

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Number 2002-3  
February 1, 2002

Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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# EDITOR'S NOTES

## NOTICE OF PUBLICATION ERROR IN THE NOVEMBER 15, 2001, ISSUE OF THE UTAH STATE BULLETIN

In the November 15, 2001, issue of the *Utah State Bulletin*, incomplete text was published for a change in proposed rule affecting Rule R590-186 (DAR No. 23917; see issue 2001-22, page 90). Those sections affected by the change in proposed rule that were not published are reproduced below:

### **R590. Insurance, Administration.**

#### **R590-186. Bail Bond Surety Business.**

##### **R590-186-4. Initial Company License.**

(1) Persons desiring to become licensed as bail bond surety companies shall file with the Bail Bond Surety Oversight Board (Board) a bail bond company application which can be obtained from the Insurance Department.

(2) The applicant shall pay the annual license fee [~~of \$500~~] set forth in R590-102, Insurance Department Fee Payment Deadlines, and provide at least one of the following:

(a) If the applicant relies on a letter of credit as the basis for issuing a bail bond, the applicant shall provide an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the State of Utah from an entity qualified by state or federal regulators to do business as a financial institution in the state of Utah.

(b) If the applicant relies on the ownership of real or personal property located in Utah as the basis for issuing bail bonds, the applicant shall provide a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year. The financial statement must show a net worth of at least \$300,000, including a minimum of \$100,000 in liquid assets. The applicant shall also provide a copy of the applicant's federal income tax returns for the prior two years and, for each parcel of real property owned by the applicant and included in the applicant's net worth calculation, a preliminary title report dated not more than one month prior to the date of the application and an appraisal dated not more than two years prior to the date of the application.

(c) If the applicant relies on their status as the agent of a bail bond surety insurer as the basis for issuing bail bonds, the applicant shall provide[:

~~(i)] a Qualifying Power of Attorney issued by the bail bond surety insurer; and~~

~~[(ii) a copy of the bail bond surety insurer's Utah Certificate of Authority indicating that the insurance company is in good standing and is authorized to write bail bond policies in this state.]~~

(3) Applications approved by the Board will be forwarded to the insurance commissioner for the issuance of a [~~certificate of authority~~] license.

(4) Applications disapproved by the Board may be appealed to the insurance commissioner within 15 days of mailing the notice of disapproval.

##### **R590-186-5. Company License Renewal.**

A licensed bail bond surety company shall renew its license on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application, and pay the required [~~annual~~] renewal licensing fee set forth in R590-102, Insurance Department Fee Payment Deadlines. [~~The renewal application contains all of the information required in the initial application described in R590-186-4(1) and (2), plus~~] and provide the additional information described in this section.

(2) If the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds the applicant must include the following with the renewal:

(a) a statement that no material changes have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

(b) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least \$300,000, at least \$100,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

(c) [~~every third renewal,~~] the following items are required as indicated:

(i) renewal in 2002, 2008, and 2014: a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation; or

[(d) every sixth] [(ii) renewal:] in 2005, 2011, and 2017: a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation.

(3) Renewal applicants who were licensed as a bail bond surety company prior to December 31, 1999, may opt to apply under the lower limits in effect at that date.

(a) For renewal applicants relying on a letter of credit as the financial basis for issuing bail bonds, the amount is reduced to \$250,000.

(b) For renewal applicants relying on real or personal property as the basis for issuing bail bonds, the amount is reduced to a net worth of

at least \$250,000, at least \$50,000 of which must consist of liquid assets;

(c) Renewal applicants opting for lower limits are limited to the 5 to 1 ratio of outstanding bond obligations as shown in R590-186-9.

**R590-186-6. Agent License and Renewal.**

(1) Bail bond surety companies and insurers are required to issue bail bonds only through licensed bail bond agents that have been contracted with and appointed by the insurer or designated by the bail bond surety company [~~or insurer~~] for whom they are issuing bail bonds.

(2) All persons doing business as bail bond agents must be licensed in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing. Bail bond agent licenses are individual limited line licenses. These licenses are issued for a two year period and require no licensing examination or continuing education.

(3) Individual bail bond agent licenses must be renewed at the end of the two year licensing period in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing renewal.

**R590-186-7. Unprofessional Conduct.**

Persons in the bail bond surety business may not engage in unprofessional conduct. For purposes of this rule, unprofessional conduct means the violation of any applicable insurance law, rule, or valid order of the commissioner, or the commission of any of the following acts by bail bond sureties, by bail bond surety agents or by bail bond enforcement agents working for bail bond sureties:

(1) having a license as a surety revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a trustee or other fiduciary;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the surety's net worth below the minimum required for licensure[~~];~~ [~~or~~]

~~(5) being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury. If the bail bond surety company or one of its bail bond surety agents or bail bond enforcement agents has been convicted of such an offense or the subject of any such judgment, they may present evidence regarding the circumstances of the conviction or judgment. The Board may take this evidence into consideration in determining whether such conviction requires referral to the commissioner;~~

~~(6) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;~~

~~(7) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;~~

~~(8) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the bail bond agent, whichever is later;~~

~~(9) having an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution;~~

(9) failing to advise the insurance commissioner of any change that has reduced the surety's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility or incarcerated in a jail facility to obtain referrals;

(11) offering consideration or gratuities to jail personnel or peace officers or inmates under any circumstances which would permit the inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the surety;

(d) the incarcerated person's obligations to the surety and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by the bail bond surety company;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of his executing a bail bond that the principal agree to engage the services of a specified attorney;

(19) preparing or issuing fraudulent or forged bonds or power of attorney;

(20) signing, executing, or issuing bonds by an unlicensed person;

(21) executing bond without countersignature by a licensed agent at time of issue;

(22) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond surety company, bail bond surety insurer or other person who is entitled to receive them; and



(23) failing to comply with the provisions of the [~~laws of this state, or rule,~~] Utah statutes and rules regulating the bail bond surety business or order of the insurance commissioner [~~for which issuance of the certificate of authority could have been refused had it then existed and been known to the Board~~].

**R590-186-8. Investigating Unprofessional Conduct.**

The [~~Board and the~~] commissioner shall investigate allegations of unprofessional conduct on the part of any bail bond surety, or bail bond surety [~~agent, or bail bond surety enforcement~~] agent. Complaints alleging unprofessional conduct shall be [~~made in writing, signed by the complainant, and addressed to the Board at~~] submitted in writing to the Department of Insurance.

1. Investigations [~~performed by the Board~~] shall be completed in the following manner:

a. Upon receipt of a complaint of unprofessional conduct, the [~~Board shall provide a copy of the complaint to the commissioner for preliminary investigation. The~~] commissioner shall provide a copy of the complaint to the person against whom the complaint was made, and, if warranted, to the person's surety. The [~~Board or the~~] commissioner may [~~make redactions to~~] edit the copy of the complaint mailed under this subsection [~~that~~] as may be necessary to protect the identity or interests of the person making the complaint if the complainant so requests.

b. The subject of the complaint shall provide to the commissioner a written response to the complaint within 15 days of the date the complaint was mailed to him.

c. [~~At the next meeting of the Board following receipt of written response to the complaint the Board shall review the complaint and the response to determine whether~~] If the commissioner determines that the complaint has no merit, the commissioner may close the file on the matter without further action. If the commissioner determines the allegations appear to have merit [~~If the Board determines that the complaint has no merit, it may close its file on the matter without further action. If the Board determines that the allegations appear to have merit, the Board or~~], the commissioner shall conduct further investigation of the matter.

d. [~~In investigating allegations that appear to have merit, the Board or the commissioner~~] After the investigation is completed, the commissioner shall present the findings and recommended disposition to the Board. The Board may concur with the commissioner's recommended disposition, recommend a different disposition, request additional investigation, or conduct its own investigation.

(i) if the Board conducts its own investigation it may take and record witness statements under oath and may request any documents or other evidence from any person, including necessary financial records.

(ii) Witnesses may be compensated for their appearances as specified in 31A-2-301.

(iii) The Board may request a Subpoena from the commissioner to compel the production of documents or other evidence or to compel the testimony of a witness.

e. After the [~~Board or the~~] commissioner, or the Board, completes its investigation, [~~it~~] they shall:

i. close the investigation [~~without further action~~] if the allegations have been shown to be unfounded or if the matter complained of is satisfactorily resolved, [~~and the Board believes that~~] no further action is necessary; or

ii. if the investigation shows that unprofessional conduct did occur that requires the imposition of sanctions, [~~it~~] they shall compile the evidence necessary to pursue the matter in an administrative proceeding by the Department of Insurance, and shall make a written report of [~~its~~] their findings and of [~~its~~] their recommendations for the penalties to be applied, and forward the report and evidence to the commissioner for further action within 15 days of the conclusion of the investigation.

2. Except for matters referred to the commissioner for further proceedings, the Board shall retain in the Utah Insurance Department a file on each of the investigations it conducts concerning unprofessional conduct for a period of 5 years. Files regarding investigations conducted by the Board shall be classified as protected under Governmental Records Access and Management Act (GRAMA).

.....

Rule R590-186 is the subject of another change in proposed rule that appears in this issue of the *Bulletin* on page 114.

*Questions regarding this error in the Utah State Bulletin may be directed to: Kenneth A. Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; phone (801) 538-3777; FAX (801) 538-1773; or E-mail: khansen@utah.gov*

**NOTICE OF PUBLICATION ERROR IN THE JANUARY 15, 2002, ISSUE OF THE UTAH STATE BULLETIN**

In the January 15, 2002, issue of the *Utah State Bulletin* (2002-2, page 57), due to a clerical error at the Division of Administrative Rules, the notice of effective date for the repeal and reenact of Rule R365-3 listed the wrong publication date and the wrong effective date. R365-3 was published in the September 1, 2001, issue of the *Bulletin* not the November 15, 2001, issue; and was effective December 21, 2001, not December 20, 2001.

## EDITOR'S NOTES

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*If you have any questions regarding this correction, please contact Nancy Lancaster, Publications Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3218, FAX: (801) 538-1773, or Internet E-mail: [nlancast@das.state.ut.us](mailto:nlancast@das.state.ut.us).*

**End of the Editor's Notes Section**

# SPECIAL NOTICES

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## COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

### PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 02-01, dated January 4, 2002 (<http://library.utah.gov/02-01.html>). For a copy of the complete list, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view it on the World Wide Web at the address above.

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### GOVERNOR, ADMINISTRATION

#### EXECUTIVE ORDER: STATE OF EMERGENCY EXISTS WITHIN THE STATE OF UTAH DUE TO THE THREAT TO PUBLIC SAFETY, PROPERTY, AND THE ENVIRONMENT POSED BY THE XIX OLYMPIC WINTER GAMES

**WHEREAS**, the 2002 Olympic Winter Games will be held February 8–24, 2002, in the Salt Lake City area and environs; and

**WHEREAS**, multiple Olympic venue and non-venue communities will be affected by the conduct of the Games, many of which are remote, sparsely populated and possess limited emergency response capabilities; and

**WHEREAS**, many thousands of Utah residents and visitors to the state are expected to attend the Games, placing a significant strain on critical infrastructure, public safety and human services, and public and private sector resources throughout the state; and

**WHEREAS**, immediate action is required to secure and protect critical infrastructure in Utah and to protect the safety, health and welfare of Utah residents, our visitors, and to safeguard public and private property and the environment; and,

**WHEREAS**, the threats posed from acts of terrorism, civil disturbances, severe winter weather and other natural and technological hazards are especially high throughout the period of the XIX Olympic Winter Games in Utah; and

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

**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 an imminent "State of Emergency" exists within the State of Utah due the threat to public safety, property, and the environment posed by the XIX Olympic Winter Games; and,

That the State of Utah is declared to be an imminent "Disaster Area" requiring aid, assistance, and relief available pursuant to the provisions of state statutes and the State Emergency Operations Plan, which is hereby activated; and,

That selected members of the Utah National Guard are called to State Active Duty fulfilling various assignments throughout Utah during the XIX Olympic Winter Games to provide expanded security, crowd management, law enforcement, critical infrastructure protection, response to incidents involving weapons of mass destruction (WMD), WMD mutual aid, and other important services for a period not to exceed 30 days, effective January 23, 2002.

**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 23rd day of January, 2002.

(STATE SEAL)

**MICHAEL O. LEAVITT**  
Governor

Attest:  
**OLENE WALKER**  
Lieutenant Governor

**End of the Special Notices Section**

## 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 January 1, 2002, 12:00 a.m., and January 15, 2002, 11:59 p.m. are included in this, the February 1, 2002, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least March 4, 2002. 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 June 1, 2002, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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

Capitol Preservation Board (State),  
Administration  
**R131-3**  
Use of Magnetometers on Capitol Hill

**NOTICE OF PROPOSED RULE**

(New Rule)  
DAR FILE NO.: 24369  
FILED: 01/09/2002, 10:44

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule addresses the need for managing security on Capitol Hill.

SUMMARY OF THE RULE OR CHANGE: The rule identifies the levels of security under which magnetometers may be used on Capitol Hill and how those security levels may be changed. It also authorizes Capitol Hill security personnel to use magnetometers to screen persons who enter Capitol Hill facilities under the different security levels. (DAR NOTE: A corresponding 120-Day (Emergency) Rule is under DAR No. 24366 in this Bulletin, and is effective as of January 7, 2002.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63C-9-301(3)(a)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--It will require additional security staffing, however the current budget allows for emergency situations. Security levels two and three would only be used when needed, and the Utah Highway Patrol budget covers those circumstances.

