, 1999~~ August 15, 2000

53-7-204

Notice of Continuation June 19, 1997



Public Safety, Highway Patrol  
**R714-550**  
Rule for Spending Fees Generated by  
the Reinstatement of Driver Licenses

**NOTICE OF PROPOSED RULE**

(Repeal and reenact)

DAR FILE No.: 22983

FILED: 06/29/2000, 14:42

RECEIVED BY: MB

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Legislature passed H.B. 209 in the 2000 general session. H.B. 209 increased the DUI related motor vehicle impound fee from \$100 to \$200, and provided that a portion of the fee increase will go to the department for eventual dissemination to law enforcement agencies of the state and its political subdivisions to train peace officers, pay peace officer overtime, and manage DUI related motor vehicle impounds. This rule filing implements H.B. 209.

(**DAR Note:** H.B. 209 is found at 2000 Utah Laws 334, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: There are no provisions in the repealed rule that are eliminated from the enacted rule. The following new substantive provisions appear only in the enacted rule: 1) a statement providing that funds accruing to the department's Law Enforcement Alcohol and Drug Fee Committee may be used to train peace officers, pay peace officer overtime, and manage DUI (Driving Under the

Influence) related motor vehicle impounds; and 2) a statement providing that the department's special counsel shall assist the committee as necessary in carrying out its work.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-1-117

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no cost or savings to the state budget as a result of this rule filing. However, H.B. 209, the law this rule filing implements, will generate approximately \$1,099,700 new revenue per year as a result of increased DUI related motor vehicle impound fees (based on 10,997 impounds in FY (fiscal year) 1999-2000 at \$100 new revenue per impound). It is uncertain what savings will inure to the state budget as a result of this increase because it is unknown what percentage of this increase will be awarded by the Law Enforcement Alcohol and Drug Fee Committee to state law enforcement agencies.

❖LOCAL GOVERNMENTS: There is no cost or savings to local government budgets as a result of this rule filing. However, H.B. 209 will generate approximately \$1,099,700 new revenue per year as a result of increased DUI related motor vehicle impound fees (based on 10,997 impounds in FY 1999-2000 at \$100 new revenue per impound). It is uncertain what savings will inure to local government budgets as a result of that increase because it is unknown what percentage of that increase will be awarded by the Law Enforcement Alcohol and Drug Fee Committee to local law enforcement agencies.

❖OTHER PERSONS: There is no cost or savings to other persons as a result of this rule filing. However, H.B. 209 will generate approximately \$1,099,700 new revenue per year as a result of increased DUI related motor vehicle impound fees (based on 10,997 impounds in FY 1999-2000 at \$100 new revenue per impound). Prior to the passage of H.B. 209 a person whose motor vehicle was impounded in connection with a DUI arrest was required to pay an administrative impound fee of \$100. H.B. 209 increased the fee to \$200.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons as a result of this rule filing. However, H.B. 209 will require a person whose motor vehicle is impounded in connection with a DUI arrest, to pay an additional \$100 impound fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses because the increase in the DUI related motor vehicle impound fee generated by H.B. 209 only applies to individuals whose motor vehicles are impounded in connection with DUI related arrests.

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

Public Safety  
Highway Patrol  
First Floor, Calvin L. Rampton Complex  
4501 South 2700 West  
PO Box 141775

Salt Lake City, UT 84114-1775, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at (801) 965-4463, by FAX at (801) 965-4608, or by Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Richard A. Greenwood, Superintendent

**R714. Public Safety, Highway Patrol.**

~~**[R714-550. Rule for Spending Fees Generated by the Reinstatement of Driver Licenses:**~~

~~**R714-550-1. Purpose and Authority:**~~

~~Subsection 53-3-105(29) provides for the establishment of an administrative fee to be paid for the reinstatement of a driver license suspended or revoked for the commission of alcohol or drug-related offenses. Subsection 53-3-106(5) provides that a portion of the fee will be appropriated by the legislature to the Utah Department of Public Safety (department) so that the department can in turn purchase equipment for law enforcement agencies of the state and its political subdivisions to assist them in enforcing alcohol or drug-related driving laws. This rule is authorized by Section 53-1-117 which requires the department to make rules governing the manner in which those funds are distributed.~~

~~**R714-550-2. Law Enforcement Alcohol and Drug Fee Committee:**~~

~~There is hereby established a Law Enforcement Alcohol and Drug Fee Committee (committee) which shall be responsible for assisting the department in purchasing equipment for law enforcement agencies to assist them in their enforcement of alcohol or drug-related driving laws.~~

~~**R714-550-3. Committee Make-up:**~~

~~(1) The committee will consist of six members made up of one representative from each of the following groups or organizations:~~

~~(a) Utah Highway Patrol Superintendent or designee;~~  
~~(b) Utah Department of Public Safety, Breath Alcohol Program;~~

~~(c) Utah Division of Highway Safety;~~  
~~(d) Utah Sheriffs Association;~~  
~~(e) Utah Chiefs of Police Association;~~  
~~(f) Statewide Association of Prosecutors;~~

~~(2) Members of the committee shall:~~  
~~(a) be approved by the Commissioner of the Utah Department of Public Safety;~~

~~(b) be appointed for four year terms; and~~  
~~(c) cease to be members of the committee immediately upon the termination of their membership in the group or organization they represent.~~

— (3) If a vacancy occurs during the four year term of a committee member, a new member shall be appointed from the same group or organization to complete the term of that member.

— (4) The committee shall select a chairman and vice-chairman from among its members.

— (5) Four members shall constitute a quorum for committee action.

**R714-550-4. Committee Meetings.**

— The committee shall meet at least quarterly for the purpose of reviewing applications from law enforcement agencies for equipment.

**R714-550-5. Application for Equipment.**

— Application for equipment shall be made on department forms and shall be mailed to the committee in care of the department.

**R714-550-6. Criteria for Awarding Equipment.**

— The committee shall base its decisions for awarding equipment on the following criteria:

— (a) the effectiveness to which the equipment will be used by the agency in enforcing alcohol or drug-related driving laws;

— (b) the effectiveness of the equipment in enhancing the agency's ability to prosecute impaired drivers;

— (c) the effectiveness of the equipment in enhancing the agency's efficient use of manpower; and

— (d) the completeness of the agency's application.

**R714-550-7. Agency Accountability.**

— Law enforcement agencies that receive equipment from the committee shall:

— (a) use the equipment only in the manner set forth in the agency's application;

— (b) use the equipment only to enforce alcohol and drug-related driving laws;

— (c) maintain records for five years sufficient to show how the equipment is used; and

— (d) cooperate with the committee if and when the committee determines it is necessary to audit agency records showing how the equipment is used.

**KEY: drugs, alcohol, fees**

**March 24, 1998** **53-1-117]**

**R714-550. Rule for Spending Fees Provided under Section 53-1-117.**

**R714-550-1. Purpose.**

Pursuant to Section 53-1-117, this rule establishes criteria and procedures for the Utah Department of Public Safety to administer revenues from the "Public Safety Restricted Account" established by Section 53-3-106(1); which accrue from fee income pursuant to Sections 41-6-44.30, 53-3-105(29) and 53-3-106(5). Accordingly, these funds shall be used to:

(a) purchase equipment for law enforcement agencies of the state and its political subdivisions to assist them in enforcing alcohol or drug related driving laws;

(b) train peace officers;

(c) provide peace officer overtime; and

(d) fund the managing of DUI related motor vehicles.

**R714-550-2. Authority.**

This rule is authorized by Section 53-1-117 which requires the department to make rules establishing criteria and procedures for alcohol or drug enforcement funding.

**R714-550-3. Law Enforcement Alcohol and Drug Fee Committee.**

This rule establishes the Law Enforcement Alcohol and Drug Fee Committee (committee) which shall be responsible for assisting the department in awarding funds to purchase equipment, train peace officers, fund peace officer overtime, and develop DUI related vehicle management functions to assist in the enforcement of alcohol or drug related driving laws.

**R714-550-4. Committee Membership.**

(1) The committee shall consist of six members made up of one representative from each of the following groups or organizations:

(a) Utah Highway Patrol Superintendent or designee;

(b) Utah Department of Public Safety, Breath Alcohol Program;

(c) Utah Division of Highway Safety;

(d) Utah Sheriffs Association;

(e) Utah Chiefs of Police Association;

(f) Statewide Association of Prosecutors;

(2) Members of the committee shall:

(a) be approved by the Commissioner of the Utah Department of Public Safety;

(b) be appointed for four year terms; and

(c) cease to be members of the committee immediately upon the termination of their membership in the group or organization they represent.

(3) If a vacancy occurs during the four year term of a committee member, a new member shall be appointed from the same group or organization to complete the term of that member.

(4) The committee shall select a chairman and vice-chairman from among its members.

(5) Four members shall constitute a quorum for committee action.

(6) The department's special counsel shall assist the committee as needed.

**R714-550-5. Committee Meetings.**

The committee shall meet at least quarterly for the purpose of reviewing and approving applications from law enforcement agencies.

**R714-550-6. Applications.**

Applications for the funding of equipment, training, peace officer overtime, and DUI related vehicle management functions shall be made on department forms and shall be mailed to the committee in care of the department.

**R714-550-7. Criteria and Awards.**

The committee shall use the following criteria in approving funding awards:

(a) the effectiveness to which the equipment, training, overtime or DUI related vehicle management funds will be used by



the agency seeking to improve enforcement of alcohol or drug related driving laws;

(b) the effectiveness of the equipment, training, overtime or DUI related vehicle management funds in enhancing the agency's ability to prosecute impaired drivers;

(c) indicators of more efficient use of manpower; and

(d) the completeness of the agency's application.

**R714-550-8. Agency Accountability.**

Law enforcement agencies that receive funding shall:

(a) use the awarded resources only in the manner set forth in the agency's application;

(b) use the awarded resources only to enforce alcohol and drug related driving laws;

(c) maintain records for five years sufficient to show how the funding is used; and

(d) cooperate with the committee if and when the committee determines it is necessary to audit agency records, and evaluate use of the funding.

**KEY: drugs, alcohol, fees**

**August 15, 2000**

**53-1-117**



Public Service Commission,  
Administration  
**R746-310-8**  
Billing Adjustments

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22988

FILED: 06/30/2000, 16:05

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To have alternative means of communication between customers and utility company when a backbill adjustment is made.

SUMMARY OF THE RULE OR CHANGE: The wording in Subsection R746-310-8(B) is being changed to implement communication improvements to customers when a backbill adjustment is made to a customer's account.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-3-7, 54-4-1, and 54-4-23

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None—this change does not require the state to make any changes.

❖LOCAL GOVERNMENTS: None—this change does not require local government to make any changes.

❖OTHER PERSONS: None—this change does not require the utility companies to spend any additional funds; only gives them more options to inform customers of backbill situations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this change does not require anyone to spend additional funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Utah Power and Light requested this change to implement communication alternatives to customers when a backbill adjustment is made to a customer's account to ensure better customer service. The alternatives will not require the expenditure of any additional funds.

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

Public Service Commission  
Administration  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Barbara Stroud (Designee), Paralegal

**R746. Public Service Commission, Administration.**

**R746-310. Uniform Rules Governing Electricity Service by Electric Utilities.**

**R746-310-8. Billing Adjustments.**

A. Definitions --

1. A "backbill" is that portion of a bill, other than a leveled bill, which represents charges not previously billed for service that was actually delivered to the customer during a period before the current billing cycle.

2. A "catch-up bill" is a bill based upon an actual reading rendered after one or more bills based on estimated or customer readings. A catch-up bill which exceeds by 50 percent or more the bill that would have been rendered under a utility's standard estimation program is presumed to be a backbill.