❖LOCAL GOVERNMENTS: This rule does not affect local governments. Therefore, there is no cost or savings impact to local governments.

❖OTHER PERSONS: Other persons are not financially affected by this rule. The rule regulates visitors to Capitol Hill by requiring them to register, pass through a magnetometer, submit bags for security searches, or any combination of these procedures depending on the security level. Other persons may experience time delays depending on the level of security designated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule imposes no financial costs to persons visiting Capitol Hill. However, these persons may experience time delays depending on the level of security designated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact on businesses. David H. Hart

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

CAPITOL PRESERVATION BOARD (STATE)  
ADMINISTRATION  
Room 123 STATE CAPITOL  
350 N STATE ST  
SALT LAKE CITY UT 84114-1103, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David H. Hart at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at dhart@cpb.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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: David H. Hart, AIA, Executive Director

**R131. Capitol Preservation Board (State), Administration.  
R131-3. Use of Magnetometers on Capitol Hill.**

**R131-3-1. Authority.**

Subsection 63C-9-301(3)(a) requires the Capitol Preservation Board to make rules to govern, administer, and regulate Capitol Hill facilities and Capitol Hill grounds.

**R131-3-2. Definitions.**

(1) Terms used in this rule are defined in Section 63C-9-102.

(2) In addition:

(a) "Magnetometer" means a device that electronically detects the presence of ferrous metals from their effect on the magnetic field surrounding the earth.

(b) "Capitol Hill identification card" means a valid identification card issued or recognized by the board with a picture, individual name, and department identifying the person as a state elected official or state employee. A Capitol Hill identification card for this purpose does not include a card issued to an individual who are not a state elected official or state employee.

**R131-3-3. Security Levels.**

(1) Notwithstanding any provision in this rule, under all security levels, Capitol Hill security personnel may in all cases exercise the full authority and discretion granted to them by law to maintain the public safety and peace and to enforce the law.

(2) "Security level one"

(a) Any person entering a facility may be asked to register with the Capitol Hill security personnel. No one is required to pass through a magnetometer.

(b) State elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter at all entrances without registering or passing through a magnetometer.

(c) Bag searches may not be conducted.

(3) "Security level two"

(a) Except as provided in Subsection (3)(b), all persons entering a facility may be required to register with the Capitol Hill security personnel, and pass through a magnetometer.

(b) The board shall provide designated "employee entrances" where state elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter without registering. The Capitol Hill security personnel may require State elected officials and state employees to pass through the magnetometers.

(c) The Capitol Hill security personnel may require bag

searches for persons entering a facility including state elected officials and state employees holding a valid Capitol Hill identification card.

(4) "Security level three"

(a) Except as provided in Subsection (4)(b), all persons entering a facility shall register with the Capitol Hill security personnel, and pass through a magnetometer.

(b) The board shall provide designated "employee entrances" where state elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter without registering. The Capitol Hill security personnel shall require state elected officials and state employees to pass through the magnetometers.

(c) The Capitol Hill security personnel shall require bag searches for all person entering a facility, including state elected officials and state employees.

#### **R131-3-4. Magnetometers.**

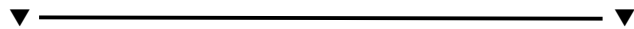
(1) By this rule, the board authorizes the use of magnetometers by Capitol Hill security personnel. Magnetometers may be used for security levels two and three.

(2) Capitol Hill security personnel may use magnetometers in facilities and on the grounds under the jurisdiction of the board after the commander of Capitol Hill security, or that person's superior, determines that there is a justification for increasing security precautions to level two, or level three. Depending on where the threat is focused, different Capitol Hill facilities may be designated to be at different security levels. When practicable, the decision to increase security precautions at any Capitol Hill facility shall be made in consultation with the executive director. Otherwise, the person making the determination to change from one security level to another, shall notify the executive director as soon as practicable after the decision is made.

(3) The executive director shall notify the members of the board when the security level is changed. Any member of the board may request a meeting of the full board to examine further the decision to move to higher security levels. The Board may lower the security level by a majority vote of the members present forming a quorum of the Board. The Commander may also reduce the security level depending on the security information received.

(4) The board and Capitol Hill security personnel, while using magnetometers in facilities under the authority of the board, shall not impact or infringe upon the rights of persons to keep and bear arms in accordance with Utah Constitution Article I, Section 6, and Title 76, Chapter 10, Part 5. A person carrying a concealed weapon by permit may be asked to show a valid, current concealed weapons permit before being allowed to enter the facility.

**KEY: public buildings, state buildings, facilities use  
2002  
63C-9-301(3)**



Education, Administration  
**R277-517**  
Athletic Coaching Endorsements

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

(Amendment)

DAR FILE NO.: 24398

FILED: 01/15/2002, 18:29

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to require appropriate and adequate training for all public school athletic coaches and to provide for compliance reporting by schools or school districts.

**SUMMARY OF THE RULE OR CHANGE:** The amended rule provides standards and a training program for athletic coaches in the public schools.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** There are no anticipated cost or savings to state budget in providing or requiring this training because coaches or employing school districts will be responsible for training.

❖**LOCAL GOVERNMENTS:** Schools or school districts may pay for training. Costs should be minimal because many training programs are free or inexpensive.

❖**OTHER PERSONS:** Schools or school districts may require prospective coaches to pay for their own training. Costs should be minimal because many training programs are free or inexpensive (\$20 - \$30). The Utah High School Activities Association or other athletic coaching associations will probably provide training.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Prospective coaches may pay for their training. Costs should be minimal because programs are offered by community organizations and the Utah High School Activities Association.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/04/2002.**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002**

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

## R277. Education, Administration.

### R277-517. Athletic Coaching ~~[Endorsements]~~Certification.

#### R277-517-1. Definitions.

~~—A. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed in the public school system as an educator.~~

~~]~~ ~~[E]A. "[Level I]Athletic Coaching Training" means the training required of head coaches [of low risk sports] and paid assistant coaches of all sports. The training requires completion of a Board-approved in-service program [(a minimum of eight clock hours)] covering the basic competencies outlined in R277-517-4, Athletic Coaching Preparation Criteria. A basic first aid course and CPR training shall be in addition to the required eight hours of training.~~

B. "Board" means the Utah State Board of Education.

~~—C. "Endorsement" means a specialty field or area listed on the Teaching Certificate which indicates the specific qualification of the holder.~~

~~—D. "High risk Sports" means football, basketball, baseball, softball, soccer, gymnastics, wrestling, volleyball and swimming.~~

~~—F. "Level II Athletic Coaching Training" means the training required of head coaches of high risk sports which includes a teaching certificate with either a physical education major or minor with a coaching emphasis or a coaching minor.~~

~~—G. "Low risk Sports" means golf, tennis, cross country and track.~~

~~]~~ ~~C. "Paid" means receiving any compensation, remuneration, or gift to which monetary value can be attached as a result of service as a coach.~~

~~[H]D. "Standards" means criteria that are applied uniformly and which shall be observed in the operation of a program. They are criteria against which the goals, objectives, and operation of a program will be evaluated. Following standards is a mandatory action.~~

~~—I. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.~~

~~]~~ ~~[J]E. "USOE" means the Utah State Office of Education.~~

~~F. "Utah High School Activities Association" means an Association of Utah school districts that administers and supervises interscholastic activities among its member schools according to the Association constitution and by-laws.~~

#### R277-517-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 ~~[of the Utah Constitution]~~ which vests the general control and supervision of the public schools in the ~~[State]~~ Board ~~[of Education]~~, by Section 53A-1-401 ~~([+3])~~, ~~[U.C.A. 1953]~~, which allows the Board to adopt rules ~~[and policies]~~ in accordance with its responsibilities, by Section 53A-1-402(1)(a) ~~[, U.C.A. 1953]~~, which directs the Board to make rules regarding the ~~[certification]~~ licensing of educators, and by Section 53A-6-101 through 10[4,]9 which discusses ~~[teacher certification]~~ educator licensing.

B. The purpose of this rule is to ~~[establish criteria and]~~ mandate training for individuals employed or acting as coaches in the public schools and to establish criteria for licensed educators

seeking athletic coaching ~~[endorsements]~~ positions in Utah secondary schools.

C. It is the Board's intent that athletics and extracurricular activities remain supplemental to the Core Curriculum. It is the preference of the Board that school districts hire licensed educators as coaches and ensure that athletic coaches needed in addition to licensed educators receive training consistent with this rule. It is the Board's preference that all athletic coaches, including volunteer coaches, are trained consistent with this rule.

#### R277-517-3. ~~[General Requirements]~~Athletic Coaching Training and Certification.

A. All athletic head coaches and assistant coaches shall submit to a criminal background check consistent with Section 53A-3-410 as a condition for employment or appointment.

B. All other individuals who have significant and unsupervised access to students, including coaches and extracurricular activity advisors, shall have criminal background checks consistent with Section 53A-3-410 as a condition for employment or appointment.

~~[A]C. All athletic head coaches and paid assistant coaches of [low risk] public high school sports [shall hold a current Utah Secondary Teaching Certificate with a Level I] should have completed Board-approved Athletic [e]Coaching [endorsement] Training prior to beginning coaching responsibilities.~~

(1) Athletic coaches shall complete required training at the first available opportunity and no later than the first school year that they are employed or volunteer as public school coaches;

(2) Athletic coaches may not coach a second school year without completing training consistent with this rule; and

(3) Prior to coaching, athletic coaches shall complete basic first aid and adult CPR training through an approved or recognized program consistent with Red Cross standards available from the American Red Cross offices or school district offices.

~~—B. All head coaches of high risk sports shall hold a current Utah Secondary Teaching Certificate with a Level II coaching endorsement.~~

~~—C. Certificated teachers without proper coaching preparation may apply for endorsement upon completion of course work as outlined in R277-517-4, Athletic Coaching Preparation Criteria.~~

~~—D. All individuals employed or used in assistant coaching assignments who do not have teaching certificates shall have a minimum of Level I Athletic Coaching Training as defined in R277-517-1E and shall be supervised by a teacher with a coaching endorsement.]~~

#### R277-517-4. Compliance.

A. Schools or school districts shall verify compliance with this rule by:

(1) reporting to the Utah High School Activities Association which shall report to the Board the names of Utah public school athletic coaches participating with public school students and indicate if they are licensed or unlicensed educators; and

(2) documenting the training received by the coaches identified in R277-517-1A.

B. School districts, as supervisors and employers of coaches, are responsible to ensure that their coaches' behavior and activities are consistent with state law and district policies.

#### R277-517-[4]5. Athletic Coaching [Preparation] Training Program Criteria.

A. The USOE shall review and compare the National



Standards for Athletic Coaches, Levels 1-3, with the American Sport Education Program (ASEP) and other equivalent programs to develop and determine a Utah coaching preparation program. Currently, the Board approves ASEP for Utah coaching preparation training.

B. The National Standards for Athletic Coaches and the ASEP training program are available from the USOE and the Utah High School Activities Association.

C. A USOE-approved coaching preparation program shall include, at a minimum, knowledge[,] and understanding [and demonstrated skill] in all of the following areas:

- (1) the prevention and care of athletic injuries;
- (2) bio-physiology including nutrition, drugs, biomechanics and conditioning;
- (3) emergency life support skills, to include advanced first aid and CPR;
- (4) pedagogy of coaching including skill analysis, learning theories and progressions;
- (5) psycho-social aspects of sports, competition, and coaching including the psychology of performance, role modeling, leadership, sportsmanship, competition, human relationships, and public relations;
- (6) motor learning including adolescent growth and development, physical, social, and emotional stress and limitations, external social and emotional pressures;
- (7) officiating athletic events, local district rules and regulations, High School Activities Association by-laws and interpretations of rules, and legal issues in sports and school activities; and
- (8) sports management and philosophy including sports law, risk management and team management.

**KEY: teacher certification, athletics**  
**[1994]2002**

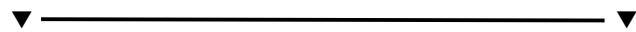
**Notice of Continuation May 14, 2001**

**Art X Sec 3**

**53A-1-401([1]3)**

**53A-1-402(1)(a)**

**53A-6-101 through 10[4]2**



## Education, Administration

# R277-605

## Extracurricular Student Activities

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24399

FILED: 01/15/2002, 18:29

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was amended to require adequate student supervision from public school coaches and to clarify that student participation in extracurricular athletics cannot be conditioned on attendance at extracurricular workshops or clinics.

SUMMARY OF THE RULE OR CHANGE: This rule requires appropriate supervision of students by coaches working in the

public schools. It identifies role model responsibilities of coaches. It states that students cannot be required to attend extracurricular clinics, and provides for a close collaboration between school districts and the Utah High School Activities Association.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Anticipated savings are speculative. Increased supervision could result in fewer athletic accidents and injuries.

❖LOCAL GOVERNMENTS: Anticipated savings are speculative. Increased supervision could result in fewer athletic accidents and injuries.

❖OTHER PERSONS: Increased supervision and diligence in role modeling presents no additional costs to individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Increased supervision and diligence in role modeling presents no additional costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

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

EDUCATION  
 ADMINISTRATION  
 250 E 500 S  
 SALT LAKE CITY UT 84111-3272, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

**R277-605. [~~Extracurricular Student Activities~~Coaching Standards and Athletic Clinics.**

**R277-605-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Utah High School Activities Association (UHSAA)" is an organization whose purpose is to administer and supervise interscholastic activities among its member schools according to the Association constitution and by-laws.

**R277-605-~~4~~2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution, Article X, Section 3 [of the Utah Constitution] which vests general control and supervision of public education in the [Utah State]Board[of Education], Section 53A-1-401(3)[, U.C.A. 1953,] which allows the [Utah State]Board[of Education] to adopt rules in accordance with its responsibilities, and Section 53A-1-402(1)(b)[, U.C.A. 1953,] which directs the [Utah State]Board[of Education] to adopt rules regarding access to programs.

B. The purpose of this rule is to specify standards [associated with extracurricular activities]for school athletic and activity coaches and standards for athletic clinics and workshops.

**R277-605-~~2~~3. Standards Athletics and the Core Curriculum.**

A. Schools and coaches shall strictly adhere to both the letter and the spirit of the UHSAA by-laws, policies, regulations, and interpretations for high school sports programs.

[~~A~~]B. Schools are prohibited from scheduling full-year physical education or athletic fitness and movement classes for specific school teams. In schools where in-season fitness and movement classes are scheduled, the classes shall not be used to violate the starting and stopping dates for practice and competitive play as prescribed by the [Utah High School Activities Association]UHSAA.

C. [~~This standard is aimed at helping restore equity to h~~]High school competitive sports programs shall be supplementary to the high school curriculum.

[~~B. All head coaches must hold a current Utah Secondary Teaching Credential. Aides and paraprofessionals employed or used in coaching assignments must serve under the direct supervision of a certificated teacher.~~

[~~C. School personnel, activity leaders, coaches, advisory, and other personnel shall not require students to attend out-of-school camps, clinics, or workshops for which the personnel, activity leaders, coaches, or advisory personnel receive remuneration from a source other than the school or district in which they are employed.~~]

**R277-605-4. Coaches and School Activity Leaders as Supervisors and Role Models.**

A. Coaches and other designated school leaders shall diligently supervise their players at all times while on school-sponsored activities. This includes supervision on the field, court, or other competition or performance sites, in locker rooms, in seating areas, in eating establishments, in lodging facilities, and while traveling.

B. A coach or other designated school leader shall be an exemplary role model and shall not use alcoholic beverages, tobacco, controlled substances, or participate in promiscuous sexual relationships while on school-sponsored activities.

C. Coaches, assistants and advisors shall act in a manner consistent with Section 53A-11-908 and shall not use foul, abusive, or profane language while engaged in school related activities; nor permit hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

D. All coaches shall be appropriately certified as provided in R277-517.

**R277-605-5. Athletic and Activity Clinics.**

A. School personnel, activity leaders, coaches, advisors, and other personnel shall not require students to attend out-of-school camps, clinics, or workshops for which the personnel, activity leaders, coaches, or advisors receive remuneration from a source other than the school or district in which they are employed.

B. Required or voluntary participation in summer or other off-season clinics, workshops, and leagues shall not be used as eligibility criteria for team membership, participation in extracurricular activities, or for the opportunity to try out for school-sponsored programs.

C. A summer workshop or clinic conducted by a school for any sport or activity shall be scheduled and held consistent with UHSAA bylaws and policies. These bylaws are available in every secondary school principal's office, at school district offices, at the Utah State Office of Education, and from the UHSAA for a minimal cost.

**KEY: extracurricular activities**

~~1987~~2002

Notice of Continuation January 14, 1998

Art X Sec 3

53A-1-401(3)

53A-1-402(1)(b)



Education, Administration

## R277-700

### The Elementary and Secondary School Core Curriculum and High School Graduation Requirements

#### NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 24400

FILED: 01/15/2002, 18:29

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This reenacted rule updates the state Core Curriculum requirements and provides for the Utah Basic Skills Competency Test (UBSCT) as a requirement for high school graduation, consistent with Section 53A-1-611.

SUMMARY OF THE RULE OR CHANGE: This rule adds new definitions, updates Core Curriculum requirements, and explains legislatively-mandated student assessment. Specifically, the elementary Core Curriculum, Middle Education Core Curriculum, and High School Core Curriculum requirements were substituted for new sections using updated language and in three cases (mathematics, civics, and technology) requirements were changed slightly. The rule adds a section on assessment of the Core Curriculum.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and (c)

## ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or savings to state budget. School districts have been revising the Core Curriculum as needed for years. Section 53A-1-611 requires the UBSCT. This rule clarifies logistics of testing.

❖LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. The enabling legislation provided funding for UBSCT. Updating the Core Curriculum has been a gradual process.

❖OTHER PERSONS: There are no anticipated cost or savings to other persons. The Core Curriculum and required testing are provided to individuals at no cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The Core Curriculum and required testing are provided at no cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

~~[R277 700. The Elementary and Secondary School Core Curriculum and High School Graduation Requirements.~~

**R277 700 1. Definitions.**

~~— A. "Board" means the Utah State Board of Education.~~

~~— B. "IEP" means individual education program.~~

~~— C. "Special assignment teacher" means a teacher assigned to:~~

- ~~(1) alternative school settings with self contained classrooms in which the teacher must teach several subjects;~~
- ~~(2) teach homebound students with the expectation that several subjects will be covered by the same teacher; or~~
- ~~(3) necessarily existent small or rural schools with limited faculty and enrollment in which teachers must teach more than three core subjects.~~

~~— D. "Secondary school experience" means grades 7-12.~~

~~— E. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest Association of Schools and Colleges or the accreditation standards of the Board, available from the USOE Accreditation Specialist.~~

~~— F. "USOE" means the Utah State Office of Education.~~

~~— G. "Demonstrated proficiency" means a level of subject mastery as determined by the school district and may include such methods as tests, interviews, teacher evaluations, reports, and written work.~~

**R277 700 2. Authority and Purpose.**

~~— A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of the public education system in the Board, Section 53A-1-402(1)(b) and (c) which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to specify the minimum core curriculum for the public schools and high school graduation requirements.~~

**R277 700 3. General Requirements—Course Standards.**

~~— The Board establishes minimum course description standards and objectives for each course in the required general core, which is commonly referred to as The Core Curriculum. Course descriptions for required and elective courses are developed cooperatively by local school districts and the Utah State Office of Education. The descriptions shall contain mastery criteria for the course and shall stress mastery of the criteria rather than completion of predetermined time allotments for subjects. Implementation and assessment procedures are the responsibility of local school districts.~~

**R277 700 4. General Requirements—Teacher Qualifications.**

~~— Teachers may not be assigned to teach any course unless, for the subject area to which they are assigned, they hold a current Utah teaching certificate endorsed in the subject area, have completed an undergraduate or graduate major or minor in the subject area, have completed a Board approved in-service program, or have demonstrated competency in the subject area.~~

**R277 700 5. General Requirements—Special Assignment Teachers.**

~~— A. Special assignment teachers must hold a Basic or Standard Certificate with endorsement(s) for the course(s) which they are assigned to teach. In addition, personnel must have completed at least nine quarter hours of state approved college or in-service course work in each of the subject areas in which they are assigned.~~

~~— B. Special assignment teachers are temporarily authorized for the duration of their special assignment and do not receive a permanent endorsement for the subject area until they have completed the equivalent of a subject matter minor, at least 24 quarter hours of state approved college course work in the field, or have been declared competent to teach the subject by the Utah State Office of Education Committee on Demonstrated Competency.~~

**R277-700-6. General Requirements—Unit of Credit.**

A. A unit of credit or fraction thereof shall be given upon satisfactory completion of a course or learning experience in compliance with state course standards. Students also may complete a course on a performance basis in which case assessment of mastery will be the responsibility of the local boards of education. Credit can be awarded only once for a specific required course with the same content during the secondary school experience.

- B. A district may grant credit from among the following:
- (1) successful completion of a course;
    - (a) offered by the district;
    - (b) approved by the district taken outside of the regular school day or school year;
    - (c) approved by the district for concurrent enrollment and offered by an accredited post-secondary institution; or
    - (d) offered by correspondence or extension that is approved and accredited by the district; or
  - (2) demonstrated proficiency by way of a district approved
    - (a) test developed by the state or district;
    - (b) standardized test;
    - (c) performance appraisal; or
    - (d) portfolio; or
  - (3) successful completion or demonstrated proficiency in an experimental program approved by the district.

**R277-700-7. General Requirements—Instructional Time.**

School districts shall organize flexible time blocks for instruction which accommodate outcome based curriculum. To help the Board keep apprised of instructional time variations, districts shall submit their instructional time schedule to the Utah State Office of Education for approval.

**R277-700-8. General Requirements—Student Education Plan.**

A student education plan is cooperatively developed by the student, the student's parents, and designated school personnel. This plan is guided by general requirements and individual student interests and goals. It is formally reviewed, at least, at the beginning of grade one, at the end of grades three and six, and annually thereafter. Each student's high school plan shall identify an area of concentration, which may be as many as four to five units, in a cluster related to the student's post-secondary goal.

**R277-700-9. General Requirements—Diploma.**

In Utah's public schools, a high school diploma is granted to a student who has met Board curriculum requirements and any additional requirements of the local school district.

**R277-700-10. Requirements for Elementary Education.**

A. The Board shall establish standards for elementary education which include the identification of a general core curriculum. Implementation and formal assessment of student mastery of the general core curriculum are the responsibilities of the local boards of education. At a minimum, formal assessment shall occur during or at the completion of grades three and six. Informal assessment should occur on a frequent ongoing basis to ensure continual student progress. Provision for remediation for all students who do not achieve mastery is required.

B. Required Elementary Core Curriculum:

TABLE  
REQUIRED ELEMENTARY CORE CURRICULUM  
GRADES K-6

GENERAL CORE			OPTIONS
LANGUAGE ARTS	SOCIAL STUDIES	FOREIGN LANGUAGE	
Reading	Introductory Citizenship		
Writing	Principles and Practices		
Speaking			
Listening	ARTS		
MATHEMATICS		RESPONSIBLE HEALTHY LIFESTYLES	
SCIENCE		INFORMATION TECHNOLOGY	
LIBRARY MEDIA			

C. All handicapped students are required to demonstrate mastery of the core curriculum. If a student's handicapping condition precludes the successful demonstration of mastery, the IEP team, on a case by case basis, may exempt the student or modify the mastery demonstration to accommodate the student's handicap.

**R277-700-11. Middle and High School Requirements.**

A. The Board provides general direction and standards in secondary education. Students in grades seven and eight must earn a minimum of 12 units of credit. Students in grades nine through twelve must earn a minimum of 24 units of credit. Districts may require additional units of credit. Formal assessment of student mastery of the general core courses shall occur as a minimum during or at the completion of grades eight, ten, and twelve. Implementation and assessment of student mastery of the core courses are the responsibility of the local board.

B. Middle Education Core Curriculum:

TABLE  
MIDDLE EDUCATION CORE CURRICULUM  
GRADES 7-8 12 UNITS OF CREDIT REQUIRED

GENERAL CORE	10.5 Units	PLUS	REQUIRED ELECTIVES	1.5
SUBJECT AREAS				
Language Arts	2.0			
Mathematics	2.0			
Science	1.5			
Social Studies	1.5			
The Arts	1.0			
Information Technology	Credit Optional			
Responsible Healthy Lifestyles	1.5	(Consists of	1.0 Physical Education	
Applied Technology Education		and	.5 Health Education)	
Technology, Life and Careers	1.0			
Library Media Skills	Integrated into Subject Areas			

C. High School Core Curriculum:

- (1) Required credits:

TABLE  
HIGH SCHOOL CORE CURRICULUM  
GRADES 9-12 — 24 UNITS OF CREDIT REQUIRED

GENERAL CORE 14.5 Units PLUS REQUIRED ELECTIVES 9.5

SUBJECT AREAS	REQUIREMENTS
Language Arts	3.0
Mathematics	2.0
Science	2.0
Information Technology	Credit Optional
Social Studies	3.0
Arts	1.5
Responsible Healthy Lifestyles	2.0 (Consists of 1.5 Physical Education and .5 Health Education)
Applied Technology Education	1.0
Occupational Preparation	
Library Media Skills Integrated into Subject Areas	
SELECTED ELECTIVES	9.5

(2) Any state approved applied technology course, or the applied technology core course fulfills the applied technology education requirement.

(3) Selected electives units of credit provide a means for specialization related to student interest and post-secondary goals.

(a) College Entry Cluster:

Foreign Language: 2.0 units of credit

Mathematics: 1.0 units of credit

English: 1.0 units of credit

Science: 1.0 units of credit

Electives: 4.5 units of credit

(b) Applied Technology/Job Entry Clusters:

Select one:

Technical Emphasis: 4.0 units of credit

Vocational Emphasis: 5.0 units of credit

Computer Science: .5 units of credit

(c) Electives: 4.0-5.0 units of credit

D. Informational Technology standards in the Middle Education and High School core curriculum may be taught either by integrating them into other areas of the curriculum or in a specific class. Integration requires the district to submit a plan detailing at what level and in which class each standard will be taught. Districts establishing a specific class may offer .5 units of credit.

E. All handicapped students are required to demonstrate mastery of the courses in the Middle Education and High School general core. If a student's handicapping condition precludes the successful demonstration of mastery, the IEP team, on a case by case basis, may exempt the student or modify the mastery demonstration to accommodate the student's handicap.]

**R277-700. The Elementary and Secondary School Core Curriculum.**

**R277-700-1. Definitions.**

A. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest Association of Schools and Colleges or the accreditation standards of the Board, available from the USOE Accreditation Specialist.

B. "Applied technology education (ATE)" means organized educational programs or courses which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations, where entry requirements generally do not require a baccalaureate or advanced degree.

C. "Basic skills course" means a subject which requires mastery of specific functions and was identified as a course to be assessed under Section 53A-1-602.