B. Notice -- The account holder may be notified by mail, by phone, or by a personal visit, of the reason for the backbill. This notification[Every backbill] shall be followed by, or include,[contain] a written explanation of the reason for the backbill that shall be received by the customer before the due date and be sufficiently detailed to apprise the customer of the circumstances, error or condition that caused the underbilling, and, if the backbill covers more than a 24-month period, a statement setting forth the reasons the utility did not limit the backbill under Subsection R746-310-8(D), Limitations of the Period for Backbilling.

C. Limitations on Rendering a Backbill -- A utility shall not render a backbill more than three months after the utility actually

became aware of the circumstance, error, or condition that caused the underbilling. This limitation does not apply to fraud and theft of service situations.

D. Limitations of the Period for Backbilling --

1. A utility shall not bill a customer for service rendered more than 24 months before the utility actually became aware of the circumstance, error, or condition that caused the underbilling or that the original billing was incorrect.

2. In case of customer fraud, the utility shall estimate a bill for the period over which the fraud was perpetrated. The time limitation of Subsection R746-310-8(D)(1) does not apply to customer fraud situations.

3. In the case of a backbill for Utah sales taxes not previously billed, the period covered by the backbill shall not exceed the period for which the utility is assessed a sales tax deficiency.

E. Payment Period -- A utility shall permit the customer to make arrangements to pay a backbill without interest over a time period at least equal in length to the time period over which the backbill was assessed. If the utility has demonstrated that the customer knew or reasonably should have known that the original billing was incorrect or in the case of fraud or theft, in which case, interest will be assessed at the rate applied to past due accounts on amounts not timely paid in accordance with the established arrangements.

**KEY: public utilities, utility regulation\*, electric utility industries**

~~[January 15, 1997]~~2000 **54-3-1**  
Notice of Continuation December 8, 1997 **54-3-7**  
**54-4-1**  
**54-4-8**  
**54-4-14**  
**54-4-23**

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-3-1, 54-3-7, 54-4-1, and 54-4-23

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None—this change does not require the state to make any changes.

❖LOCAL GOVERNMENTS: None—this change does not require local government to make any changes.

❖OTHER PERSONS: None—this change does not require the utility companies to spend any additional funds, only gives them more options to inform customers of backbill situations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this change does not require anyone to spend additional funds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change is being made to implement communication alternatives to natural gas customers and to more closely follow the proposed amendment to Section R746-310-8 for electric service customers when a backbill adjustment is made to a customer's account and to ensure better customer service. The alternatives will not require the expenditure of any additional funds.

(DAR Note: The proposed amendment to R746-310-8 is under DAR No. 22988 in this *Bulletin*.)

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

Public Service Commission  
Administration  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Barbara Stroud (Designee), Paralegal

**R746. Public Service Commission, Administration.  
R746-320. Uniform Rules Governing Natural Gas Service.  
R746-320-8. Billing Adjustments.**

A. Definitions --

1. A "backbill" is that portion of a bill, other than a leveled bill, which represents charges not previously billed for service that was actually delivered to the customer before the current billing cycle.

2. A "catch-up bill" is a bill based on an actual reading provided after one or more bills based on estimated or customer readings. A catch-up bill which exceeds by 50 percent or more the



Public Service Commission,  
Administration  
**R746-320-8**  
Billing Adjustments

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 22989  
FILED: 06/30/2000, 16:05  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To have alternative means of communication between customers and utility company when a backbill adjustment is made.

SUMMARY OF THE RULE OR CHANGE: The wording in Subsection R746-320-8(B) is being changed to implement communication improvements to customers when a backbill adjustment is made to a customer's account.

bill that would have been provided under a utility's standard estimation program is presumed to be a backbill.

B. Notice -- The account holder may be notified by mail, by phone, or by a personal visit, of the reason for the backbill. This notification[Each backbill] shall be followed by, or include,[contain] a written explanation of the reason for the backbill that shall be received by the customer before the due date and be sufficiently detailed to apprise the customer of the circumstances, error or condition that caused the underbilling, and, if the backbill covers more than a 24-month period, a statement setting forth the reasons the utility did not limit the backbill under Subsection R746-320-8(D).

C. Limitations on Providing a Backbill -- A utility shall not provide a backbill more than three months after the utility actually became aware of the circumstance, error, or condition that caused the underbilling and the correct calculation to be used in the backbill has been determined. This limitation does not apply to fraud, theft of service, and denial of access to meter situations.

D. Limitations of the Period for Backbilling --

1. A utility shall not bill a customer for service provided more than 24 months before the utility actually became aware of the circumstance, error, or condition that caused the underbilling or that the original billing was incorrect. In the case of a crossed meter condition, the period covered by the backbill may not exceed six months.

2. When there is customer fraud, theft of service, or denial of access to the meter, the utility shall estimate a bill for the period over which the fraud or theft was perpetrated or that denial of access occurred. The time limitations of Subsection R746-320-8(D)(1) do not apply to customer fraud or theft situations.

3. In the case of a backbill for Utah sales taxes not previously billed, the period covered by the backbill shall not exceed the period for which the utility is assessed a sales tax deficiency.

E. Payment Period and Interest -- A utility shall permit the customer to make arrangements to pay a backbill without interest over a time period at least equal in length to the time period over which the backbill was assessed. However, interest will be assessed at the rate applied to past due accounts on amounts not timely paid in accordance with the established arrangements. If the utility has demonstrated that the customer knew or reasonably should have known that the original billing was incorrect or in the case where there has been fraud or theft, interest will be assessed from the time the original payment was due.

**KEY: rules and procedures, public utilities, utility service shutoff**

**[~~October 29, 1999~~2000** 54-2-1  
**Notice of Continuation December 8, 1997** 54-4-1  
54-4-7  
54-4-18  
54-4-23



**Tax Commission, Auditing**  
**R865-91-6**  
**Returns by Husband and Wife, Either or Both of Whom Is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22984

FILED: 06/29/2000, 14:55

RECEIVED BY: MB

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-10-119 allows a husband and wife, when one is a nonresident, to file separate state income tax returns, but requires them to first determine their separate federal adjusted gross income.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment clarifies existing method for allocating income between spouses when one is a nonresident and the spouses determine to file separate state income tax returns; amendment allows the spouses to use an alternate method of determining their separate state taxable incomes if they can demonstrate to the satisfaction of the Tax Commission that the alternate method more accurately reflects their separate state taxable incomes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-119

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the amendment provides an alternate method to calculate separate state taxable income for husband and wife if that method is more accurate than the method outlined in rule.

❖LOCAL GOVERNMENTS: None--income tax revenues go to the Uniform School Fund.

❖OTHER PERSONS: None--the amendment provides an alternate method to calculate separate state taxable income for husband and wife if that method is more accurate than the method outlined in rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the outcome of the amendment will be to more accurately reflect the separate state taxable incomes of a husband and wife, when one is a nonresident.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. The amendment provides for another method of calculating state taxable income for individuals in certain situations.

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

Tax Commission  
Auditing  
Tax Commission Building  
210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.**

**R865-9I. Income Tax.**

**R865-9I-6. Returns by Husband and Wife, ~~Either or Both of Whom Is a~~ When One is a Resident and the Other is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119.**

A. ~~[With reference to Utah Code Ann. Section 59-10-119, in cases where either]~~ Except as provided in B., a husband [or] and wife [is a], one being a nonresident and the other [is] a resident, [and they have filed] who file a joint federal income tax return, [they shall:

~~1. determine their state taxable income as if both were residents and file a joint return, or~~

~~2. file separate state returns and each] but separate state income tax returns shall determine their separate state taxable income [and tax] as follows:~~

~~[a.] 1. [The] First, the amount of the total federal adjusted gross income ["FAGI"] pertaining to each spouse shall [first] be determined. [If any] Any adjustments that apply [jointly] to both spouses [they] shall be divided between the spouses in proportion to the respective incomes of the [individuals before deduction of adjustments] spouses.~~

~~[b.] 2. [The amount of federal taxable income for each spouse shall next be determined by subtracting each individual's part of the deductions and exemptions. Each spouse's percentage of the standard or itemized deductions shall be the same as that which each individual's federal adjusted gross income (FAGI) bears to their total FAGI. Both individuals shall claim their own exemptions plus a percentage of the exemptions for dependents.] Next, each spouse is allocated a portion of each deduction and add back item.~~

~~a) To determine this allocation, each spouse shall:~~

~~(1) divide his or her own FAGI by the combined FAGI of both spouses and round the resulting percentage to four decimal places; and~~

~~(2) multiply the resulting percentage by the deductions and add back items.~~

~~b) The deductions and add back items allowed are as follows:~~

~~(1) state income tax deducted as an itemized deduction on federal Schedule A;~~

~~(2) other items that must be added back to FAGI on the state income tax return;~~

~~(3) itemized or standard deduction;~~

~~(4) state exemption for dependents;~~

~~(5) one-half of the federal tax liability;~~

~~(6) state income tax refund included on line 10 of the federal income tax return; and~~

~~(7) other state deductions.~~

~~3. Each spouse shall claim his or her full state personal exemption.]~~

~~c. The state taxable income of the resident spouse shall then be determined by making the applicable additions, subtractions (see e. below), and equitable adjustments to that individual's portion of the total federal taxable income.~~

~~d. In determining the state taxable income, if any, of the nonresident spouse the applicable additions, subtractions, and equitable adjustments are made to the nonresident spouse's portion of the total federal taxable income, arriving at the amount that would have been the state taxable income if the nonresident spouse had been a resident spouse. Reference Utah Code Ann. Section 59-10-119.~~

~~e. Any federal income tax deduction shall be subtracted by each spouse in the same proportion as each individual's federal adjusted gross income bears to the total FAGI.]~~

~~[f.] 4. [A] Each spouse shall determine his or her separate tax [shall be determined for each spouse] using the Utah tax rate schedules applicable to a husband and wife filing separate returns. [For the nonresident or part-year resident spouse, the Utah income tax is a percentage of the amount that would be his or her Utah income tax as if a full-year resident. Such percentage is the same as that which the Utah portion of the federal adjusted gross income bears to the portion of the total FAGI (not to exceed 100 percent).~~

~~g. For tax years beginning after December 31, 1986 the federal income tax is not allowed as a deduction.]~~

~~B. A husband and wife, one being a nonresident and the other a resident, may use an alternate method of calculating their separate state taxable incomes than the method provided in A. if they can demonstrate to the satisfaction of the Tax Commission that the alternate method more accurately reflects their separate state taxable incomes.~~

**KEY: historic preservation, income tax, tax returns, enterprise zones**

~~[July 3, 1997] 2000~~

Notice of Continuation May 22, 1997

59-10-108

through

59-10-122



Tax Commission, Auditing
R865-19S-49
Sales to and by Farmers and Other
Agriculture Producers Pursuant to Utah
Code Ann. Sections 59-12-104

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 22985
FILED: 06/29/2000, 14:55
RECEIVED BY: MB

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-12-104 provides a sales tax exemption for tangible personal property used or consumed primarily and directly in farming operations.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment clarifies that the rule applies only to purchases by and sales to farmers or other agricultural producers; language that appears in statute is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: None--the proposed amendment clarifies current Tax Commission administration and, as such, is technical in nature.

LOCAL GOVERNMENTS: None--the proposed amendment clarifies current Tax Commission administration and, as such, is technical in nature.

OTHER PERSONS: None--the proposed amendment clarifies current Tax Commission administration and, as such, is technical in nature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the changes are technical in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses, the amendment clarifies current practice.

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

Tax Commission
Auditing
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-49. Sales to and by Farmers and Other Agriculture Agricultural Producers Pursuant to Utah Code Ann. Section 59-12-104.