D. "Board" means the Utah State Board of Education.

E. "Core Curriculum content standard" means a broad statement of what students enrolled in public schools are expected to know and be able to do at specific grade levels or following completion of identified courses.

F. "Core Curriculum criterion-referenced test (CRTs)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

G. "Core Curriculum objective" means a more focused description of what students enrolled in public schools are expected to know and do at the completion of instruction.

H. "Demonstrated competence" means subject mastery as determined by school district standards and review. School district review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

I. "Elementary school" for purposes of this rule means grades K-6 in whatever kind of school the grade levels exist.

J. "High school" for purposes of this rule means grades 9-12 in whatever kind of school the grade levels exist.

K. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

L. "Middle school" for purposes of this rule means grades 7-8 in whatever kind of school the grade levels exist.

M. "Norm-referenced test" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.

N. "State Core Curriculum (Core Curriculum)" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

O. "USOE" means the Utah State Office of Education.

P. "Utah Basic Skills Competency Test" means a test to be administered to Utah students beginning in the tenth grade to include at a minimum components on English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the Utah Basic Skills Competency Test in addition to school or district graduation requirements prior to receiving a basic high school diploma.

**R277-700-2. Authority and Purpose.**

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board; Section 53A-1-402(1)(b) and (c) which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; Section 53A-1-402.6 which directs the Board to establish a Core Curriculum in consultation with local boards and superintendents and directs local boards to design local programs to help students master the Core Curriculum; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the minimum Core Curriculum requirements for the public schools, to give directions to local boards and school districts about providing the Core Curriculum for the benefit of students, and to establish responsibility for mastery of Core Curriculum requirements.

**R277-700-3. Core Curriculum Standards and Objectives.**

A. The Board establishes minimum course description standards and objectives for each course in the required general core, which is commonly referred to as the Core Curriculum.

B. Course descriptions for required and elective courses shall be developed cooperatively by school districts and the USOE with opportunity for public and parental participation in the development process.

C. The descriptions shall contain mastery criteria for the courses, and shall stress mastery of the course material and Core objectives and standards rather than completion of predetermined time allotments for courses.

D. Implementation of the Core Curriculum and student assessment procedures are the responsibility of local boards of education consistent with state law.

E. This rule shall apply to students in the 2005-2006 graduating class.

**R277-700-4. Elementary Education Requirements.**

A. The Board shall establish a Core Curriculum for elementary schools, grades K-6.

B. Elementary School Education Core Curriculum Content Area Requirements:

(1) Grades K-2:

- (a) Reading/Language Arts;
- (b) Mathematics;
- (c) Integrated Curriculum.

(2) Grades 3-6:

- (a) Reading/Language Arts;
- (b) Mathematics;
- (c) Science;
- (d) Social Studies;
- (e) Arts;
- (i) Visual Arts;
- (ii) Music;
- (iii) Dance;
- (iv) Theatre.
- (f) Health Education;
- (g) Physical Education;
- (h) Educational Technology;
- (i) Library Media.

C. It is the responsibility of the local boards of education to provide access to the Core Curriculum to all students.

D. Student mastery of the general Core Curriculum is the responsibility of local boards of education.

E. Informal assessment should occur on a regular basis to ensure continual student progress.

F. Board-approved CRT's shall be used to assess student mastery of the following:

- (1) reading;
- (2) language arts;
- (3) mathematics;
- (4) science in elementary grades 4-6; and
- (5) effectiveness of written expression.

G. Norm-referenced tests shall be given to all elementary students in grades 3 and 5.

H. Provision for remediation for all elementary students who do not achieve mastery is the responsibility of local boards of education.

**R277-700-5. Middle School Education Requirements.**

A. The Board shall establish a Core Curriculum for middle school education.

B. Students in grades 7-8 shall earn a minimum of 12 units of credit to be properly prepared for instruction in grades 9-12.

C. Local boards may require additional units of credit.

D. Grades 7-8 Core Curriculum Requirements and units of credit:

- (1) General Core (10.5 units of credit);
- (a) Language Arts (2.0 units of credit);
- (b) Mathematics (2.0 units of credit);
- (c) Science (1.5 units of credit);
- (d) Social Studies (1.5 units of credit);
- (e) The Arts (1.0 units of credit):
- (i) Visual Arts;
- (ii) Music;
- (iii) Dance;
- (iv) Theatre.

(f) Physical Education (1.0 units of credit);

(g) Health Education (0.5 units of credit);

(h) Applied Technology Education Technology, Life, and Careers (1.0 units of credit);

(i) Educational Technology (credit optional);

(j) Library Media (integrated into subject areas).

E. Board-approved CRT's shall be used to assess student mastery of the following:

- (1) reading;
- (2) language arts;
- (3) mathematics;
- (4) science in grades 7 and 8; and
- (5) effectiveness of written expression.

F. Norm-referenced tests shall be given to all middle school students in grade 8.

**R277-700-6. High School Requirements.**

A. The Board shall establish a Core Curriculum for students in grades 9-12.

B. Students in grades 9-12 shall earn a minimum of 24 units of credit.

C. Local boards may require additional units of credit.

D. Grades 9-12 Core Curriculum requirements and required units of credit:

(1) Language Arts (3.0 units of credit);

(2) Mathematics (2.0 units of credit);

(a) minimally, Elementary Algebra or Applied Mathematics I; and

(b) geometry or Applied Mathematics II; or

(c) any Advanced Mathematics courses in sequence beyond (a) and (b);

(d) high school mathematics credit may not be earned for courses in sequence below (a).

(3) Science (2.0 units of credit from two of the four science areas):

(a) earth science (1.0 units of credit);

- (b) biological science (1.0 units of credit);  
(c) chemistry (1.0 units of credit);  
(d) physics (1.0 units of credit).  
(4) Social Studies (3.0 units of credit):  
(a) Geography for Life (0.5 units of credit);  
(b) World Civilizations (0.5 units of credit);  
(c) U.S. history (1.0 units of credit);  
(d) U.S. Government and Citizenship (0.5 units of credit);  
(e) elective social studies class (0.5 units of credit).  
(5) The Arts (1.5 units of credit from any of the following performance areas):  
(a) visual arts;  
(b) music;  
(c) dance;  
(d) theatre;  
(6) Health education (0.5 units of credit);  
(7) Physical education (1.5 units of credit):  
(a) participation skills (0.5 units of credit);  
(b) Fitness for Life (0.5 units of credit);  
(c) individualized lifetime activities (0.5 units of credit) or team sport/athletic participation (maximum of 0.5 units of credit with school approval).  
(8) Applied technology education (1.0 units of credit):  
(a) agriculture;  
(b) business;  
(c) family and consumer sciences;  
(d) health science and technology;  
(e) information technology;  
(f) marketing;  
(g) technology education;  
(h) trade and technical education.  
(9) Educational technology:  
(a) computer Technology (0.5 units of credit for the class by this specific name only); or  
(b) successful completion of state-approved competency examination (no credit, but satisfies the Core requirement).  
(10) Library media skills integrated into the curriculum;  
(11) Board-approved CRT's shall be used to assess student mastery of the following subjects:  
(a) reading;  
(b) language arts through grade 11;  
(c) mathematics as defined under R277-700-6D(2);  
(d) science as defined under R277-700-6D(3); and  
(e) effectiveness of written expression.

E. Students shall participate in the Utah Basic Skills Competency Test, as defined under R277-700-10.

F. Students with disabilities served by special education programs may have changes made to graduation requirements through individual IEPs to meet unique educational needs. A student's IEP shall document the nature and extent of modifications, substitutions or exemptions made to accommodate a student with disabilities.

**R277-700-7. Student Mastery and Assessment of Core Curriculum Standards and Objectives.**

A. Student mastery of the Core Curriculum at all levels is the responsibility of local boards of education.

B. Provisions for remediation of secondary students who do not achieve mastery is the responsibility of local boards of education under Section 53A-13-104.

C. Students who are found to be deficient in basic skills through U-PASS shall receive remedial assistance according to provisions of Section 53A-1-606(1).

D. If parents object to portions of courses or courses in their entirety under provisions of law (Section 53A-13-101.2) and rule (R277-105), students and parents shall be responsible for the mastery of Core objectives to the satisfaction of the school prior to promotion to the next course or grade level.

E. Students with Disabilities:

(1) All students with disabilities served by special education programs shall demonstrate mastery of the Core Curriculum.

(2) If a student's disabling condition precludes the successful demonstration of mastery, the student's IEP team, on a case-by-case basis, may provide accommodations for or modify the mastery demonstration to accommodate the student's disability.

F. Students may demonstrate competency to satisfy course requirements consistent with R277-705-3.

G. All Utah public school students shall participate in state-mandated assessments, as required by law.

**KEY: curricula**

**[1994]2002**

**Notice of Continuation January 14, 1998**

**Art X Sec 3**

**53A-1-402(1)(b)**

**53A-1-402.6**

**53A-1-401(3)**



**Education, Administration**  
**R277-705**  
**Secondary School Completion and**  
**Diplomas**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 24401

FILED: 01/15/2002, 18:30

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule provides for differentiated diplomas and student assessment as a prerequisite to high school graduation consistent with Utah Basic Skills Competency testing.

SUMMARY OF THE RULE OR CHANGE: The new rule explains diplomas and completion certificates and provides a timeline, eligibility standards, and procedures for Utah Basic Skills Competency testing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(b) and (c)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There are no anticipated cost or saving to state budget. Necessary funds for Basic Skills Competency testing were appropriated by the Legislature.

❖LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. School districts have received state funds for Basic Skills Competency testing. Other changes reflect federal law or current practice.

❖OTHER PERSONS: There are no anticipated cost or savings for other persons. Districts have received funds for testing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Districts have received funds for testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Steven O. Laing

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

## **R277. Education, Administration.**

### **R277-705. Secondary School Completion and Diplomas.**

#### **R277-705-1. Definitions.**

A. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest Association of Schools and Colleges or the accreditation standards of the Board, available from the Utah State Office of Education Accreditation Specialist.

B. "Board" means the Utah State Board of Education.

C. "Criterion-referenced test (CRT)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

D. "Cut score" means the minimum score a student must attain for each subtest to pass the UBSCT.

E. "Demonstrated competence" means subject mastery as determined by school district standards and review. School district review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

F. "Diploma" means an official document awarded by a public school district or high school consistent with state and district graduation requirements.

G. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed,

and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

H. "Secondary school" means grades 7-12 in whatever kind of school the grade levels exist.

I. "Section 504 Plan" means a written statement of reasonable accommodations for a student with a qualifying disability that is developed, reviewed, and revised in accordance with Section 504 of the Rehabilitation Act of 1973.

J. "Transcript" means an official document or record(s) generated by one or several schools which includes, at a minimum, the courses in which a secondary student was enrolled, grades and units of credit earned, UBSCT scores, citizenship and attendance records. The transcript is usually one part of the student's permanent or cumulative file which also may include birth certificate, immunization records and other information as determined by the school in possession of the record.

K. "Unit of credit" means credit awarded for courses taken upon school district/school authorization or for mastery demonstrated by approved methods.

L. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade to include at a minimum components on English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to state and district graduation requirements prior to receiving a basic high school diploma.

M. "UBSCT Advisory Committee" means a committee that is advisory to the Board with membership appointed by the Board, comprised of not more than 15 members with the following representation:

- (1) parents;
- (2) one high school principal;
- (3) one high school teacher;
- (4) one district superintendent;
- (5) one Coalition of Minorities Advisory Committee member;
- (6) Utah State Office of Education staff;
- (7) one high school student;
- (8) business;
- (9) local board members;
- (10) higher education.

#### **R277-705-2. Authority and Purpose.**

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board; Section 53A-1-402(1)(b) and (c) which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; Sections 53A-1-603 through 53A-1-611 which direct the Board to adopt rules for the conduct and administration of the Utah Performance Assessment System for Students (U-PASS); and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide consistent definitions, provide alternative methods for students to earn and schools to award credit, to provide rules and procedures for the assessment of all students as required by law, and to provide for differentiated diplomas consistent with state law.



**R277-705-3. Units of Credit.**

A. Units of credit shall be awarded to students and be recorded on student transcripts for satisfaction of district-approved courses or subject matter.

B. Students may earn credit by any of the following methods, as designated by the school district:

(1) successful completion, as determined by the school district or school, of secondary school courses;

(2) successful completion, as determined by the school district or school, of concurrent enrollment classes consistent with Section 53A-17a-120;

(3) demonstrated competence, as determined by the school district or school;

(4) assessment, as determined by the school district or school;

(5) review of student work or projects consistent with school district or school procedures and criteria; and

(6) following successful completion, as determined by the school district or school, of correspondence or electronic coursework offered by an accredited education institution with prior approval by the school district or school to the extent practicable.

C. School districts or schools shall designate by written policy at least three methods by which students of the district may earn credit.

D. Schools shall accept credits from accredited education institutions:

(1) schools shall accept credits from accredited schools when a student enrolls in the district for the first time;

(2) districts may limit additional credits earned by students to courses or programs that are consistent with the student's Student Education Plan or Student Education/Occupation Plan as established by school, student and parent(s).

E. A school district or school has the final decision-making authority for the awarding of credit and shall do so consistent with state law and due process.

**R277-705-4. Diplomas and Completion Certificates.**

A. School districts or schools shall award diplomas and completion certificates.

B. School districts or schools shall offer differentiated diplomas to include:

(1) a basic high school diploma awarded to students who have successfully completed all state and district course requirements for graduation and have passed all subtests of the UBSCT.