A. The purchase of feed, medicine, and veterinary supplies by a farmer or other agricultural producer qualify for the sales and use tax exemption for tangible personal property used or consumed primarily and directly in farming operations if the feed, medicine, or veterinary supplies are used;

1. to produce or care for agricultural products that are for sale;

2. to feed or care for working dogs and working horses in agricultural use;

3. to feed or care for animals that are marketed.

B. Fur-bearing animals that are kept for breeding or for their products or for other useful purposes, shall be deemed agricultural products.

C. Electricity, gas, coal, and other fuels are taxable when sold for general farm use; but fuel sold to agricultural producers for use in heating orchards or operating off-highway type farm equipment is exempt.

D. The sales and use tax exemption for sales of tangible personal property used or consumed primarily and directly in farming operations applies only to commercial farming operations, as evidenced by the filing of a federal Farm Income and Expenses Statement (Schedule F) or other similar evidence that the farm is operated as a commercial venture.

E. A vendor making sales to a farmer or other agricultural producer is liable for the tax unless that vendor obtains from the purchaser a certificate as set forth in Rule R865-19S-23.

F. Poultry, eggs, and dairy products are not seasonal products for purposes of the sales and use tax exemption for the exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or other agricultural produce sold by a producer during the harvest season.

G. A vendor is subject to the reporting requirements of Section 59-12-105.

KEY: charities, tax exemptions, religious activities, sales tax
September 2, 1999 2000 59-12-104
Notice of Continuation May 22, 1997



Tax Commission, Auditing  
**R865-19S-61**  
 Meals Furnished Pursuant to Utah  
 Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 22986

FILED: 06/29/2000, 14:55

RECEIVED BY: MB

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-12-104 provides a sales tax exemption for meals sold to inpatients at medical and nursing facilities. Section 59-12-103 imposes a sales tax on the final sale of tangible personal property.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment defines medical and nursing facilities; deletes language indicating that a sale of a meal occurs only if it is segregated on the invoice, since this language has been invalidated by the Utah Supreme Court; indicates what transactions must be segregated on an invoice; deletes language that is in statute. (**DAR Note:** The court ruling referenced to was from *Heritage Convalescent Ctr. v. Utah State Tax Comm.*, 1997.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-104

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: While the proposed amendment has no impact on revenues, the Utah Supreme Court decision underlying one of the amendments--that a sale of a meal occurs even though that sale is not listed on the invoice--will decrease tax revenues if the final sales is an exempt sale. Previous to the court decision, the Tax Commission collected tax from the vendor of the meal, based on the determination that the final sale of the meal ingredients was to the vendor.

❖LOCAL GOVERNMENTS: While the proposed amendment has no impact on revenues, the Utah Supreme Court decision underlying one of the amendments--that a sale of a meal occurs even though that sale is not listed on the invoice--will decrease tax revenues if the final sales is an exempt sale. Previous to the court decision, the Tax Commission collected tax from the vendor of the meal, based on the determination that the final sale of the meal ingredients was to the vendor.

❖OTHER PERSONS: There may be some savings in sales tax to an individual who may purchase a meal sales-tax-exempt. Previously, the preparer of the meal paid sales tax on the ingredients, and passed those taxes on to the consumer. Thus, an exempt consumer paid a transaction price for the meal that included the vendor's taxes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some savings in sales tax to an individual who may purchase a meal sales-tax-exempt. Previously, the preparer of the meal paid sales tax on the ingredients, and passed those taxes on to the consumer. Thus, an exempt consumer paid

a transaction price for the meal that included the vendor's taxes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact to businesses since the business will be buying the food tax-exempt if they are considering the transaction a sale of food for resale. If the purchase is for other than a meal, the business owner will be the final consumer and will be responsible for the sales tax as is current policy.

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

Tax Commission  
 Auditing  
 Tax Commission Building  
 210 North 1950 West  
 Salt Lake City, UT 84134, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R865. Tax Commission, Auditing.**

**R865-19S. Sales and Use Tax.**

**R865-19S-61. Meals Furnished Pursuant to Utah Code Ann. [Section]Sections 59-12-103 and 59-12-104.**

A. "Medical facility" means a facility:

1. described in SIC codes 8062 through 8069 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; and

2. licensed under Section 26-21-8.

B. "Nursing facility" means a facility:

1. described in SIC codes 8051 through 8059 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; and

2. licensed under Section 26-21-8.

~~[A.]C. [The]~~Except as provided in Section 59-12-104, sales tax is imposed upon the amount paid for meals furnished by any restaurant, cafeteria, eating house, hotel, drug store, diner, private club, boarding house, or other place, regardless of whether meals are regularly served to the public.

~~[1. By specific exemption, the following meal sales are exempt from taxation:~~

~~— a. public elementary and secondary school meals, whether sold to students or the public; and~~

~~— b. inpatient meals provided at medical or nursing facilities. Tax must be paid on the purchase price of food by nonexempt medical or nursing facilities.~~

~~2.]D. Ingredients [which]that become a component part of meals subject to tax are construed to be purchased for resale, and as such the purchase of those ingredients is exempt from sales tax.~~

~~[B. Where no separate charge or specific amount is paid for meals furnished but is included in the membership dues or board and room charges; the club, boarding house, fraternity, sorority, or other place is considered to be the consumer of the items used in preparing such meals.]~~

~~E. Where a meal is given away on a complementary basis, the provider of the meal is considered to be the consumer of the items used in preparing the meal.~~

~~[C.]F. Meals served by religious or charitable institutions, and institutions of higher education are[ exempt from taxation only if the meals are] not available to the general public[. The term "available to the general public" is interpreted broadly so as to include any] if:~~

~~1. access to the restaurant, cafeteria, or other facility[ where service] is[ not] restricted to members or employees of the religious or charitable institution, or students or employees of the institution of higher education; and~~

~~2. [monitored for a limited class of people. The following are guidelines for various types of meal sales:]the restricted access is enforced.~~

~~[1. Exemption status of employee cafeterias is determined in large measure by the availability of access to nonemployee personnel. In order for an exemption to apply, access to either the specific eating area or the overall building in which the eating facility is located must be controlled and monitored. Merely posting signs stating that a cafeteria is for use only by employees is not sufficient.~~

~~2. Meals sold in cafeterias, restaurants, and other facilities at institutions of higher education are subject to taxation if access is made available to the general public. The requirements outlined in C.1. for employee cafeterias apply to facilities operated by institutions of higher education. Meals sold and pre-paid pursuant to a room and board contract are not subject to taxation.~~

~~3.]G. [Meals sold or furnished]Sales of meals at occasional church or charity bazaars or fund raisers, and other similar functions are considered isolated and occasional sales and therefore[ tax] exempt from sales tax.~~

~~H. If a sale consists of transactions that are exempt from sales and use tax under this rule and Section 59-12-104, and transactions that are subject to tax, the tax exempt transactions must be separately stated on the invoice or the entire sale will be subject to tax.~~

~~I. If a sale consists of transactions that are subject to the sales and use tax, and other transactions that are subject to additional taxes, such as the transient room tax, the invoice shall clearly state which transactions are subject to the different taxes.~~

**KEY: charities, tax exemptions, religious activities, sales tax [September 2, 1999]2000 59-12-104 Notice of Continuation May 22, 1997**



**Tax Commission, Motor Vehicle Enforcement  
R877-23V-18  
Qualifications for a Salvage Vehicle Buyer License Pursuant to Utah Code Ann. Section 41-3-202**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 22987  
FILED: 06/29/2000, 14:55  
RECEIVED BY: MB

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 41-2-202 requires the Tax Commission to promulgate a rule setting forth the qualifications for issuance of a salvage vehicle buyer's license.

**SUMMARY OF THE RULE OR CHANGE:** Proposed rule sets forth the qualifications for issuance of a salvage vehicle buyer's license.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-3-202

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** Any costs or savings associated with the issuance of a salvage vehicle buyers license were taken into account on the revenue impact of S.B. 137 from the 2000 legislative session.

**(DAR Note:** S.B. 137 is found at 2000 Utah Laws 311, and was effective July 1, 2000.)

❖**LOCAL GOVERNMENTS:** Any costs or savings associated with the issuance of a salvage vehicle buyers license were taken into account on the revenue impact of S.B. 137.

❖**OTHER PERSONS:** Any costs or savings associated with the issuance of a salvage vehicle buyers license were taken into account on the revenue impact of S.B. 137.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed rule does not result in any compliance costs. However, there are significant costs associated with the underlying statute. These costs were required in the revenue impact of S.B. 137.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The rule itself does not have a fiscal impact on businesses, the additional costs to businesses are a result of the legislation and were recognized at that time.

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

Tax Commission  
Motor Vehicle Enforcement  
Tax Commission Building

210 North 1950 West  
Salt Lake City, UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Pam Hendrickson at the above address, by phone at (801)  
297-3900, by FAX at (801) 297-3919, or by Internet E-mail at  
phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE  
BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO  
LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R877. Tax Commission, Motor Vehicle Enforcement.**  
**R877-23V. Motor Vehicle Enforcement.**  
**R877-23V-18. Qualifications for a Salvage Vehicle Buyer**  
**License Pursuant to Utah Code Ann. Section 41-3-202.**

A. An applicant for a salvage vehicle buyer license shall provide to the division:

- 1. evidence that the applicant is licensed in any state as a motor vehicle dealer, dismantler, or body shop;
- 2. a list of any previous motor vehicle related businesses in which the applicant was involved;
- 3. evidence that the applicant has business experience in buying, selling, or otherwise working with salvage vehicles;
- 4. evidence that the applicant understands and complies with statutes and rules relating to the handling and disposal of environmental hazardous materials associated with salvage vehicles under Title 19, Chapter 6, Hazardous Substances; and
- 5. evidence that the applicant has complied with the provisions of Title 41, Chapter 3, Motor Vehicle Business Regulation Act, or similar laws of another state.

**KEY: taxation, motor vehicles**  
**[February 24, 1998]2000** **41-3-202**  
**Notice of Continuation May 22, 1997**



Transportation, Motor Carrier, Ports of  
Entry  
**R912-16**  
Special Mobile Equipment

**NOTICE OF PROPOSED RULE**  
(New)  
DAR FILE NO.: 22990  
FILED: 06/30/2000, 17:01  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: State law at Section 41-1a-230 states that the department shall make rules establishing procedures for application, identification, approval, denial, and appeal of special mobile equipment status.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the process by which special mobile equipments are exempted from registration. Companies with special mobile equipment will have to submit an affidavit, which will be approved or denied by the department. If it is approved, the vehicle is exempted from registration. If it is denied, there is an appeal process within the department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-1a-230 and 72-9-201

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be the cost of printing affidavits at approximately \$100 per 1,000 affidavits. The cost of training Port-of-Entry agents for approximately 1/2 hour is \$280.

❖LOCAL GOVERNMENTS: The state Department of Transportation will be administering this rule, so local governments will not be affected.

❖OTHER PERSONS: Special Mobile Equipment has been exempt in the past from registration, these duties have merely been switched to the department so there will not be any new savings. Vehicles which have previously been approved as special mobile equipment which do not fall under the current guidelines will have to register. Registration will be 50% of registration fees. These fees are \$49.50 for each motor vehicle or combination of motor vehicles over 12,000 pounds, but not exceeding 14,000, and \$18.50 for each 2,000 pounds over 14,000 pounds gross laden weight.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Special Mobile Equipment has been exempt in the past from registration, these duties have merely been switched to the department so there will not be any new savings. Vehicles which have previously been approved as special mobile equipments which do not fall under the current guidelines will have to register and pay property tax costs. We are unable to estimate what these costs are since the vehicles vary in year, size, and the property tax for their area.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have minimal fiscal impact on those operating vehicles previously exempted from 50% of registration fees.