(2) alternative completion diploma:

(a) A student may be awarded an alternative completion diploma if the student:

(i) has met all state and district course requirements for graduation; and

(ii) provides documentation of at least three attempts to take and pass all subtests of the UBSCT; and

(iii) has not passed all subtests of the UBSCT.

(b) A student may receive an alternative completion diploma if the student has completed graduation requirements consistent with his IEP and the student's IEP team has directed that the student be given an opportunity to demonstrate basic skills competency by means other than the UBSCT.

(c) A student may receive an alternative completion diploma if the student has completed graduation requirements consistent with his Section 504 plan and if the plan directs that the student be allowed to demonstrate basic skills competency by means other than the UBSCT.

C. School districts or schools shall offer a certificate of completion to students who have completed their senior year, are exiting the school system, and have not met all state or district requirements for a diploma.

**R277-705-5. Students with Disabilities.**

A. Students with disabilities served by special education programs shall satisfy high school completion or graduation criteria, consistent with state and federal law and the student's IEP.

B. A student may be awarded a certificate of completion or a diploma, consistent with state and federal law and the student's IEP or Section 504 Plan.

**R277-705-6. Utah Basic Skills Competency Testing Requirements and Procedures.**

A. All Utah public school students shall participate in Utah Basic Skills Competency testing, unless alternate assessment is designated in accordance with federal law or regulations or state law.

B. Timeline:

(1) Beginning with students in the graduating class of 2005, UBSCT requirements shall apply.

(2) No student may take any subtest of the UBSCT before the tenth grade year.

(3) Beginning in the 2003-2004 school year, UBSCT shall be given twice annually.

(4) Tenth graders should first take the test in the second half of their tenth grade year.

(5) Exceptions may be made with documentation of compelling circumstances.

C. UBSCT components, scoring and consequences:

(1) UBSCT consists of subtests in reading, writing and mathematics.

(2) Students who reach the established cut score for any subtest in any administration of the assessment have passed that subtest.

(3) Students shall pass all subtests to qualify for a basic high school diploma.

(4) Students who do not reach the established cut score for any subtest shall have multiple additional opportunities to retake the subtest.

(5) Students who have not passed all subtests of the UBSCT by the end of their senior year may receive a certificate of completion or alternative completion diploma.

(6) The certificate of completion/alternative completion diploma may be converted to a basic high school diploma whenever the student completes all current state and district basic diploma requirements.

(7) Beginning in June 2005, an adult student enrolled in a Utah school district adult education program may receive an adult high school diploma by completing all state and district diploma requirements and passing all subtests of the UBSCT or may receive an adult alternative completion diploma consistent with district and state requirements.

(8) Specific testing dates shall be calendared and published at least two years in advance by the Board.

D. Reciprocity and new seniors:

(1) Students who transfer from out of state to a Utah high school after the tenth grade year may be granted reciprocity for high school graduation exams taken and passed in other states or countries based on criteria set by the Board and applied by the local board.

(2) Students for whom reciprocity is not granted and students from other states or countries that do not have high school graduation exams shall be required to pass the UBSCT before receiving a basic high school diploma if they enter the system before the final administration of the test in the student's senior year.

(3) The Board shall also establish criteria for granting a diploma to students who enter a Utah high school after the final administration of the test in their senior year.

(4) Students may appeal to the local board for exceptions.

E. Testing eligibility:

(1) Building principals shall certify that all students taking the test in any administration are qualified to be there.

(2) Students are qualified if they:

(a) are enrolled in tenth grade, eleventh, or twelfth grade (or equivalent designation in adult education) in a Utah public school program; or

(b) are enrolled in a Utah private/parochial school (with documentation) and are at least 15 years old or enrolled at the appropriate grade level; or

(c) are home schooled (with documentation) and are at least 15 years old; and

(3) Students eligible for accommodations, assistive devices, or other special conditions during testing shall submit appropriate documentation at the test site.

F. Testing procedures:

(1) Three subtests make up the UBSCT: reading, writing, and mathematics. Each subtest shall be given on a separate day.

(2) The same subtest shall be given to all students on the same day, as established by the Board.

(3) All sections of a subtest shall be completed in a single day.

(4) Subtests are not timed. Students should be given the time necessary within the designated test day to attempt to answer every question on each section of the subtest.

(5) Make-up testing shall not be offered. Students who miss the opportunity to take a subtest on the day it is offered may arrange to take that subtest the next time it is given.

(6) Arrangements for extraordinary circumstances or exceptions shall be reviewed and decided by the UBSCT Advisory Committee on a case-by-case basis consistent with the purposes of this rule and enabling legislation.

#### **R277-705-7. Security and Accountability.**

A. Building principals shall be responsible to secure and return completed tests consistent with Utah State Office of Education timelines.

B. School district testing directors shall account for all materials used, unused and returned.

C. Results shall be returned to students and parents/guardians no later than eight weeks following the administration of the test.

D. Appeals for failure to pass the UBSCT due to extraordinary circumstances:

(1) If a student or parent believes that a testing irregularity or inaccuracy in scoring prevented a student from passing the UBSCT, the student or parent may appeal to the local board within 60 days of receipt of the test results.

(2) The local board shall consider the appeal and render a decision in a timely manner.

(3) The parent or student may appeal the local board's decision to the Board, under rules adopted by the Board.

#### **R277-705-8. Student Rights and Responsibilities Related to Graduation, Transcripts and Receipt of Diplomas.**

A. School districts shall supervise the granting of credit and awarding of diplomas, but may delegate the responsibility to schools within the district.

B. A school district or school may determine criteria for a student's participation in graduation activities and exercises, independent of a student's receipt of a diploma.

C. Diplomas or certificates, credit or unofficial transcripts may not be withheld from students for nonpayment of school fees.

D. School districts or schools shall establish consistent timelines for all students for completion of graduation requirements.

#### **KEY: curricula**

#### **2002**

#### **Art X Sec 3**

#### **53A-1-402(1)(b)**

#### **53A-1-603 through 53A-1-611**

#### **53A-1-401(3)**



## Human Services, Recovery Services **R527-200** Administrative Procedures

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24359

FILED: 01/02/2002, 13:06

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule needs to be updated for the following reasons: 1) to conform to changes in Office of Recovery Services/Child Support Services (ORS/CSS) policy brought about by Section 78-45-4.4 (Support Follows the Child), enacted by the State Legislature in the 2000 General Session; 2) to add "senior agents" to the list of those designated as presiding officers in adjudicative proceedings; 3) to conform to a recent ORS/CSS policy decision, based on Subsection 78-22-1(6) (Duration of judgment Child support orders), that renewal of child support judgments will not generally be offered as a service the agency provides; 4) to add a new category under "Informal adjudicative proceedings" dealing with requests for waiver or deferral of estate recovery in Medicaid reimbursement cases that corresponds with current practice; and 5) to make the section concerning administrative paternity orders consistent with recent changes in the ORS/CSS establishment of paternity policy including the replacement of the word "modify" with "amend" and adding information on disestablishment of paternity.

SUMMARY OF THE RULE OR CHANGE: Because the custodial parent may be a party in an administrative proceeding, Subsection R527-200-2(2)(d) and the last sentence in Section R527-200-15 have been deleted. Under "Designation of Presiding Officers" (Section R527-200-4), "team agents" has been replaced with the more generic title "agents" and "senior agents" has been added to the list. In Subsections R527-200-

6(1) and (5), the words "or renew" have been deleted in relation to obtaining orders in informal adjudicative proceedings for child support and medical and dental expenses. In the same section, a new category of informal adjudicative proceeding has been added that deals with approval or denial of requests for waiver or deferral of estate recovery in Medicaid reimbursement cases. In Sections R527-200-16 and R527-200-17, the sections concerned with setting aside and amending administrative orders, the word "obligor" has been replaced with "respondent" wherever it appears. In Section R527-200-18, the word "modify" has been replaced with "amend" wherever it appears in reference to paternity orders. The following items have been added to that section: 1) requirements for disestablishment of paternity, 2) a provision that the mother may prevent amendment of an administrative order to disestablish paternity by contesting the administrative action, and 3) a provision that the father has the right to reconsideration of the administrative decision, as well as to judicial appeal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-11-203, 62A-11-304.1, 62A-11-304.2, and 62A-11-307.2; and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The proposed rule changes are expected to have little or no impact on the state budget. Some of these changes, as have been previously noted, are already in practice due to statutory and policy revisions. Other proposed changes are strictly for clarification purposes, and also do not reflect a change in agency practices. These include adding the category "senior agents" in the list of designated presiding officers and replacing "modify" with "amend" in the section on administrative paternity orders. The proposed restrictions on disestablishing paternity are expected to limit the number of these cases for which administrative action is initiated to only a few each year state-wide. Of those that are initiated, most are expected to be contested by the mother resulting in no change to the administrative order unless the father requests administrative reconsideration and is successful or files a judicial appeal and prevails in court. Historically, the number of paternity orders contested by fathers is very small and only a few of those who request reconsideration or file an appeal with the court are ultimately successful in having paternity disestablished.

❖LOCAL GOVERNMENTS: None--Administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: For the most part, it is expected that the proposed rule changes will have a negligible effect on costs or savings to other persons. It is possible that some custodial parents that hold older support judgments that have not been fully paid will want to have them renewed. In the past, this service was provided by ORS/CSS. Due to changes in policy and those proposed in this rule, it will be necessary for a custodial parents to bear the costs of support judgment renewal or petition the court to assign those costs to noncustodial parents. A few mothers with paternity cases may benefit financially by the proposed restrictions to disestablishment of paternity. Those restrictions should limit the number of orders actually amended and therefore, ensure continuing child support payments to mothers and children

who would potentially be affected if the restrictions were absent.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some new costs for a custodial parent (obligee) associated with participating in adjudicative proceedings after being served with a Notice of Agency Action as a co-respondent. However, the proposed rule changes which include the obligee as a respondent reflect the "support follows child" law and associated ORS/CSS policy which is already in effect. It is not anticipated that the proposed rule changes will have any additional financial impact on obligees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes primarily concern custodial parents as respondents in child support cases, discontinuing the agency practice of renewing orders for child support and medical/dental expenses, requests for waiver or deferral of estate recovery in Medicaid reimbursement cases, and procedures for amending administrative paternity orders. "Senior agents" was added to the list of positions designated as presiding officers in adjudicative proceedings because senior agents are usually used as presiding officers by ORS/CSS. None of the changes being proposed is expected to have any fiscal impact on businesses.

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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY UT 84102-4211, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at 801-536-8986, by FAX at 801-536-8509, or by Internet E-mail at [wbraithw@hs.state.ut.us](mailto:wbraithw@hs.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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-200. Administrative Procedures.**

**R527-200-1. Authority.**

This rule establishes procedures for informal adjudicative proceedings as required by Section 63-46b-5 of the Administrative Procedures Act.

**R527-200-2. Definitions.**

1. Terms used in this rule are defined in Sections 62A-11-202, 62A-11-303, and 63-46b-2.

2. In addition,

- a. "office" means the Office of Recovery Services;
- b. "participate" means
- (i) in a proceeding that was initiated by a notice of agency action, present relevant information to the presiding officer within the time period described by statute or rule for requesting a hearing; and
- (ii) if a hearing is scheduled, participate means attend the hearing;
- c. "party" means the Office of Recovery Services and the respondent.
- ~~[—d. in all proceedings except those conducted to determine the noncooperation of a IV-A or Non-IV-A Medicaid recipient or applicant, "party" does not mean the obligee, also called the custodial parent.~~
- ] [e]d. in a proceeding to determine the noncooperation of a IV-A or Non-IV-A Medicaid recipient or applicant, the recipient or applicant is the respondent and is therefore a "party".

#### **R527-200-3. Purpose.**

The purpose of this rule is to:

1. establish the form of proceedings;
  2. provide procedures for requesting and obtaining a hearing when a proceeding is initiated by a notice of agency action;
  3. provide procedures and standards for orders resulting from the administrative process;
  4. provide procedures for informal proceedings;
  5. provide procedures for the conduct of hearings, conferences, and administrative reviews;
  6. provide procedures for requesting reconsideration;
  7. provide procedures for a motion to set aside a default order;
  8. provide procedures for amending an administrative order;
  9. provide procedures for setting aside an administrative order;
- and
10. provide procedures for requesting judicial review.

#### **R527-200-4. Designation of Presiding Officers.**

The following persons are designated presiding officers in adjudicative proceedings:

1. ~~[team]~~agents;
2. senior agents;
- ~~[2]~~3. team managers;
- ~~[3]~~4. program coordinators;
- ~~[4]~~5. program specialists;
- ~~[5]~~6. quality assurance specialists;
- ~~[6]~~7. associate regional directors;
- ~~[7]~~8. regional directors;
- ~~[8]~~9. directors;
- ~~[9]~~10. other persons designated by the director of the Office of Recovery Services.

#### **R527-200-5. Form of Proceeding.**

All adjudicative proceedings commenced by the office through a notice of agency action, or commenced by other persons affected by the office's actions through a request for agency action shall be informal adjudicative proceedings.