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

Transportation  
Motor Carrier, Ports of Entry  
Calvin Rampton  
4501 South 2700 West  
PO Box 148240  
Salt Lake City, UT 84114-8240, or  
at the Division of Administrative Rules.



DIRECT QUESTIONS REGARDING THIS RULE TO:  
Tamy L. Scott at the above address, by phone at (801) 965-4752, by FAX at (801) 965-4847, or by Internet E-mail at tscott@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/15/2000

AUTHORIZED BY: Tamy L. Scott, Safety Investigator

**R912. Transportation, Motor Carrier, Ports of Entry.**  
**R912-16. Special Mobile Equipment.**  
**R912-16-1. Authority.**

This rule is authorized by Section 41-1a-230.

**R912-16-2. Purpose.**

The purpose of this rule is to provide registration exceptions for special mobile equipment.

**R912-16-3. Definitions.**

(1) Special Mobile Equipment exempt from registration include:

(a) Vehicles not designed to be operated or moved over the highways;

(b) Farm tractors;

(c) Off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, scrapers, tractors and trenchers; and

(d) Ditch digging apparatus.

(2) The following are no longer classified as special mobile equipment but are eligible for one-half exemption of fees required under Section 41-1a-1206:

(a) Concrete Pumpers;

(b) Cranes performing crane services with a crane lift capacity of five tons or more; and

(c) Well boring trucks.

**R912-16-4. Special Mobile Equipment Affidavit.**

(1) All persons who operate or cause to be operated a special mobile equipment exempt from registration shall submit a completed special mobile equipment affidavit to the Department of Transportation, Motor Carrier Division.

(a) To be deemed complete an affidavit must be on the form provided by the Motor Carrier Division and all required fields filled in. Affidavits will be available at all Ports-of-Entry and State Tax Commission, Department of Motor Vehicles offices. Affidavits will be turned into a Port-of-Entry.

(b) The decision as to whether the vehicle is found to be a special mobile equipment exempt from registration, or not to be special mobile equipment, will be so noted on the affidavit.

(c) Special mobile equipment exempt from registration shall carry a copy of the approved affidavit in the vehicle at all times.

(d) Vehicles found to not be special mobile equipment shall register with the State Tax Commission prior to operating the vehicle on a public highway.

(e) Upon receipt of a denial of special mobile equipment, if the owner/operator wishes to appeal the decision of the Department, a petition may be filed with the Utah Department of Transportation, Motor Carrier Division, within 30 days.

(f) A response to an appeal from the Department will be made in writing within 30 days.

**KEY: trucks, safety**  
**2000**

**41-1a-230**  
**72-9-201**



**Transportation, Operations, Traffic and Safety**

**R920-50**

**Tramway Operation Safety Rules**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 22978

FILED: 06/26/2000, 14:46

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To adopt the ANSI B77.1-1999 standard as the governing standard for passenger ropeways in Utah. The current governing standard is the ANSI B77.1-1992 standard, with section 8 of the ANSI B77.1-1999 as the standard for conveyors.

SUMMARY OF THE RULE OR CHANGE: To adopt the ANSI (American National Standards Institute) B77.1-1999 standard as the governing standard in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-11-201, et seq.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the changes do not require additional state resources.

❖LOCAL GOVERNMENTS: None--because the changes do not require additional local government resources.

❖OTHER PERSONS: There will be an initial cost to ropeway operators of approximately \$500 per ropeway, and an annual cost of approximately \$150 per ropeway.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an initial cost to ropeway operators of approximately \$500 per ropeway, and an annual cost of approximately \$150 per ropeway.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The ropeway operators have had input into the development of the ANSI B77.1-1999 standard, and into the adoption of the ANSI B77.1-1999 standard as the governing standard in Utah. The concerns

and the impact of this standard to the ropeway operators have been considered in the decision to adopt this standard.

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

Transportation  
Operations, Traffic and Safety  
Third Floor, Calvin Rampton Building  
4501 South 2700 West  
PO Box 143200  
Salt Lake City, UT 84114-3200, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sterling C. Davis at the above address, by phone at (801) 965-4273, by FAX at (801) 965-3845, or by Internet E-mail at sdavis@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 08/31/2000

AUTHORIZED BY: Sterling C. Davis, P.E., Engineer for Traffic and Safety

## **R920. Transportation, Operations, Traffic and Safety.**

### **R920-50. [Framway]Ropeway Operation[s] Safety Rules.**

#### **R920-50-1. Utah [Framway]Ropeway Rules for Passenger [Framways]Ropeways.**

##### **A. Introduction**

These rules are issued pursuant to Utah Code Annotated, Section ~~[63-11-46]~~72-11-210 to implement the Passenger [Framway]Ropeway Safety Act, Utah Code Ann., Sections ~~[63-11-37]~~72-11-201 et seq.

##### **B. Governing Standard**

1. The governing standard in Utah is the standard entitled "ANSI B-77.1, ~~[1992]~~1999", published by the American National Standards Institute, 1430 Broadway, New York, New York 10018, and approved by ANSI on ~~[December 2, 1992 and Section 8 of "ANSI B-77.1, 1999", published by the American National Standards Institute, 1430 Broadway, New York, New York 10018, and approved by ANSI on ]~~March 11, 1999, and as modified by rule of the Committee. ~~[Adoption]~~Use of this standard is authorized by Section ~~[63-11-37]~~72-11-201.

2. The Utah Passenger [Framway]Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

##### **C. Classification of [Framways]Ropeways and Applicable Standards**

1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1.D.1.b;

b. Existing ~~[framways]~~ropeways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

c. ~~[Tramway]~~Ropeway modifications shall meet the requirements of R920-50-2.F and R920-50-8.

2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

##### **D. Inspections of [Framways]Ropeways**

1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

a. An annual general or pre-operational inspection of each passenger ~~[tramway]~~ropeway shall be made by a [Framway]Ropeway Inspector prior to approval of any application for licensure. An operational inspection of each passenger ~~[tramway]~~ropeway may be made by a [Framway]Ropeway Inspector at least once a year during the high-use season. For each passenger ~~[tramway]~~ropeway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the [Framway]Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the [Framway]Ropeway Inspector's report or request an exception from the Governing Standard and applicable Utah [Framway]Ropeway Operations Safety Rules. In addition to the annual general, pre-operational, and operational inspections, the Committee may order other inspections in accordance with Section ~~[63-11-47]~~72-11-211;

b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

2. ~~[Requirements for electronic speed-regulated drives, as set forth in ANSI B77.1, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2. These requirements shall be effective November 1, 1994;~~

3. ~~]Requirement for [rope position monitoring]one device that senses the position of the rope shall be installed on each sheave unit, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;~~

4. ~~Requirement for fire detection system as set forth in R920-50-1.E. This requirement shall be effective November 1, 1995;~~

5. ~~Requirements for friction type brakes as set forth in ANSI B77.1, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5. These requirements shall be effective November 1, 1995.]3. Requirements for audible warning devices, as specified by ANSI B77.1, 2.1.1.12, 3.1.1.12. These requirements shall be effective November 1, 2001;~~

4. Section 4.1.1.12 of the Governing Standard is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the ropeway. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the ropeway begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level. These requirements shall be effective November 1, 2001;

5. "Qualified personnel" as used in X.1.1.11 means a qualified engineer approved by the Committee. A "aerial tramway specialist" as used in 2.3.4, "aerial lift specialist" as used in 3.3.4 and 4.3.4,

"surface lift specialist" as used in 5.3.4, and a "tow specialist" as used in 6.3.4 means a ropeway inspector approved by the Committee.

c. Grips, clips, hangars, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection c.

1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

2. Testing agency inspector shall certify to the owner or area operator that the passenger [~~tramway~~]ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

d. Wire rope inspection shall be performed according to Section 7.4.1 of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.4.

#### E. Fire Detection

All machine rooms that are in an enclosed structure located adjacent to the rope of the [~~tramway~~]ropeway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

#### F. Conveyors Standards

1. Section 8 of the ANSI B77.1-1999 is modified by the following requirement:

a. Modifying the maximum conveyor speed requirements stated in 8.1.1.5, that maximum speed is 160 feet/minute.

b. Loading and unloading areas requirements of 8.1.1.9 shall also accommodate the use of adaptive devices.

c. "Qualified personnel" as used in 8.1.1.11 means a qualified engineer approved by the Committee. A "conveyor specialist" as used in 8.3.4 means a [~~tramway~~]ropeway inspector approved by the Committee.

d. Power units referred to in 8.1.2.1 may not have reverse capability.

e. "Power supply cords" referred to in 8.2.1.5.5 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

f. The belt transition entry stop device referred to in 8.1.2.11.2 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. When an automatic stop occurs, an audible alarm shall sound for a minimum of 10 seconds or until manually reset. The alarm shall be audible to the operator at the loading and unloading areas.

g. A single operator, as referred to in 8.3.2.2 may not operate more than one conveyor.

h. No bypass of circuits, as referred to in 8.3.2.5.9 is allowed.

#### R920-50-2. Definition of Terms.

A. "Aerial lift" means a ropeway on which passengers are transported in cabins or on chairs and that circulate in one direction between terminals without reversing the travel path.

B. "Aerial tramway (reversible)" means a ropeway on which the passengers are transported in cable-supported carriers are not in contact with the ground or snow surface, and in which the carrier(s) reciprocate between terminals.

[A]C. "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger [~~tramway~~]ropeway are in proper working order and in accordance with Committee rules.

[B]D. "Committee" means the Passenger [~~Tramway~~]Ropeway Safety Committee as outlined in Section [~~63-11-39~~]72-11-202.

E. "Conveyor" means a device used to transport skiers uphill while standing on a flexible moving element which consists of multiple tread plates or belting.

[C]F. "Detachable grip lift" means a [~~tramway system~~]ropeway system on which carriers circulate around the system alternately attaching to and detaching from a moving haul rope(s). The [~~system~~]ropeway system may be monicable or bicable.

G. "Funicular" means a ropeway in which carrier(s) are supported and guided by a guideway and are propelled by means of a haul rope system and operates as a single reversible or as a double reversible.

[D]H. "Incident inspection" means an inspection of a passenger [~~tramway~~]ropeway incident made by an approved [~~Tramway~~]Ropeway Inspector or a qualified engineer at the request of the Committee.

[E]I. "Modification" means any change as defined in the Governing Standard, ANSI B77.1 Standard 1.2.4.3 and the replacement of a [~~tramway~~]ropeway component by one that alters the certified design or construction provided by the passenger [~~tramway~~]ropeway manufacturer or designer.

[F]J. "Operational inspection" means an inspection of a passenger [~~tramway~~]ropeway made by a [~~Tramway~~]Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with Committee rules.

[G]K. "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or

structures of a [tramway]ropeway and when specifically on duty for such purpose on that [tramway]ropeway.

L. "Operator" means a person, including any political subdivision or instrumentality of the political subdivision, who owns, manages, or directs the operation of a passenger ropeway.

[H]M. "Passenger" means any person riding a [tramway]ropeway, other than "operating personnel".

[F]N. "Passenger [tramway]ropeway" is defined in Section 63-11-38; ropeway" means all devices that carry, pull, or push passengers along a level or inclined path (excluding elevators) by means of a haul rope or other flexible element that is driven by a power unit remaining essentially at a single location. Passenger ropeways include the following:

(1) aerial tramway (reversible);

(2) aerial lifts (detachable lifts, chair lifts and similar equipment);

(3) conveyor;

(4) funicular;

(5) rope tow (wire rope and fiber rope tows); and

(6) surface lifts (J-bar, T-bar, or platter pull and similar equipment).

[F]O. "Passenger [Tramway]Ropeway Incident" means:

1. Any structural, mechanical, or electrical malfunction or failure of a passenger [tramway]ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger [tramway]ropeway;

2. Any deropement regardless of whether or not the passenger [tramway]ropeway is evacuated;

3. Any evacuation of the passenger [tramway]ropeway other than by prime mover or auxiliary power unit, regardless of cause;

4. Any fire involving a passenger [tramway]ropeway component or adjacent structure;

5. Any structural, mechanical, or electrical malfunction or failure of a passenger [tramway]ropeway component that results in a loss of control of the passenger [tramway]ropeway as defined in the Governing Standard, ANSI B77.1 Standard X.2.1.7.2;

6. Any wire rope damage which exceeds the requirement in the Governing Standard, ANSI B77.1 Standard 7.4.1.1; or

7. Any structural, mechanical, or electrical malfunction or failure of a passenger [tramway]ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following:

a. Terminal Structure

b. Bullwheel

c. Brake System

d. Tower Structure

e. Sheave, Axle, or Sheave Assembly

f. Carrier

g. Grip.

[K]P. "Pre-operational inspection" means an inspection made by a [Tramway]Ropeway Inspector prior to the operation of any new or modified passenger [tramway]ropeway requiring an Acceptance Inspection and Test.

[E]Q. "Qualified engineer" means, notwithstanding any different definition in the ANSI B77.1 Standard, any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

[M]R. "Responsible charge" means effective control and direction of projects of the type discussed in these rules.

S. "Rope tow" means a ropeway wherein passengers grasp a circulating fiber hauling rope or a towing device attached to a circulating wire rope or fiber rope and are propelled uphill. Passenger riding on recreational devices are also propelled uphill.

[N]T. "[Tramway]Ropeway inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the [tramway]ropeway owner, and approved by the Committee to inspect passenger [tramways]ropeways.

U. "Surface lift" ("J bar," "T bar," or "platter pull," and similar equipment) means a ropeway wherein passengers or passengers on recreational devices are transported on the surface by means of towing devices propelled by a main overhead traveling wire rope supported by trestles or towers with one or more spans.

### **R920-50-3. Registration of [Tramways]Ropeways.**

#### **A. General**

1. Purpose - In order to ensure that all passenger [tramways]Ropeways conform with the requirements set forth by the Passenger [Tramway]Ropeway Act and these rules, all passenger [tramways]Ropeways operating in the state of Utah shall be registered annually with the committee, and no passenger [tramway]Ropeway shall be operated for passengers without a valid certificate of registration;

2. Term - Passenger [tramways]Ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue;

3. New [tramways]ropeways - Any passenger [tramway]ropeway which shall be opened for the first time for passenger operation shall, during its first calendar year of operation, be construed to be a new [tramway]ropeway for purposes stated in these rules;

4. Existing [tramways]ropeways - Any passenger [tramway]ropeway which shall have been operated for passengers in excess of one calendar year, shall be construed to be an existing [tramway]ropeway for purposes stated in these rules;

5. Relocated [tramways]ropeways - Any passenger [tramway]ropeway moved to a new location shall be construed to be a new [tramway]ropeway for purposes stipulated in these rules, with the exception that [tows]ropeways expressly designed to be portable, operated without a permanent foundation, and that have a design range of maximum grade, shall not be considered new [tramways]ropeways when moved to different locations but remaining under the jurisdiction of the same operator;

6. Identification number - For each [tramway]ropeway, upon receipt of the first application for a certificate of registration, the committee shall assign an identification number to the [tramway]ropeway, which shall remain as a permanent identification number for the life of the [tramway]ropeway; all correspondence with the committee pertaining to any [tramway]ropeway shall refer to the identification number assigned to that [tramway]ropeway;

7. All [tramway]ropeway operators shall be covered by a liability insurance of a minimum of \$300,000;

8. Submittal of application for registration of [tramways]ropeways - All applications for registration of new or existing [tramways]ropeways shall be submitted in accordance with requirements of these rules and shall be made in writing and addressed to:

Utah Department of Transportation  
 Passenger [Tramway]Ropeway Safety Committee  
 Division of Safety  
 4501 South 2700 West  
 Salt Lake City, Utah 84119-5998;

9. "As Built" drawings for each passenger [tramway]ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test and Inspection is finished.

B. Attachments

In addition to supporting documents indicated in R920-50-4 or R920-50-7, each application is to include as attachments:

1. Certificate of insurance
2. Annual registration fee.

**R920-50-4. Registration of New [Framways]Ropeways.**

A. Application for Certification of Registration

Prior to the operation of any new passenger [tramway]ropeway, the operator shall apply to the Committee for a Certificate of Registration in such form as the Committee shall designate.

B. The Application must include the name, address and telephone number of operator of the [tramway]ropeway, and operator's designation of the [tramway]ropeway. The application and certifications must be in accordance with R920-50-3.A and submitted as follows:

1. A Pre-Operational Inspection Report must be submitted by an approved [Framway]Ropeway Inspector, and must include the name and address of the Inspector and date of his or her inspection.

2. Any Request for Exception from Standards for Passenger [Framway]Ropeway shall be submitted in accordance with R920-50-10. Any known items that require a Request for Exception from Standards for Passenger [Framways]Ropeways must be submitted to the Committee before work begins.

3. A Certification of [Framway]Ropeway Design for New or Modified Passenger [Framways]Ropeways, must be submitted. The Qualified Engineer in responsible charge of the design shall certify to the Committee on the top drawing of the design drawing packet that the design, plans and specifications conform to the Utah Passenger [Framway]Ropeway Safety Act, the Governing Standard and the Utah [Framway]Ropeway Operations Safety Rules. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test and must state the following:

"I hereby certify that the design for this [tramway]ropeway or [tramway]ropeway modification is in complete compliance with the Utah Passenger [Framway]Ropeway Safety Act, Governing Standard and the Utah [Framway]Ropeway Operations Safety Rules and that I accept responsibility for the engineering designs, calculations, drawings and specifications for this [tramway]ropeway or [tramway]ropeway modification." This statement shall be placed on the top drawing of the drawing packet and signed and sealed by the Qualified Engineer. Each additional sheet of this drawing packet shall be sealed by the Qualified Engineer. Any variation from the design drawings shall be noted in the drawings and approved by the Qualified Design Engineer.

4. A Certification of Compliance for Passenger [Framways]Ropeway shall be made on the Application for Certificate of Registration for New or Modified [Framways]Ropeway. This Certification shall include the following statement, signed and dated by the [tramway]ropeway owner or area

operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger [Framway]Ropeway."

5. The Annual Registration Fee must be submitted in accordance with R920-50-11-A.

6. A Certification of Fabrication and Materials for Passenger [Framways]Ropeway must be submitted by a Qualified Engineer of the manufacturing concern or concerns directly responsible for the supply of equipment for this [tramway]ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification must include the following information:

a. Name, address and telephone number of operator of the [tramway]ropeway, name of [tramway]ropeway supervisor, operator's designation of the [tramway]ropeway.

b. Name and address of manufacturing concern, and name, seal and Utah license number of the qualified engineer making certification.

c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that all components, all fabrication procedures and all material used in the production of the equipment for this [tramway]ropeway, or [tramway]ropeway modification, conform with the Utah Passenger [Framway]Ropeway Safety Act, Governing Standard, the Utah [Framway]Ropeway Operations Safety Rules and the drawings and specifications issued for this [tramway]ropeway or [tramway]ropeway modification by the Qualified Design Engineer."

7. A Certification of Construction for Passenger [Framways]Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the [tramway]ropeway. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test. This Certification shall include the following information:

a. Name, address and telephone number of operator of the [tramway]ropeway name of [tramway]ropeway supervisor, operator's designation of the [tramway]ropeway identification number, as assigned by the committee for the [tramway]ropeway;

b. Name, Utah license number and seal of the Qualified Engineer making the certification.

c. A certifying statement signed by the Qualified Engineer, to read as follows: "I hereby certify that all footings and other concrete structures, field assembly, excavations, placement of reinforcing steel and anchoring components, quality of concrete and placement of concrete were carried out in accordance with plans and specifications, so that the design bearing value will be attained, as specified by the drawings and specifications issued for this [tramway]ropeway or [tramway]ropeway modification by the Qualified Design Engineer."

8. A final Acceptance Test report must be submitted to the Committee. A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. Acceptance inspection and tests will be scheduled by the Committee or Committee's representative as the acceptance test procedures are received. The owner or area operator shall notify the Committee in writing before the scheduled date that the

passenger [tramway]ropeway has been operated in accordance with the Governing Standard, section X.1.1.11.2.

9. A Certification of "As-Built" Profile for Passenger [Tramways]Ropeway must be submitted by a Land Surveyor or Civil Engineer licensed in the state of Utah. This Certification must be submitted prior to the performance of the Acceptance Inspection and Test, and shall be signed by the Civil Engineer or Land Surveyor, and shall read as follows: "I hereby certify that the attached "as-built" profile of the herein-identified [tramway]ropeway is as represented on the attached profile drawing and that the completed [tramway]ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

10. A Utah Passenger [Tramway]Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Inspection and Test.

#### **R920-50-5. Annual Registration Fee.**

This fee shall be submitted in accordance with stipulations of R920-50-11(A).

#### **R920-50-6. Certificate of Registration.**

If the application for certificate of registration and supporting documentation attest that the [tramway]ropeway complies with the Governing Standard and these rules, the Committee, if satisfied with the facts stated in the application, shall issue a certificate of registration to the operator.

#### **R920-50-7. Registration of Existing [Tramways]Ropeways.**

A. Before November 1st, of each year, every operator of an Existing Passenger [Tramway]Ropeway who intends to operate the [tramway]ropeway during the ensuing 12-month period shall apply to the Committee, in such form as the Committee shall designate, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

B. The Application shall include the following:

1. An Annual General Inspection Report by an approved [Tramway]Ropeway Inspector, including the name and address of the Inspector and date of inspection.

2. Approved Request for Exception from Standards for Passenger [Tramways]Ropeways which meets the requirements of R920-50-10, if applicable.

3. A Certification of Compliance for Passenger [Tramways]Ropeway shall be made on the Application for Certificate of Registration for Existing [Tramways]Ropeway. This Certification shall include the following statement, dated and signed by the [tramway]ropeway owner or area operator: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger [Tramway]Ropeway."

4. The Annual Registration Fee in accordance with R920-50-11.A.

#### **R920-50-8. Modifications.**

If a modification, as defined in R920-50-2(E) has been made to an existing [tramway]ropeway, the data as required by R920-50-7 shall also be accompanied by a design certification, fabrication and materials certification, and a construction certification, and also a survey profile certification if applicable, submitted by a qualified engineer to cover the modification. Depending on the nature and extent of the modification, the Committee, or the Committee's appointed representative, may require an Acceptance Inspection and Test.

#### **R920-50-9. Certificate of Registration.**

If the application for certificate of registration and documentation required by R920-50-7 and R920-50-8, if applicable, attest that the existing [tramway]ropeway complies with the governing standard and these rules, the committee, if satisfied with facts stated in the application, shall issue a certificate of registration to the owner.

#### **R920-50-10. Exception.**

A. In the event that the [tramway]ropeway does not conform with the requirements set forth in R920-50-1-C, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted. The first type is an Annual Exception. It continues indefinitely, but this type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the committee that a change is necessary. The second type of exception is a Limited Exception. This type of exception is granted only for a fixed time period to be determined by the Committee. The nature of the exception shall be stated in the Request for Exception from Standards. The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the owner or area operator in writing of its action on the Request.