#### **R527-200-6. Informal Adjudicative Proceedings.**

The following actions are considered to be informal adjudicative proceedings:

1. hearings, conferences, or administrative reviews to establish[;] or modify[;] or renew child support orders;

2. conferences to determine paternity;
3. conferences or hearings to establish a judgment for genetic testing costs;
4. conferences or hearings to establish a judgment for birth expenses;
5. conferences or hearings to establish[;] or modify[;] or renew an order regarding liability for medical and dental expenses of a dependent child;
6. administrative reviews to establish an order when a notice to enroll a child in a medical insurance plan is contested;
7. conferences or hearings to establish an order against a garnishee enforcing an administrative garnishment;
8. administrative reviews to determine whether the information concerning a support debt which will be reported to consumer reporting agencies is accurate;
9. conferences or hearings to establish the cause of an overpayment obligation, and to modify, or renew the obligation;
10. hearings, conferences, or administrative reviews to amend an administrative order;
11. hearings, conferences, or administrative reviews to set aside an administrative order;
12. administrative reviews to establish an order which determines past-due support following a request for agency action;
13. administrative reviews to establish an order when an office determination of noncooperation is contested by IV-A or Non-IV-A Medicaid recipients;
14. conferences or hearings to establish a judgment against a responsible party for costs and/or fees, and to impose penalties associated with legal action taken by the office;~~[and]~~
15. administrative reviews to establish an order of non-disclosure when a determination is made not to disclose a parent's identifying information to another state in an interstate case action[;] and
16. conferences or hearings to approve or deny requests for waiver or deferral of estate recovery for reimbursement of Medicaid.

#### **R527-200-7. Service of Notice and Orders.**

Notices, orders, written decisions, or any other documents for which service is required or permitted to be made by Section 63-46b may be served using methods provided by Section 63-46b or the Utah Rules of Civil Procedure.

#### **R527-200-8. Procedures for Informal Adjudicative Proceedings.**

The procedures for informal adjudicative proceedings are as follows:

1. In proceedings initiated by a notice of agency action, t[he] presiding officer will issue an order of default unless the respondent does one of the following in response to service of the notice:
  - a. pays the entire amount in full;
  - b. participates as provided in R527-200-12;
  - c. or, for overpayment programs, requests a hearing as provided in R527-200-9.
2. In proceedings initiated by a notice of agency action, the presiding officer shall schedule a hearing if available under R527-200-9 and the office receives the respondent's written request:
  - a. within 30 days of service of notice of agency action; or
  - b. before an order is issued by the presiding officer.
3. In administrative garnishment proceedings, the presiding officer shall schedule an administrative review if the office receives the obligor's written request for agency action within 10 days of the financial institution sending notice to the obligor of an

administrative garnishment, or if the obligor requests the administrative review prior to any request by the garnishee for the issuance of an order to the garnishee to pay the office;

4. Within a reasonable time after the close of an informal adjudicative proceeding, the presiding officer shall issue a signed order in writing which states the following:

- a. the decision;
- b. the reason for the decision;
- c. a notice of the right to request reconsideration and the right to petition for judicial review; and
- d. the time limits for requesting reconsideration or filing a petition for judicial review.

5. The presiding officer's order shall be based on the facts appearing in the agency's case records and on the facts presented in evidence at any hearings, conferences, or administrative reviews.

6. A copy of the presiding officer's order shall be promptly mailed to each of the parties.

**R527-200-9. Availability of a Hearing or Administrative Review in Informal Adjudicative Proceedings.**

1. A hearing before a presiding officer in the Office of Administrative Hearings, Department of Human Services is permitted in an informal adjudicative proceeding if:

- a. the proceeding was initiated by a notice of agency action; and
- b. the respondent in a properly filed request for hearing or in the course of participation raises a genuine issue as to a material fact as provided in R527-200-10; and
- c. for child support services, participates in a preliminary agency conference.

2. An administrative review before a presiding officer in the Office of Recovery Services, Department of Human Services is permitted if an informal adjudicative proceeding is initiated by a request for agency action.

a. The presiding officer shall conduct a review of all documentation provided by the requesting party and in the agency files, and issue a Decision and Order stating the decision and the reasons for the decision.

b. The requesting party shall not be required to appear, either in person or through representation when the administrative review is conducted, but may choose to attend.

**R527-200-10. Hearings in Informal Adjudicative Proceedings.**

1. In proceedings initiated by a notice of agency action, all hearing requests shall be referred to the presiding officer appointed to conduct hearings.

2. The presiding officer shall give timely notice of the date and time of the hearing to all parties.

3. Before granting a hearing in a case referred, the presiding officer appointed to conduct the hearing may decide whether the respondent raises a genuine issue as to a material fact. Upon determining there is no genuine issue as to a material fact, the presiding officer may deny the request for hearing, and close the adjudicative proceeding.

4. The respondent may object to the denial of a hearing as grounds for relief in a request for reconsideration.

5. There is no genuine issue as to a material fact if:

- a. the evidence gathered by the office and the evidence presented for acceptance by the respondent are sufficient to establish the obligation of the respondent under applicable law; and

b. no other evidence in the record or presented for acceptance by the respondent in the course of respondent's participation conflicts with the evidence to be relied upon by the presiding officer in issuing an order.

6. Evidence upon which a presiding officer may rely in issuing an order when there has been no hearing:

- a. documented wage information from employers or governmental sources;
- b. failure of the respondent to produce upon request of the presiding officer canceled checks as evidence of payments made;
- c. failure of the respondent to produce a record kept by the clerk of court, a financial institution, or the office, showing payments made;
- d. failure of the respondent to produce a written agreement in a Non-IV-A case which was signed by both the absent parent and the custodial parent providing for an alternate means of satisfying a child support obligation;
- e. birth certificates of the children whose support is sought from the respondent;
- f. certified copies of the latest support orders;
- g. other applicable documentation.

**R527-200-11. Telephonic Hearings.**

Telephonic hearings will be held at the discretion of the Office of Administrative Hearings, Department of Human Services.

**R527-200-12. Procedures and Standards for Orders Resulting from Service of a Notice of Agency Action.**

1. If the respondent agrees with the notice of agency action, he may stipulate to the facts and to the amount of the debt and current obligation to be paid. A stipulation, and judgment and order based on that stipulation is prepared by the office for the respondent's signature. Orders based on stipulation are not subject to reconsideration or judicial review.

2. If the respondent participates by attending a preliminary conference or otherwise presents relevant information to the presiding officer, but does not reach an agreement with the office or is unavailable to sign a stipulation, and does not request a hearing, the presiding officer shall issue a judgment and order based on that participation.

3. If the respondent participates in any way after receiving a notice of agency action to establish paternity and child support, and fails to respond to subsequent notices for genetic testing or test results, the presiding officer shall issue a judgment and order based on the failure of the respondent to respond to the subsequent notices.

4. If the respondent requests a hearing and participates by attending a preliminary agency conference, and after that conference the respondent does not agree with the notice of agency action, and participates by attending the hearing, the presiding officer who conducts the hearing shall issue an order based upon the hearing.

5. If the respondent fails to participate as follows, the appropriate presiding officer may issue an order of default and default judgment:

- a. the respondent fails to respond to the notice of agency action and does not request a hearing;
- b. after proper notice the respondent fails to attend a preliminary conference scheduled by the presiding officer to consider matters which may aid in the disposition of the action; or
- c. after proper notice the respondent fails to attend a hearing scheduled by the presiding officer pursuant to a written request for a hearing.

6. The default judgment is taken for the same amount and for the same months specified in the notice of agency action which was served on the respondent. The judgment cannot be taken for more than the amount or time periods specified in the notice of agency action. If there is no previous court order and the best available information supports the amount, the judgment may be taken for less than the amount specified in the notice of agency action. The respondent may seek to have the default order set aside, in accordance with Section 63-46b-11.

7. If a respondent's request for a hearing is denied under R527-200-10, the presiding officer issues a judgment and order based upon the information in the case record.

8. Notwithstanding any order which sets payments on arrearages, the office reserves the right to periodically report the total past-due support amount to consumer reporting agencies, intercept state and federal tax refunds, submit cases to the federal administrative offset program where permitted by federal regulation, levy upon real and personal property, and to reassess payments on arrearages.

#### **R527-200-13. Conduct of Hearings, Conferences, and Administrative Reviews in Informal Adjudicative Proceedings.**

1. The hearing, conference, or administrative review shall be conducted by a duly qualified presiding officer. The presiding officer shall not have been involved in preparing the information alleged in the notice which is the basis of the adjudicative proceeding. No presiding officer shall conduct a hearing, conference, or administrative review in a contested case if it is alleged and proved that good cause exists for the removal of the presiding officer assigned to the case. The party or representative requesting the change of presiding officer shall make the request in writing, and the request shall be filed and called to the attention of the presiding officer not less than 24 hours in advance of the hearing.

2. Duties of the presiding officer when conducting a hearing:

a. Based upon the notice of agency action, objections thereto, if any, and the evidence adduced at the hearing, the presiding officer shall determine the liability and responsibility, if any, of the respondent under Section 62A-11-304.2. Following determination of liability, the presiding officer shall refer the obligor to the team handling the case for determination of acceptable periodic payment or alternative means of satisfaction of any arrearage obligation.

b. The presiding officer conducting the hearing may:

(i) regulate the course of hearing on all issues designated for hearing;

(ii) receive and determine procedural requests, rule on offers of proof and evidentiary objections, receive relevant evidence, rule on the scope and extent of cross-examination, and hear argument and make determination of all questions of law necessary to the conduct of the hearing;

(iii) request testimony under oath or affirmation administered by the presiding officer;

(iv) upon motion, amend the notice of agency action to conform to the evidence.

3. Rules of Evidence in hearings:

a. Discovery is prohibited, but the office may issue subpoenas or other orders to compel production of necessary evidence.

b. Any person who is a party to the proceedings may call witnesses and present such oral, documentary, and other evidence and comment on the issues and conduct such cross-examination of any witness as may be required for a full and true disclosure of all

facts relevant to any issue designated for fact hearing and as may affect the disposition of any interest which permits the person participating to be a party.

c. Any evidence may be presented by affidavit rather than by oral testimony subject to the right of any party to call and examine or cross-examine the affiant.

d. All relevant evidence shall be admitted.

e. Official notice may be taken of all facts of which judicial notice may be taken in the courts of this state.

f. All parties shall have access to information contained in the office's files and to all materials and information gathered in the investigation, to the extent permitted by law and subject to R527-5.

g. Intervention is prohibited.

h. In child support cases the hearing shall be open to the obligee and all parties, as defined in R527-200-2.

4. Rights of the parties in hearings: A respondent appearing before the presiding officer for the purpose of a hearing may be represented by a licensed attorney, or, after leave of the presiding officer, any other person designated to act as the respondent's representative for the purpose of the hearing. The office's supporting evidence for the office's claim shall be presented at a hearing before a presiding officer by an agent or representative from the office. The supporting evidence may, at the office's discretion, be presented by a representative from the office of the Attorney General or by a staff attorney.

#### **R527-200-14. Agency Review.**

Agency review shall not be allowed. Nothing in this rule prohibits a party from filing a request for reconsideration or for judicial review as provided in Sections 63-46b-13 and 63-46b-14.

#### **R527-200-15. Reconsideration.**

Either the respondent or the office may request reconsideration in accordance with Section 63-46b-13 once during an informal adjudicative proceeding. ~~—The obligee is not a party to the proceedings; therefore, the obligee may not request reconsideration.~~

#### **R527-200-16. Setting Aside Administrative Orders.**

1. The office may set aside an administrative order for reasons including the following:

a. A rule or policy was not followed when the order was taken.

b. The ~~[obligor]~~respondent was not properly served with a notice of agency action.

c. The ~~[obligor]~~respondent was not given due process.

d. The order has been replaced by a judicial order which covers the same time period.

2. The office shall notify the ~~[obligor]~~respondent of its intent to set the order aside by serving the ~~[obligor]~~respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the ~~[obligor]~~respondent with a notice of agency action, the presiding officer determines that the order shall be set aside, the office shall notify the ~~[obligor]~~respondent.

#### **R527-200-17. Amending Administrative Orders.**

1. The office may amend an order for reasons including the following:

a. A clerical mistake was made in the preparation of the order.

b. The time periods covered in the order overlap the time periods in another order for the same participants.

2. The office shall notify the [obligor]respondent of its intent to amend the order by serving the [obligor]respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the [obligor]respondent with a notice of agency action, the presiding officer determines that the order shall be amended, the office shall provide a copy of the amended order to the [obligor]respondent.

**R527-200-18. [Modifying]Amending an Administrative Paternity Order.**

1. If an administrative paternity order has been entered and the individual determined to be the father [provides]requests that paternity be disestablished based on genetic test results from an accredited lab which appear to exclude him as the biological father and genetic testing has not previously been completed, the presiding officer shall initiate an adjudicative proceeding to [modify]amend the paternity order prospectively.

2. The presiding officer shall notify the mother and the previously determined legal father of the intent to [modify]amend the order by sending notices of intent to [modify]amend based on the genetic test results.

3. If the mother or previously determined legal father do not present other evidence which calls into doubt the credibility of the genetic test results and the mother does not contest the administrative action, the presiding officer shall issue an order which [modifies]amends the original order, finding the previously determined legal father to no longer be the legal father effective the date the [modified]amended order is issued. The presiding officer shall send a copy of the order to both the mother and the former legal father.

4. If other evidence is presented which calls into doubt the credibility of the genetic test results or the mother contests the administrative action, the presiding officer shall not [modify]amend the original paternity order. The presiding officer shall send notice of the decision to the mother and the father, which will inform the father of his right to administrative reconsideration of the decision and to appeal the decision to a court of competent jurisdiction.

**KEY: administrative law, child support, overpayment\*, welfare fraud**

**[February 1, 2000]2002**

**Notice of Continuation May 7, 2001**

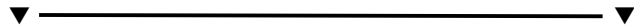
**62A-11-203**

**62A-11-304.1**

**62A-11-304.2**

**62A-11-307.2**

**63-46b**



**Insurance, Administration**  
**R590-91**  
**Credit Life and Disability Insurance**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 24393  
FILED: 01/15/2002, 11:14

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the change is to make the rule consistent with the code. It is also to clarify the calculation of prima facie equivalent rate for open-end loans.