B. The Request for Exception from Standards shall include the following information:

1. Reasons for requesting an exception from requirements set forth in R920-50-1-C.

2. Specification of the ways in which the [tramway]ropeway does not conform to requirements set forth in R920-50-1-C.

3. Procedures, with estimated time and cost, which would be required to bring the [tramway]ropeway into conformance with the requirements set forth in R920-50-1-C.

C. Except as required in R920-50-10-F, the Committee shall issue a certification of registration with an exception if the operator satisfies the requirements stated in R920-50-10-B and also supplies the following for new or existing [tramways]ropeways:

New [tramways]Ropeways - A design certification by a qualified engineer attesting that the [tramway]ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C;

Existing [tramways]Ropeways - A design certification by a qualified engineer attesting that the [tramway]ropeway is so

designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C and a statement of the operator certifying that the [tramway]ropeway has been operated safely and without any passenger [tramway]ropeway incident, as defined in R920-50-2-J-1 or -7, related to the feature for which the exception is requested, for any period of time the [tramway]ropeway has been operated up to 2 years prior to the date of the Request for Exception from Standards.

D. In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in R920-50-10-C if the Committee determines that the [tramway]ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

E. The issuance of a certificate of registration with an annual exception shall not bind the committee to issue such a certificate for the [tramway]ropeway involved in subsequent years, nor to issue such a certificate for another [tramway]ropeway of same or similar design.

F. In special cases where doubt exists as to the safety of a [tramway]ropeway, the committee may require a special inspection to ascertain that the [tramway]ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in R920-50-1-C.

#### **R920-50-11. Fees.**

A. In accordance with the requirements of Section ~~[63-11-44]~~[72-11-208] and these rules, each Application for a Certificate of Registration shall be accompanied by the applicable fee fixed by the Committee and approved by the Legislature:

1. ~~[Two-car or Multicar]~~ Aerial ~~[Passenger]~~ Tramway (Reversible) (101 HP or over) - \$440.00 each
2. ~~[Two-car or Multicar]~~ Aerial ~~[Passenger]~~ Tramway (Reversible) (100 HP or under) - \$220.00 each
3. ~~[Chair]~~Aerial lift (Double) - \$140.00 each
4. ~~[Chair]~~Aerial lift (Triple) - \$165.00 each
5. ~~[Chair]~~Aerial lift (Quad) - \$195.00 each
6. ~~[Chair]~~Aerial lift (Detachable) - \$440.00 each
7. Conveyor, Rope Tow) - \$55.00 each
8. Funicular (Single or Double Reversible) - \$440.00 each
- ~~[7]9. [Rope Tow];~~Surface lift (J-bar, T-bar, or platter pull) - \$55.00 each

#### **R920-50-12. Violations.**

The terms in this rule are outlined in Sections ~~[63-11-48]~~[72-11-212] and ~~[63-11-49]~~[72-11-213].

#### **R920-50-13. Operation of ~~[Framways]~~Ropeways.**

A. Operation and maintenance

Operators shall comply with the Governing Standard.

B. Reporting of Incidents

1. Every passenger [tramway]ropeway incident, as defined in R920-50-2J shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of

the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

2. Every passenger [tramway]ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the [tramway]ropeway was open to the public at the time of the incident.

3. The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, Utah Code Annotated, Section 63-2-304 and are also governed by the provisions of Utah Code Annotated, Section 63-2-207.

4. When a passenger [tramway]ropeway incident, as defined in R920-50-2J(1) or (7), occurs, the owner or area operator of the [tramway]ropeway shall suspend operation of the [tramway]ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the [tramway]ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the [tramway]ropeway. The inspection shall precede any authorization to resume public operation of the passenger [tramway]ropeway.

C. Revocation of certificate of registration - Section ~~[63-11-49]~~[72-11-213].

#### **R920-50-14. ~~[Framway]~~Ropeway Inspector and Qualified Engineer.**

A. General

1. In order to promulgate the uniformity and reliability of the inspections required by law and these rules, and of [tramway]ropeway designs, any person performing inspection services must be a "[tramway]ropeway inspector" as required by these rules, and any person performing design services must be a "qualified engineer", as required by these rules.

2. The committee shall maintain up-to-date lists of qualified engineers and [tramway]ropeway inspectors, which lists shall be open to inspection by the public.

3. Any person desiring to be approved by the committee as a [tramway]ropeway inspector or qualified engineer shall submit a written request to the committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-14(B).

B. Requirements

1. Applicant shall satisfy the [tramway]Ropeway committee that by his or her education, training and experience gained by participation in [tramway]Ropeway inspections or designs as a principal or an assistant to a recognized [tramway]Ropeway inspector or [tramway]Ropeway designer, he or she is qualified to be, respectively, an approved inspector or [tramway]Ropeway designer or both.

2. Applicant shall satisfy the committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger [tramways]ropeways, and that he or she has an understanding and working knowledge of the governing standard and these rules.

3. The committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified [tramway]ropeway inspector or qualified [tramway]ropeway designer.

4. The committee may approve employees of the state or individuals retained by the state as qualified [tramway]ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the committee to use the services and talents of qualified private engineers wherever possible.

C. Revocation or suspension of approval as [tramway]ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or [tramway]ropeway inspector who is found by the committee to have:

1. Practiced any fraud, misrepresentation, or deceit in applying for approval; or,
2. Caused damage to another by gross negligence in the practice of passenger [tramway]ropeway designing, construction, or inspection; or
3. Been engaged in acts of unlawful or unprofessional conduct.

#### **R920-50-15. Inspection Requirements.**

1. The [tramway]ropeway inspector shall verify that the intent of the design and operational requirements imposed by the Governing Standard and these rules are met.

2. [Tramway]Ropeway inspectors may inspect [tramways]ropeways at any time during the operation of the [tramway]ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

#### **R920-50-16. Administrative Procedures.**

A. Informal proceedings

1. All adjudicative proceedings described in the Passenger [Tramway]Ropeway Act and these rules R920-50-1 through R920-50-17, shall be characterized as informal adjudicative proceedings. This includes the following:

- a. applications for certification and/or registration of new or existing [tramways]ropeway;
- b. modifications under R920-50-8;
- c. exceptions under R920-50-10;
- d. revocations under R920-50-13;
- e. any other adjudicative proceedings that are within the scope of the Utah Administrative Procedures Act.

2. All adjudicative proceedings shall be commenced initially before the secretary to the committee except for variances and revocations which shall commence initially before the committee.

3. Adjudicative proceedings declared by these rules herein above to commence "informally" shall be processed according to R920-50-17. All other requirements of R920-50-1 through R920-50-16, shall apply when they supplement these rules governing the informal adjudicative process and when not in conflict with R920-50-17. In case of conflict between these and any other provision of the [tramway]Ropeway rules, these administrative procedure rules shall control and govern the informal adjudicative process.

B. Definitions

1. The terms used in this rule are defined in Section 63-46b-2.
2. In addition, "committee" means the passenger [tramway]ropeway safety committee and is the presiding officer for all appeals of adjudicative proceedings which commenced before

the secretary to the committee as well as all adjudicative proceedings which commence before the committee.

3. "Secretary to the committee" means the duly appointed secretary to the committee and is the presiding officer for all informal adjudicative proceedings which commence before the secretary to the committee in accordance with R920-50-17.

C. Commencement of adjudicative proceedings

1. The terms used in this rule are defined in Section 63-46b-2.
2. In addition, the person requesting the action shall use the forms of the Committee. The secretary to the committee is hereby authorized to codify said forms in conformance with this section. Said forms shall be deemed a request for agency action. The person requesting agency action shall file the request with the secretary to the committee and shall, unless waived, send a copy by mail to each affected passenger [tramway]Ropeway operator.

3. A statement that the parties' may request an informal hearing before the secretary to the committee, except for variances and revocations which shall be before the committee, within 10 days of the date of mailing or publication and that failure to make such a request may preclude that party from any further participation, appeal or judicial review in regard to the subject adjudicative proceeding;

4. Give the name, title, mailing address, and telephone number of the Secretary to the Committee; and

5. If the purpose of the adjudicative proceeding is to award a license or other privilege as to which there are multiple competing applicants, the Chairman of the Committee or Secretary to the Committee, whichever is the Presiding Officer of the proceeding, may, by rule or order, conduct a single adjudicative proceeding to determine the award of that license or privilege.

D. Conversion of informal to formal phase

1. Any time before a final order is issued in any adjudicative proceeding, the Presiding Officer may convert an informal adjudicative proceeding to a formal adjudicative proceeding if:

- a. Conversion of the proceeding is in the public interest; and
- b. Conversion of the proceeding does not unfairly prejudice the rights of any party.

E. Procedures for informal phase

1. A Request for Agency Action or Notice of Agency Action shall be the method of commencement of an adjudicative process as previously discussed in these rules.

2. The mailing requirements of these Rules shall be met.

3. The Notice of Agency Action shall be published in a newspaper of general circulation likely to give notice to interested persons when required by statute or by these [Tramway]Ropeway Rules.

4. All notices required herein shall indicate the date of publication or mailing. These notices shall specify that any affected person may file with the Secretary to the Committee within ten days of said date, a written objection and request for informal hearing before the Secretary to the Committee. Failure to make such a request within the time specified may preclude that person from further participation, appeal or judicial review in regard to the subject adjudicative proceeding. Said ten day period shall be waived if the Secretary to the Committee receives a waiver signed by those entitled to notice under these rules. An exception to the above would be requests for variances or for modifications which shall be heard before the Committee.



5. In any hearing, the parties named in the Notice of Agency Action or in the Request for Agency Action shall be permitted to testify, present evidence, and comment on the issues.

6. Hearings will be held only after timely notice to all parties.

7. Discovery is prohibited, and no subpoenas or other discovery orders will be issued.

8. All parties shall have access to information contained in the Committee's files and to all materials and information gathered in any investigation, to the extent permitted by law.

9. Intervention is prohibited, except where required by federal statute or rule.

10. All hearings shall be open to all parties.

11. Within a reasonable time after the close of the hearing, or after the parties' failure to request a hearing within said ten (10) day period, the Presiding Officer shall issue a written, signed order that states the following:

a. The decision;

b. The reasons for the decision;

c. A notice of any right to appeal to the Committee if the matter was before the Secretary to the Committee; and

d. The time limits for filing any appeal.

12. The order shall be based on the facts appearing in the Committee's files and on the facts presented in evidence at any hearings.

13. Unless waived, a copy of the order shall be promptly mailed to each of the parties.

14. All hearings shall be recorded at the Committee's expense. Any party, at his or her own expense, may have a reporter approved by the Secretary to the Committee prepare a transcript from the Committee's record of the hearing.

15. Nothing in this section restricts or precludes any investigative right to power given to the Committee by another statute.

16. Default. The Presiding Officer may enter an order of default against a party if the party fails to participate in the adjudicative proceeding. The order shall include a statement of the grounds for default and shall be mailed to all parties. A defaulted party may seek to have the Presiding Officer set aside the default order according to procedures outlined in the Utah Rules of Civil Procedure. After issuing the order of default, the Presiding Officer shall conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the party in default and shall determine all issues in the adjudicative proceeding, including those affecting the defaulting party.

17. Appeal of Division Order. Any aggrieved party that participated at a hearing before the Secretary to the Committee or an applicant who is aggrieved by a denial or approval with conditions, may file a written appeal to the Committee within ten days of the issuance of the order. Such a written request for appeal shall be deemed to commence a contested informal adjudicative proceeding and hearing before the Committee. The appeal shall be conducted in accordance with the informal procedures described herein above, as well as the procedures of Utah Administrative Procedure Act Section 63-46b-12, where applicable. The written appeal shall:

a. Be signed by the party seeking the appeal;

b. State the grounds for the appeal and the relief requested;

c. State the date upon which it was mailed; and

d. Be sent by mail to the Presiding Officer and to each party.