**SUMMARY OF THE RULE OR CHANGE:** The term "disability insurance" is being replaced with "accident and health insurance." In Section R590-91-7 a new subsection is added clarifying the calculation of prima facie equivalent rate for open-end loans.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** The changes to this rule will not impact the insurance department by adding to its revenues or increasing its expense.

❖**LOCAL GOVERNMENTS:** This rule will not affect local government. The rule is regulated by a state government agency.

❖**OTHER PERSONS:** The changes in Section R590-91-7 are simply clarification. They reaffirm what actuarially equivalent rate means. The department felt a clarification was necessary to put everyone on the same page as far as the rating of open-end loans is concerned. No additional cost or savings will be created as a result of these changes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The changes in Section R590-91-7 are simply clarification. They reaffirm what actuarially equivalent rate means. The department felt a clarification was necessary to put everyone on the same page as far as the rating of open-end loans is concerned. No additional cost or savings will be created as a result of these changes.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes in this rule will create no additional cost or saving to businesses.

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

INSURANCE  
ADMINISTRATION  
Room 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@insurance.state.ut.us](mailto:jwhitby@insurance.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 PM on 03/06/2002**

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 2/27/2002 at 10:00 AM, State Office Building (behind the Capitol), Room 5112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 03/07/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-91. Credit Life ~~[and Disability]~~ Insurance and Credit Accident and Health Insurance.**

**R590-91-1. Purpose and Authority.**

The purpose of this rule is to protect the interests of debtors and the public in this State and to ensure a fair and equitable credit insurance market by establishing a system of reasonable rating, policy form, and operating standards for the transaction of credit life insurance and credit ~~[disability]~~ accident and health insurance. This rule is promulgated pursuant to Section 31A-2-201.

**R590-91-2. Definitions.**

As used in this rule:

A. "Credit ~~[Disability]~~ Accident and Health Insurance" means insurance as defined in Section 31A-22-802.

B. "Credit Insurance" means both credit life insurance and credit ~~[disability]~~ accident and health insurance.

C. "Credit Life Insurance" means insurance as defined in Section 31A-22-802.

D. "Indebtedness" means indebtedness as defined in Section 31A-22-802.

E. "Net Indebtedness" means net indebtedness as defined in Section 31A-22-802.

F. "Net Written Premium" means premium as defined in Section 31A-22-802.

G. "Open-End Credit" means credit extended by a creditor under an agreement in which the creditor reasonably contemplates repeated transactions; the creditor imposes a finance charge from time to time on an outstanding unpaid balance; and the amount of credit available to the debtor is self-replenishing as the debtor repays amounts previously drawn.

**R590-91-3. Rights and Treatment of Debtors.**

A. Multiple Plans of Insurance. If a creditor makes available to the debtor more than one plan of credit life insurance or more than one plan of credit ~~[disability]~~ accident and health insurance, the debtor must be informed of the plans applicable to the specific loan transaction.

B. Substitution. If a creditor requires insurance the debtor shall be given the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or procuring and furnishing the required coverage through any insurer authorized to transact insurance business in this State. If this subsection is applicable, the debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

C. Evidence of Coverage.

(1) All credit insurance shall be evidenced by an individual policy, or, in the case of group insurance, by a certificate of insurance.

(a) The individual policy or certificate of insurance shall be delivered to the debtor in accordance with Section 31A-22-806(3) and 70C-6-104. The insurer shall promptly notify the debtor of any delay in providing the insurance.

(b) If the named insurer does not accept the risk, the insurer, if any, shall notify the debtor of the failure to provide the insurance. A substituted insurer, if any, shall deliver the policy or certificate in accordance with Section 31A-22-806(5).

(c) Subsequent certificates are not needed on open-end credit arrangements after the initial indebtedness.

(2) Each individual policy or certificate of insurance shall provide the information required by Section 31A-22-806.

(3) Each policy application must provide the information required by Section 31A-22-806(4)(b) and identify the agent, if any.

D. Claims Processing. All credit insurance claims shall be processed in accordance with Section 31A-26-302.

E. Termination of Group Credit Insurance Policy.

(1) If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, then provisions shall be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under the policy shall be continued for the entire period for which the single premium has been paid.

(2) If a debtor is covered by a group credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, then the policy shall provide that, in the event of termination of such policy, for whatever reason, termination notice shall be given to the insured debtor at least 30 days prior to the effective date of termination, except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The notice required in this paragraph shall be given by the insurer or, at the option of the insurer, by the creditor.

F. Interest on Premium. If the creditor adds identifiable insurance charges or premiums for credit insurance to the indebtedness, and any direct or indirect finance, carrying, credit, or service charge is made to the debtor on the insurance charges or premiums, the creditor must remit and the insurer shall collect the premium within 60 days after it is added to the indebtedness.

G. Renewal or Refinancing of Indebtedness. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited promptly to the debtor as provided in Section 8.

H. Maximum Aggregate Provisions. A provision in an individual policy or certificate that sets a maximum limit on total payments must apply only to that individual policy or certificate.

I. Voluntary Prepayment of Indebtedness. If a debtor prepays his indebtedness other than as a result of his death or through a lump sum ~~[disability]~~ accident and health payment:

(1) Any credit life insurance covering indebtedness shall be terminated and an appropriate refund of the credit life insurance premium shall be paid to the debtor in accordance with Section 8; and

(2) Any credit ~~[disability]~~ accident and health insurance covering indebtedness shall be terminated and an appropriate refund of the credit ~~[disability]~~ accident and health insurance premium shall be paid to the debtor in accordance with Section 8. If a claim under this coverage is in progress at the time of prepayment, the amount of



refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit disability benefits are payable. A refund shall be computed as if prepayment occurred at the end of the disability period.

J. Involuntary Prepayment of Indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it shall be the responsibility of the insurer to see that the following are paid to the insured debtor if living or to the beneficiary, other than the creditor, named by the debtor or to the debtor's estate:

(1) In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit [disability]accident and health insurance premium in accordance with Section 8;

(2) In the case of prepayment by a lump sum disability claim, an appropriate refund of the credit life insurance premium in accordance with Section 8;

(3) In either case, the amount of the benefits in excess of the amount required to repay the indebtedness after crediting any unearned interest or finance charges.

K. Amounts to be Insured:

(1) Credit life insurance benefits shall be consistent with the premium charge.

The initial amount of credit life insurance may not exceed the total amount payable under the contract of indebtedness. Credit life insurance may provide benefits in amounts which do not exceed, but may be less than, the scheduled amount of indebtedness, including unearned interest or finance charges, or the actual amount of unpaid indebtedness, whichever is greater. Credit life insurance on preauthorized lines of credit not exceeding the commitment period may be written for the preauthorized amount on a nondecreasing or level term plan. The death benefit amount shall be that amount for which premiums are paid. Whenever the amount of insurance exceeds the unpaid indebtedness, that excess is payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

(2) The total amount of indemnity payable by credit [disability]accident and health insurance in the event of disability, as defined in the policy, may not exceed, but may be less than the aggregate of the periodic scheduled unpaid installments of the indebtedness. The amount of each periodic indemnity payment may not exceed the total amount payable under the contract of indebtedness divided by the number of periodic installments.

L. Dividends on participating individual policies of credit insurance shall be payable to the individual insureds.

#### **R590-91-4. Policy Forms, Filing and Reserves.**

A. Permissible Forms. Credit life insurance and credit [disability]accident and health insurance shall be issued only in the forms defined in Section 31A-22-803.

B. Filing Requirements.

(1) All policy forms, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders to be delivered or issued for delivery in this State shall be filed with the commissioner as required by Sections 31A-21-201, 31A-22-807, 31A-22-808, and 31A-19a-207.

(2) An actuarial memorandum, signed and dated, must be included in each rate and form filing. The memorandum must identify the following:

(a) types of coverage: gross, net, decreasing, level, single life, joint life, full term or truncated;

(b) types of loans to be insured: open[-]-end, closed end;

(c) durations of the loans and durations of the coverage. Refer to Section 31A-22-801(2)(a);

(d) methods of premium charge: single premium or monthly outstanding balance;

(e) schedules of premium rates and formulas for each type of coverage;

(f) methods of refund calculation and formulas for each type of coverage; and

(g) reserve bases.

All filings are subject to the general filing requirements of the Utah Filing of Life and Disability Forms and Rates Rule R590-86. The commissioner may disapprove a form if the benefits provided are not reasonable in relation to the premium charged.

C. The minimum reserve basis for credit life insurance shall be the 1980 Commissioner's Standard Ordinary Table (1980 CSO) with interest at 5-1/2% per annum.

D. The minimum reserve basis for active lives on credit [disability]accident and health insurance shall be the amount of the premium refund available to the insured.

E. The minimum reserve basis for disabled lives on credit [disability]accident and health insurance shall be the 1987 Commissioner's Group Disability Table (1987 CGDT) with interest at 5-1/2% per annum.

#### **R590-91-5. Reasonableness of Benefits in Relation to Premium.**

A. General Standard. Under Section 31A-22-807, benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is deemed to be satisfied if the premium rate charged develops or may be reasonably expected to develop a loss ratio of not less than 50% for credit life insurance and not less than 55% for credit [disability]accident and health insurance.

B. Nonstandard Coverage. If any insurer files for approval of any form providing coverage different from that described in Sections 6 and 7, the insurer shall demonstrate to the satisfaction of the commissioner that the premium rates to be charged for the coverage will develop or may be reasonably expected to develop a loss ratio not less than that contemplated for standard coverage at the premium rates described in these sections.

C. Coverage Without Separate Charge. If no specific charge is made to the debtor for credit insurance, the standards of Subsection A above and the deviation standards of Section 11 are not required to be used. For purposes of this subsection, it will be considered that the debtor is charged a specific amount for insurance if an identifiable charge for insurance is disclosed in the credit or other instrument furnished the debtor which sets out the financial elements of the credit transactions, or if there is a differential in finance, interest, service or other similar charge made to debtors who are in like circumstances, except for their insured or noninsured status. Any such charge which exceeds the premium rate standards set out in Sections 6 and 7 as adjusted pursuant to Section 9 must be filed with the commissioner.

**R590-91-6. Credit Life Insurance Prima Facie Rates.**

A. Premium Rate. Credit life insurance prima facie premium rates for the insured portion of an indebtedness payable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall be as set forth in paragraphs (1) and (2). Paragraphs (3), (4), and (5) refer to prima facie premium rates for other types of benefits either alone or in combination with the type of benefits applicable to (1) and (2).

(1) Outstanding balance: \$0.65 per month per \$1,000 of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis;

(2) Single Premium Decreasing Term: If premiums are payable on a single premium basis, the following formula shall be used to develop single premium rates from the outstanding balance rate:

$Sp = (N + 1)/20 (Op)$  where Sp is the single term premium per \$100 of initial insured indebtedness, N is the credit term in months, and Op is the monthly outstanding balance rate per \$1,000 of outstanding insured indebtedness.

(3) Single Premium - Level Term: If premiums are payable on a single premium basis when the benefit provided is level term, the following formula shall be used to develop single premium rates from the outstanding balance rate:

$Sp = N/10 (Op)$  where Sp is the single term premium per \$100 of initial insured indebtedness, N is the credit term in months, and Op is the monthly outstanding balance rate per \$1,000 of outstanding insured indebtedness.

(4) Joint coverage rate on basis (1), (2), or (3) of Subsection A may be no greater than one hundred and seventy percent (170%) of the specific rate for that type of coverage.

(5) A combination of the appropriate rate for level term and the appropriate rate for decreasing term, with equal decrements, shall be used, if coverage provided is a combination of level term and decreasing term, with equal decrements.

(6) If the benefits provided are other than those described in Subsection A above, rates for these benefits shall be actuarially consistent with the rates provided in Paragraphs (1), (2), and (3).

B. The premium rates in Subsection A shall apply to all policies providing credit life insurance, to be issued either with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(1) No exclusions other than suicide within one year of the incurred indebtedness;

(2) Either no age restrictions or age restrictions making ineligible for coverage debtors 65 or over at the time the indebtedness is incurred or debtors having attained age 66 or over on the maturity date of the indebtedness; and

(3) Insurance written in connection with an open[-]-end credit plan may exclude from the classes eligible for insurance classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age 65.

(4) On insurance written in connection with open-end credit plans where the amount of insurance is based on or limited to the outstanding unpaid balance, no provision excluding or denying a claim for death resulting from a preexisting condition except for those conditions for which the insured debtor received medical diagnosis or treatment within six months preceding the effective date of coverage and which caused or substantially contributed to the death of the insured debtor within six months following the effective

date of coverage. The effective date of coverage for each part of the insurance attributable to a subsequent advance or increase to the outstanding balance is the date on which the advance or increase is posted to the plan account. Such preexisting condition exclusion shall apply to the initial indebtedness and all subsequent advances on an individual basis, only where evidence of individual insurability has not been required.

**R590-91-7. Credit ~~Disability~~ Accident and Health Insurance Prima Facie Rates.**

A. Premium Rate. Credit ~~disability~~ accident and health insurance prima facie premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall be as set forth in paragraphs (1) and (2). Paragraphs (3), (4), ~~(5)~~, and ~~(6)~~ ~~(7)~~ refer to prima facie premium rates for other types of benefits either alone or in combination with the type of benefits applicable to (1) and (2).

(1) If premiums are payable on a single-premium basis for the duration of the coverage, the premiums shall be as indicated on the attached chart which is available from the Insurance Department.