18. Response on Appeal. Within 15 days of the mailing of the appeal, any party may file a response with the Secretary to the Committee. One copy of the response shall be sent by mail to each of the parties and to the Committee.

19. Notices of the informal hearing before the Committee shall be mailed to all parties and all parties may mail briefs, written statements and/or present testimony. The appeal is considered de novo and a record may be developed before the Committee.

20. Emergency Orders. Notwithstanding the other provisions of these Rules, the Chairman of the Committee or Secretary to the Committee is authorized to issue an emergency order without notice and hearing in accordance with applicable law. The emergency order shall remain in effect no longer than until the next regular meeting of the Committee, or such shorter period of time as shall be prescribed by statute.

a. Prerequisites for Emergency Order. The following must exist to allow an emergency order:

(1) The facts known to the Chairman or Secretary or presented to the Chairman or Secretary show that an immediate and significant danger to the public health, safety, or welfare exists; and

(2) The threat requires immediate action by the Chairman or Secretary.

b. Limitations. In issuing its Emergency Order, the Chairman or Secretary shall:

(1) Limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(2) Issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the Chairman or Secretary's utilization of emergency adjudicative proceedings;

(3) Give immediate notice to the persons who are required to comply with the order; and

(4) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the Committee shall commence a formal adjudicative proceeding before the Committee in accordance with the Utah Administrative Procedures Act.

#### F. Declaratory rulings

1. Petition for Declaratory Rulings. Any person may petition the Committee for a declaratory ruling on the applicability of any administrative rule, regulation or order as well as any provision of the Utah Code to the operations or activities of that person. The petition shall include the questions and answers sought and reasons in support of or in opposition to the applicability of the statute, rule, regulation or order involved. All other classes of circumstances shall not be subject to declaratory ruling.

2. Not subject to Declaratory Rulings. The Committee shall not issue a declaratory ruling if:

a. The request is not one of the classes of circumstances listed herein above;

b. The person requesting the declaratory ruling participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the present request; or

c. There would be substantial prejudice to the rights of a person who would be a necessary party unless that person consents in writing to the determination of the matter by a declaratory proceeding.

3. Intervention. Persons may intervene in declaratory proceedings if they meet the applicable requirements of the Utah

Administrative Procedures Act and file such request with the Secretary of the Committee at least five (5) days prior to the Committee meeting at which the petition will be considered.

4. Forms of Rulings. After receipt of a petition for a declaratory order, the Committee may issue a written order:

- a. Declaring the applicability of the statute, rule, regulation or order in question to the specified circumstances; or
- b. Decline to issue a declaratory order and stating the reasons for its action.

5. Contents of Order. A declaratory order shall contain:

- a. The names of all parties to the proceeding on which it is based;
- b. The particular facts on which it is based; and
- c. The reasons for its conclusion.

6. Mailing of Order. A copy of all orders issued in response to a request for a declaratory proceeding shall be mailed promptly to the petitioner and any other parties.

7. Binding Effect. A declaratory order has the same status and binding effect as any other order issued in an adjudicative proceeding.

8. Time Limit. Unless the petitioner and the Committee agree in writing to an extension, if the Committee has not issued a declaratory order within 60 days after receipt of the request for a declaratory order, the petition is denied.

G. Exhaustion of administrative remedies

1. Persons must exhaust their administrative remedies in accordance with Section 63-46b-14 prior to seeking judicial review.

2. In any informal communication with the Secretary to the Committee, there is an opportunity given to request an informal hearing before the Secretary to the Committee. If a timely request is made, the Secretary to the Committee will conduct an informal hearing and issue a decision thereafter. Only those aggrieved parties that participated in any hearing or an applicant who is aggrieved by a denial or an approval with conditions will then be entitled to appeal such Secretary's decision to the Committee within ten (10) days of issuance of the Secretary's order. Such rights to request an informal hearing before the Secretary to the Committee or to appeal the Secretary's order and have the matter be contested and heard before the Committee are available and adequate administrative remedies and should be exercised prior to seeking judicial review.

H. Deadline for judicial review. A party shall file a petition for judicial review of final agency action within thirty (30) days after the date that the order constituting the final agency action is issued. The petition shall name the agency and all other appropriate parties as respondents and shall meet the form requirements specified in Title 63, Chapter 46b of the Utah Code Annotated (1953, as amended).

I. Judicial review of informal adjudicative proceedings. Judicial review of informal adjudicative proceedings shall be conducted in conformance with Sections 63-46b-15 and 63-46b-17 through 63-46b-18.

J. Civil enforcement

1. Agency Action. In addition to other remedies provided by law and other rules of this Committee, the Committee or Secretary to the Committee may seek enforcement of an order by seeking civil enforcement in the district courts subject to the following:

- a. The action seeking civil enforcement must name, as defendants, each alleged violator against whom civil enforcement is sought.

- b. Venue for an action seeking civil enforcement shall be determined by the Utah Rules of Civil Procedure.

- c. The action may request, and the court may grant, any of the following:

- (1) declaratory relief;
- (2) temporary or permanent injunctive relief;
- (3) any other civil remedy provided by law; or
- (4) any combination of the foregoing.

2. Individual Action. Any person whose interests are directly impaired or threatened by the failure of an agency to enforce its order may timely file a complaint seeking civil enforcement of that order. The complaint must name as defendants, the agency whose order is sought to be enforced, the agency that is vested with the power to enforce the order, and each alleged violator against whom the plaintiff seeks civil enforcement. The action may not be commenced:

- a. Until at least thirty (30) days after the plaintiff has given notice of its intent to seek civil enforcement of the alleged violation to the Committee, the attorney general, and to each alleged violator against whom the petitioner seeks civil enforcement;

- b. If the Committee or Secretary to the Committee has filed and is diligently prosecuting a complaint seeking civil enforcement of the same order against the same or similarly situated defendant; or

- c. If a petition for judicial review of the same order has been filed and is pending in court.

**KEY: transportation safety, tramways\*, [passenger tramway]ropeway\*, tramway permits\*  
[March 24, 1997]72-11-201 through [63-11-53]72-11-216  
Notice of Continuation December 24, 1997 63-46b-1 et seq.  
63-49-8(5)(c)]**



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends August 14, 2000. At its option, the agency may hold public hearings.

From the end of the waiting period through November 12, 2000, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for
State Employees

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE No.: 22836
FILED: 06/30/2000, 14:27
RECEIVED BY: MB

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule was revised in response to comments received at a public hearing that was held June 21, 2000.

SUMMARY OF THE RULE OR CHANGE: The rule was amended to: 1) change the reimbursement rate for private vehicle mileage to 32-1/2 cents per mile if a state fleet vehicle is not available to the employee; and 2) to allow agencies to establish a mileage reimbursement rate that is more restrictive than the rate established in Subsection R25-7-10(1)(b).

(DAR Note: The original proposed amendment upon which this change in proposed rule is based was published in the June 1, 2000, issue of the Utah State Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-107, and 2000 Utah Laws 344

ANTICIPATED COST OR SAVINGS TO:

THE STATE BUDGET: Amending the rule will increase the reimbursement rate for private vehicle mileage 1-1/2 cents per mile for employees of the state, legislative staff, the Judicial Branch, and the Utah System of Higher Education who drive a personal vehicle when a state fleet vehicle is not available. However, we anticipate that this increase will be offset by a change associated with the original proposed rule, which was published in the June 1, 2000, issue of the Utah State Bulletin. The change reduces the reimbursement rate for private vehicle mileage 6 cents per mile (from 31 cents to 25 cents) for employees of the state, legislative staff, the Judicial Branch, and the Utah System of Higher Education who choose to drive a personal vehicle when a fleet vehicle is available.

LOCAL GOVERNMENTS: This rule applies only to state employees and therefore will have no impact on local government.

OTHER PERSONS: In some circumstances the reimbursement rate for private vehicle mileage will increase from 31 cents per mile to 32-1/2 cents per mile. As a result, employees of the state, legislative staff, the Judicial Branch, and the Utah System of Higher Education who drive a personal vehicle when a state fleet vehicle is not available will receive 1-1/2 cents more per mile driven. We cannot estimate the aggregate cost or saving to these employees because we do not know the total number of miles that will be driven under these circumstances.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the revisions to Rule R25-7.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Rule R25-7 apply only to state employees (including legislative staff, the Judicial Branch, and the Utah System of Higher Education) and have no impact on businesses--Raylene G. Ireland

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

Administrative Services
Finance
2110 State Office Building
PO Box 141031
Salt Lake City, UT 84114-1031, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Teddy Cramer at the above address, by phone at (801) 538-3450, by FAX at (801) 538-3244, or by Internet E-mail at tcramer@fi.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/14/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 09/02/2000

AUTHORIZED BY: Kim S. Thorne, Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.

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R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the airport long-term parking rate.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with prior approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 25 cents per mile, or ~~31~~32-1/2 cents per mile if a state fleet vehicle is not available to the employee.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

~~(c)~~(d) Exceptions must be approved in writing by the Director of Finance.

~~(d)~~(e) Mileage will be computed from the latest official state road map and will be limited to the most economical, usually traveled routes.

~~(e)~~(f) The mileage rate is all-inclusive, and additional expenses such as parking and storage will not be allowed unless approved in writing by the Department Director.

~~(f)~~(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

~~(g)~~(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if approved by the Department Director.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 25 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director.

(i) The airline ticket cost in effect between 15 and 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(c) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(d) These reimbursements are all-inclusive, and additional expenses such as parking and toll fees will not be allowed unless approved in writing by the Department Director.

(e) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(f) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred

had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Agency, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the travel agency must be approved in advance by the Department Director.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director that he is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, he must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that his insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at 50 cents per mile.

(e) Mileage calculation is based on road mileage computed from the latest official state road map and is limited to the most economical, usually-traveled route.

(f) An employee may be reimbursed for rental of the aircraft and purchase of gasoline and oil instead of the amount per mile, with prior approval from the Department Director, when it is cost effective for the state.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 16 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Department of Administrative Services, and the Governor is required.

**KEY: air travel, per diem allowance, state employees, transportation**  
**2000** **63A-3-107**  
**Notice of Continuation October 30, 1998** **63A-3-106**  
**2000 Utah Laws 344**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

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## Health, Administration **R380-40** Local Health Department Minimum Performance Standards

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22964  
FILED: 06/19/2000, 13:24  
RECEIVED BY: NL

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Utah Code Subsection 26A-1-106(1)(c) requires the Utah Department of Health to establish minimum performance standards for local health departments.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no comments in opposition to the rule. The Weber-Morgan Health Department filed a request for a change to Section R380-40-6, General Performance Standards For Local Health Department Administration. The requested change would have allowed a nonphysician to serve as health officer in urban local health departments. The department held a hearing on the request. Comment was mixed and strongly held on both sides. Weber-Morgan and the Davis County Health Department have been offered a waiver to allow them to hire a nonphysician, while further study by local health departments takes place.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statewide standards for local health departments are indispensable and

support generally held standards for supporting implementation of public health goals in Utah.

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

Health  
Administration  
Room 432, Cannon Health Building  
288 North 1460 West  
PO Box 141000  
Salt Lake City, UT 84114-1000, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Doug Springmeyer at the above address, by phone at (801) 538-6111, by FAX at (801) 538-6306, or Internet E-mail at [dspringm@doh.state.ut.us](mailto:dspringm@doh.state.ut.us).

AUTHORIZED BY: Rod L. Betit, Executive Director

EFFECTIVE: 06/19/2000



## Public Safety, Peace Officer Standards and Training **R728-205** Council Resolution of Public Safety Retirement Eligibility

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22979  
FILED: 06/28/2000, 10:09  
RECEIVED BY: MB

**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: To conform with state law at Subsection 49-4a-203(5)(b), to describe the process by which the POST Council will determine eligibility into the Public Safety Retirement System.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required by law at Subsection 49-4a-203(5)(b). Necessary to describe the process by which the POST (Peace Officer Standards and Training) Council will determine eligibility into the Public Safety Retirement System.

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

Public Safety  
Peace Officer Standards and Training  
4525 South 2700 West  
PO Box 141775  
Salt Lake City, UT 84114-1775, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Bonnie Braegger / Steve Demille at the above address, by phone at (801) 965-4099 / (801) 965-4370, by FAX at (801) 965-4619, or Internet E-mail at [bbraegge@dps.state.ut.us](mailto:bbraegge@dps.state.ut.us).

AUTHORIZED BY: Steve DeMille, Deputy Director

EFFECTIVE: 06/28/2000



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*Utah Code* Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by *Utah Code* Subsection 63-46a-9(4) and (5) (1996).

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### Human Services

#### Aging and Adult Services

No. 22960 (filed 06/16/2000 at 4:06 p.m.): R510-104. Nutrition Programs for the Elderly.

Enacted: 07/17/95 (No. 16971, NEW, filed 06/01/95 at 1:30 p.m., published 06/15/95)

Extended Due Date: 11/14/2000

**End of the Notices of Five-Year Review Extensions Section**



## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Alcoholic Beverage Control

#### Administration

No. 22812 (AMD): R81-1-12. Alcohol Training and Education Seminar.  
Published: May 15, 2000  
Effective: July 3, 2000

### Commerce

#### Occupational and Professional Licensing

No. 22790 (AMD): R156-56. Utah Uniform Building Standard Act Rules.  
Published: May 15, 2000  
Effective: July 1, 2000

No. 22791 (AMD): R156-56-706. Amendments to the IPC.  
Published: May 15, 2000  
Effective: July 1, 2000

### Health

Health Systems Improvement, Health Facility Licensure  
No. 22742 (AMD): R432-3. General Health Care Facility Rules Inspection and Enforcement.  
Published: May 1, 2000  
Effective: June 23, 2000

#### Medical Examiner

No. 22818 (NEW): R448-10. Unattended Death and Reporting Requirements.  
Published: May 15, 2000  
Effective: June 19, 2000

No. 22817 (NEW): R448-20. Access to Medical Examiner Reports.  
Published: May 15, 2000  
Effective: June 19, 2000

### Human Services

#### Administration, Administrative Services, Licensing

No. 22813 (AMD): R501-11. Categorical Standards.  
Published: May 15, 2000  
Effective: June 20, 2000

### Insurance

#### Administration

No. 22640 (CPR): R590-131. Disability Coordination of Benefits Rule.  
Published: May 15, 2000  
Effective: June 29, 2000

### Natural Resources

#### Water Rights

No. 22806 (NEW): R655-3. Reports of Water Right Conveyance.  
Published: May 15, 2000  
Effective: July 1, 2000

### Public Service Commission

#### Administration

No. 22798 (AMD): R746-343-15. Surcharge.  
Published: May 15, 2000  
Effective: July 1, 2000

### Regents (Board of)

#### Administration

No. 22793 (AMD): R765-685. Utah Educational Savings Plan Trust.  
Published: May 15, 2000  
Effective: July 1, 2000

### Tax Commission

#### Administration

No. 22802 (AMD): R861-1A-36. Signatures on Tax Return Information Pursuant to Utah Code Ann. Sections 59-10-512 and 59-12-107.  
Published: May 15, 2000  
Effective: June 21, 2000

#### Auditing

No. 22710 (AMD): R865-12L-9. Sellers With No Fixed Place of Business Pursuant to Utah Code Ann. Section 59-12-207.  
Published: April 15, 2000  
Effective: June 21, 2000

No. 22803 (AMD): R865-12L-16. Notification to Tax Commission Upon County, City, or Town Imposition of Certain Taxes Pursuant to Utah Code Ann. Sections 59-12-118, 59-12-302, 59-12-501, 59-12-502, 59-12-603, 59-12-703, 59-12-802, and 59-12-804.  
Published: May 15, 2000  
Effective: June 21, 2000

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No. 22758 (AMD): R865-19S-103. Municipal Energy Sales and Use Tax Pursuant to Utah Code Ann. Sections 10-1-303 and 10-1-306.  
Published: May 1, 2000  
Effective: June 21, 2000

### Motor Vehicle

No. 22804 (AMD): R873-22M-38. Procedure for Reinstatement of Registration Revoked for Lack of Owner's or Operator's Security Pursuant to Utah Code Ann. Section 41-1a-1220.  
Published: May 15, 2000  
Effective: June 21, 2000

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No. 22805 (AMD): R884-24P-57. Judgement Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330.  
Published: May 15, 2000  
Effective: June 21, 2000

### Workforce Services

#### Workforce Information and Payment Services

No. 22800 (AMD): R994-405-503. Evidence and Burden of Proof.  
Published: May 15, 2000  
Effective: June 16, 2000

No. 22705 (REP): R994-700. Licensing and Regulation of Private Employment Agencies.  
Published: April 1, 2000  
Effective: June 16, 2000

**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, 2000, including notices of effective date received through June 30, 2000, the effective dates of which are no later than July 15, 2000. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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R81-1-12	Alcohol Training and Education Seminar	22812	AMD	07/03/2000	2000-10/4
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R131-7	State Capitol Preservation Board Master Planning Policy	22574	NEW	03/13/2000	2000-2/7
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R156-17a	Pharmacy Practice Act Rules	22318	CPR	02/15/2000	2000-2/17
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R156-31b-304	Quality Review Program	22663	NSC	02/24/2000	Not Printed
R156-31c-201	Issuing a License	22577	AMD	02/15/2000	2000-2/11
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R156-55b	Electricians Licensing Rules	22740	AMD	06/01/2000	2000-9/20
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R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
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R156-56-602	Factory Built Housing Dealer Bonds	22478	CPR	02/15/2000	2000-2/24
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R156-56-706	Amendments to the IPC	22449	CPR	01/18/2000	99-24/47
R156-56-706	Amendments to the IPC	22791	AMD	07/01/2000	2000-10/18
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R156-63-302a	Qualifications for Licensure - Application Requirements	22736	NSC	05/01/2000	Not Printed
R156-65	Burglar Alarm Security and Licensing Act Rules	22737	NSC	05/01/2000	Not Printed
R156-66	Utah Professional Boxing Regulation Act Rules	22589	AMD	02/15/2000	2000-2/14
R156-71	Naturopathic Physician Practice Act Rules	22507	AMD	01/04/2000	99-23/14
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R307-110-19	Section XI, Other Control Measures for Mobile Sources	22660	NSC	02/25/2000	Not Printed
R307-115	General Conformity	22688	NSC	03/20/2000	Not Printed
R307-121-2	Amount of Credit	22686	NSC	03/20/2000	Not Printed
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R307-415-5a	Permit Applications: Duty to Apply	22606	AMD	04/06/2000	2000-3/23

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R315-2-9	Characteristics of Hazardous Waste	22794	NSC	05/25/2000	Not Printed
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R315-5	Hazardous Waste Generator Requirements	22541	NSC	01/25/2000	Not Printed
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R590-153	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	22745	NSC	05/23/2000	Not Printed
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R590-170	Fiduciary and Trust Account Obligations	22489	CPR	03/07/2000	2000-2/25
R590-172	Notice to Uninsurable Applicants for Health Insurance	22941	5YR	06/15/2000	2000-13/74
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R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	22417	CPR	02/01/2000	99-24/53
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R590-197	Treatment of Guaranty Association Assessments as Qualified Assets	22621	NSC	02/25/2000	Not Printed
R590-198	Valuation of Life Insurance Policies Rule	22506	NEW	01/04/2000	99-23/90
R590-198	Valuation of Life Insurance Policies Rule	22595	NSC	01/25/2000	Not Printed
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R606-3-2	Procedures and Prohibitions	22675	NSC	03/20/2000	Not Printed
R606-5-2	Procedures and Prohibitions	22676	NSC	03/20/2000	Not Printed
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R657-5	Taking Big Game	22519	CPR	02/01/2000	2000-1/66
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R850-130-400	Application Procedures	22664	NSC	02/25/2000	Not Printed
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R865-12L-16	Notification to Tax Commission Upon County, City, or Town Imposition of Certain Taxes Pursuant to Utah Code Ann. Sections 59-12-118, 59-12-302, 59-12-501, 59-12-502, 59-12-603, 59-12-703, 59-12-802, and 59-12-804	22803	AMD	06/21/2000	2000-10/45
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**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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	22653	R315-2-9	NSC	02/25/2000	Not Printed
	22794	R315-2-9	NSC	05/25/2000	Not Printed
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	22541	R315-5	NSC	01/25/2000	Not Printed
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	22816	R765-605	AMD	06/15/2000	2000-10/39
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	22489	R590-170	AMD	see CPR	99-23/88
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	22398	R156-56	AMD	see CPR	99-20/15
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	22735	R156-61-302e	NSC	05/01/2000	Not Printed
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	22805	R884-24P-57	AMD	06/21/2000	2000-10/47
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
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	22574	R131-7	NEW	03/13/2000	2000-2/7
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	22550	R746-401	NSC	01/25/2000	Not Printed
	22784	R746-405	NSC	05/01/2000	Not Printed
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	22770	R162-105	AMD	06/01/2000	2000-9/25
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	22803	R865-12L-16	AMD	06/21/2000	2000-10/45
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	22647	R315-2-2	CPR	06/05/2000	2000-8/32
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	22766	R614-1-5	NSC	05/01/2000	Not Printed
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	22644	R164-14	AMD	03/20/2000	2000-4/29
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	22803	R865-12L-16	AMD	06/21/2000	2000-10/45
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	22721	R994-204	5YR	04/04/2000	2000-9/187
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	22492	R317-502	REP	02/16/2000	99-23/48
	22493	R317-503	REP	02/16/2000	99-23/56
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	22881	R657-15	5YR	05/22/2000	2000-12/59
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	22713	R657-19	AMD	05/17/2000	2000-8/20
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	22562	R657-47	NEW	02/01/2000	2000-1/40
<b><u>WILDLIFE LAW</u></b>					
Natural Resources, Wildlife Resources	22392	R657-13	AMD	01/03/2000	99-20/31
	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
	22882	R657-21	5YR	05/22/2000	2000-12/59
	22783	R657-27	AMD	06/08/2000	2000-9/177
<b><u>WILDLIFE MANAGEMENT</u></b>					
Natural Resources, Wildlife Resources	22881	R657-15	5YR	05/22/2000	2000-12/59
<b><u>WILDLIFE PERMITS</u></b>					
Natural Resources, Wildlife Resources	22650	R657-41-2	AMD	04/04/2000	2000-5/50
	22562	R657-47	NEW	02/01/2000	2000-1/40
<b><u>WORKER'S COMPENSATION</u></b>					
Labor Commission, Adjudication	22764	R602-2-1	NSC	05/01/2000	Not Printed
Labor Commission, Industrial Accidents	22592	R612-8	5YR	01/03/2000	2000-3/91
Workforce Services, Workforce Information and Payment Services	22829	R994-404	NSC	05/25/2000	Not Printed
<b><u>X-RAY</u></b>					
Environmental Quality, Radiation Control	22600	R313-16	AMD	03/10/2000	2000-3/56
<b><u>YEAR-ROUND SCHOOLS</u></b>					
Education, Administration	22563	R277-404	REP	02/01/2000	2000-1/8