(2) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the following formula, or according to a formula approved by the commissioner which produces rates actuarially equivalent to the single premium rates in Table I:

$$OPn = 20/n+1 (SPn)$$

where SPn = Single Premium Rate per \$100 of initial insured indebtedness repayable in n equal monthly installments;

OPn = Monthly Outstanding Balance Premium Rate per \$1,000;

n = Original payment period, in months.

(3) The actuarial equivalent of paragraphs (1) and (2) shall be used if the coverage provided is a constant maximum indemnity for a given period of time.

(4) An appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in equal amounts per month shall be used if the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in equal amounts per month.

(5) If the benefits provided are other than those described above, rates for the benefits shall be actuarially consistent with rates provided in Paragraphs (1), (2), (3), and (4).

(6) The outstanding balance rate for credit ~~disability~~ accident and health insurance may be either a term specified rate or may be a single composite term outstanding balance rate applicable to all loans made under an open-end credit plan.

(7)(a) For an open-end credit plan, the monthly rate per \$1,000 of outstanding principal balance shall be the rate calculated using the formula in paragraph (2) where n is the number of monthly indemnity payments required to completely extinguish the debt. The rate shall be further reduced to appropriately account for critical period if applicable.

(b) The critical period factors shall be filed with the department and shall not exceed the factors based on the 1968 Credit A&H Two Composite Tables published by the NAIC (Proceedings - 1968 Vol. II).

B. The premium rates in Subsection A shall apply to all policies providing credit [~~disability~~]accident and health insurance, to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(1) No provision excluding or denying a claim for disability resulting from preexisting conditions except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage and which caused loss within the six months following the effective date of coverage.

(2) No other provision which excludes or restricts liability in the event of disability caused in a specified manner except that it may contain provisions excluding or restricting coverage in the event of normal pregnancy and intentionally self-inflicted injuries.

(3) No actively at work test may require that the debtor be employed more than 30 hours per week.

(4) No age restrictions or only age restrictions making ineligible for coverage debtors 65 or over at the time the indebtedness is incurred or debtors who will have attained age 66 or over on the maturity date of the indebtedness.

(5) A daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness.

(6) A definition of disability, which is no more restrictive than one requiring that during the first 12 months of disability the insured shall be unable to perform the principal duties of his occupation at the time the disability occurred, and thereafter unable to perform the principal duties of any occupation for which the insured is reasonably fitted by education, training, or experience. This paragraph may not apply to lump sum disability coverage.

(7) Insurance written in connection with an open-end credit plan may exclude from the classes eligible for insurance classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age 65.

#### **R590-91-8. Refund Formulas.**

A. Refund formulas which any insurer desires to use must be filed with and approved by the commissioner prior to use. Refund formulas used must develop refunds which are at least as favorable to the debtor as the following methods which are deemed the minimum requirements for the plans described.

(1) Pro Rata Method. The pro rata unearned gross premium method shall be deemed to produce the minimum refund amount to be used for level term credit insurance, and for credit insurance coverages under which premiums are collected from the debtor on a basis other than the single premium basis.

Refund =  $t/n$  (original gross single premium) where  $t$  = the number of remaining months;

$n$  = the original loan term in months.

(2) Rule of 78 method. The Rule of 78 or sum of the digits unearned premium method shall be deemed to produce the minimum refund amount to be used for insurance coverage which reduces in equal amounts per month and for which the premiums are collected on a single premium basis.

Refund =  $(t(t+1)/n(n+1))$  (original gross single premium)

where  $t$  = the number of remaining months;  $n$  = the original loan term in months.

(3) Combination Methods. An appropriate combination of the pro rata method and the Rule of 78 method or, at the option of the insurer, the pro rata method shall be used for credit life insurance provided as a combination of level and decreasing term coverage

and for credit [~~disability~~]accident and health insurance wherein the insured is covered for a constant maximum indemnity for a given period of time, after which the maximum indemnity begins to decrease in equal amounts per month.

B. For net indebtedness insurance and for other types of insurance and other modes of premium payment, each insurer shall file for approval and include in the policy appropriate formulas and/or factors for refunds, or reference to such formulas and factors that are on file with the commissioner. For net indebtedness, either the actuarial method also known as the U.S. Rule or pure premium method, or an arithmetic average of refunds due under Pro-Rata and Rule of 78 Methods will be acceptable.

C. In the event of termination, no charge for credit insurance may be made for the first 15 days of a loan month and a full month may be charged for 16 days or more of a loan month, unless refunds are made on a pro rata basis for each day within the loan month.

D. If the total of all refunds due a debtor (or joint debtors) is less than \$5.00, no refund need be made.

#### **R590-91-9. Experience Reports and Adjustment of Prima Facie Rates.**

A. Each insurer doing Credit Insurance business in this state shall annually file with the commissioner and the NAIC Support and Services Office a report of credit life insurance and credit [~~disability~~]accident and health business written on a calendar year basis. Each insurer shall utilize the Credit Insurance Experience Exhibit as approved by the National Association of Insurance Commissioners. The report shall contain data separately for this state. The filing shall be made in accordance with and no later than the due date in the Instructions to the Annual Statement.

B. Whenever he deems necessary the commissioner will publish by order, after a hearing, Prima Facie Rates before September 1. The new prima facie rates shall be effective January 1 of the following year.

#### **R590-91-10. Rating Standards - Filing Requirements.**

A. Requirement to File the Four Year Loss Ratio Test.

(1) Insurers with more than \$250,000 of credit insurance premium earned in Utah in the most recent four year period shall annually file an experience report to determine whether benefits are reasonable in relation to premiums based on the loss ratio test in Section 31A-22-807(4). The loss ratio shall be calculated at the rates actually used in each year. The insurer may also file an adjusted loss ratio report that adjusts premium to the most recent premium rates. The Four Year Loss Ratio Report is due one month after the due date of the experience exhibit required by Section 9.

(2) Insurers whose loss ratios are less than the minimum loss ratio by ten percentage points or more shall file a rating and benefits plan that meets the requirements of Subsection B. Insurers who would be required to decrease rates by more than 10% may phase in decreases in annual 10% increments.

B. Filing Standards.

(1) Insurers filing for a rate deviation, including those required to file under Subsection 1 above, shall submit an actuarial memorandum that shows that the premium rate does not exceed the sum of:

(a) 50% of the prima facie rate or its actuarial equivalent; and  
(b) the expected losses.

(2) The calculation of expected losses shall take into account the following:

(a) the actual loss experience to the extent credible;

- (b) the degree of underwriting used in marketing the product; and
- (c) the relative mortality and morbidity of Utah experience when using national experience or actuarial tables.

**R590-91-11. Rating Procedures - Direct Business Only.****A. Use of Rates Higher Than Prima Facie Rates.**

An insurer may file for approval and use rates that are higher than prima facie rates if it can be expected that the use of those higher rates will produce a minimum loss ratio that is required by Section 31A-22-807.

**B. Use of Rates Lower Than Filed Rates.**

An insurer may use a rate that is lower than its filed rate without notice to the commissioner.

**R590-91-12. Disclosure to Debtor.**

A. When a premium or identifiable charge is payable by a debtor for credit insurance coverage, certain information must be disclosed to the debtor at the time the debtor applies for the insurance. The disclosures shall be made to the principal debtor and copies given to the debtor and retained in accordance with State and Federal law. These disclosures shall be made prominently and in close proximity to the space for the signature indicating the election to obtain the coverage. These disclosures may be made in conjunction with the Federal Truth-in-Lending disclosure, a Notice of Proposed Insurance, the application for insurance, or in the individual insurance policy or certificate. The following items must be included in the disclosure:

- (1) the optional nature of the coverage;
- (2) the premium or identifiable charge separately listed by type of coverage;
- (3) eligibility requirements including health restrictions and at work requirements; and
- (4) any age restrictions in regard to eligibility for insurance coverage at the time the indebtedness is incurred or in regard to cessation of coverage due to attainment of age.

B. If at any time during the term of the loan, the insurance is insufficient to pay off the scheduled outstanding balance of the loan, this fact must be clearly and prominently disclosed to the prospective insured on the policy or certificate.

C. All credit insurance policies and certificates shall clearly describe the amount of the benefit and the term of coverage. Whenever the amount of credit life insurance exceeds the unpaid indebtedness, such fact shall be clearly disclosed in the policy or group certificate; and such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

D. If any policy or certificate has a preexisting condition exclusion, such exclusion shall be clearly and prominently disclosed.

**R590-91-13. Unfair Marketing Practices.**

The commissioner finds that violations of this rule when engaged in by licensees of the department in connection with the sale or placement of credit insurance, or as an inducement, are misleading, deceptive, or unfairly induce the purchase of credit insurance and constitute unfair methods of competition and shall be in violation of Unfair marketing practices under Section 31A-23-302.

**R590-91-14. Severability.**

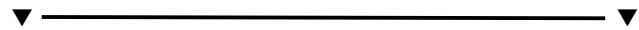
If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of

the rule and the application of the provision to other persons or circumstances may not be affected.

**KEY: insurance law**~~October 10, 1996~~ 2002

Notice of Continuation December 28, 2001

31A-2-201



## Labor Commission, Industrial Accidents

# R612-1-11

## Burial Expenses

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 24389

FILED: 01/14/2002, 13:11

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule change is to increase the amount paid for burial expenses in workers' compensation cases from \$7,000 to \$8,000. This rule change also establishes a timeframe in which the Commission will review this rule to determine whether the amount paid is equitable compared to the average cost of burial in Utah.

**SUMMARY OF THE RULE OR CHANGE:** The purpose of this rule change is to increase the amount paid for burial expenses in workers' compensation cases from \$7,000 to \$8,000. This rule change also requires the Commission to reevaluate burial expenses every two years in comparison with average cost of Utah burials.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 34A-2-101 et seq., 34A-3-101 et seq., 34A-1-104 et seq., and 63-46b-1 et seq.

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The proposed amendment will require no additional administrative costs; any costs to the State as an employer will be limited to possible workers' compensation insurance premium increases, but such increases are expected to be negligible.

❖ **LOCAL GOVERNMENTS:** Any costs to local government will be limited to an incremental cost of workers' compensation benefits in cases where a local government employee has died as a result of a work-related accident or disease. Such costs will be negligible.

❖ **OTHER PERSONS:** Families of workers killed by work-related injuries or disease will receive an incremental increase in payments for burial expenses. Employers and their workers' compensation insurance carriers will incur the cost of such additional burial expenses. In total, such costs should amount to approximately \$50,000 per year total for all insurance carriers and employers throughout the state.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The rule imposes no new compliance costs, other than the incremental increase

to employers of their insurance carriers of an additional \$1,000 per work place fatality.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will ultimately result in a very small increase in workers' compensation costs, such increase is necessary to meet the current costs of burial.

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

LABOR COMMISSION  
INDUSTRIAL ACCIDENTS  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joyce Sewell at the above address, by phone at 801-530-6988, by FAX at 801-530-6904, or by Internet E-mail at jsewell.icmain@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: R Lee Ellertson, Commissioner

**R612. Labor Commission, Industrial Accidents.**

**R612-1. Workers' Compensation Rules - Procedures.**

**R612-1-11. Burial Expenses.**

(1) Pursuant to Section 34A-2-418 if death results from an industrial injury or occupational disease, burial expenses in ordinary cases shall be paid by the employer or insurance carrier up to \$~~7,000~~8,000. Unusual cases may result in additional payment, either voluntarily by the employer or insurance carrier or through commission order.

(2) Beginning in the year 2004 and every two years thereafter, the Commission shall review this rule and shall make such adjustments as are necessary so that the burial expense provided by this rule remains equitable when compared to the average cost of burial in this state.

**KEY: workers' compensation, time, administrative procedure, filing deadlines**

2002

Notice of Continuation November 24, 1997

34A-2-101 et seq.

34A-3-101 et seq.

34A-1-104 et seq.

63-46b-1 et seq.



## Natural Resources, Wildlife Resources R657-3 Collection, Importation, Transportation, and Possession of Zoological Animals.

### NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE No.: 24394

FILED: 01/15/2002, 13:03

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: First, this rule is being repealed and reenacted due to the significant changes in formatting. Second, this rule is being amended to provide the standards and procedures for governing the collection, importation, exportation, transportation, and possession of zoological animals and their parts. Third, this rule is being amended to provide the standards and procedures for the classification of zoological animals and their parts for the collection, importation, or possession of those zoological animals and their parts. And finally, this rule is being amended to provide the rationale in evaluating applications for a Certificate of Registration (COR) that involve the collection, importation, or possession of a zoological animals.

SUMMARY OF THE RULE OR CHANGE: Section R657-3-2 is being amended to include: Water Buffalo (*Bubalis arnee*), Yak (*Bos mutus*), and Zebu (*Bos indicus*). Under Section R657-3-4, the definitions of "controlled, noncontrolled and prohibited" are amended to remove wording regarding the threat of disease, which is covered under the human health and ecological risk criteria, clarify environmental and ecological risks, and define when a COR is required. The term "captive-bred" is being defined to make the distinction between wild and free-ranging animals and captive-bred animals. The term "possession" is being added to define the activity of possessing zoological animals. "CITES" is defined as the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The CITES list indicates which international species are in need of protection and should be given special consideration in Utah. This list is also incorporated by reference. Several sections of the rule are being combined to separate the activity of possession from collection and importation. Collection, Importation, and/or Possession are now being considered three separate activities. Section R657-3-13 is being added to allow a person who has possession of a zoological animal, where the animal classification has changed from noncontrolled to controlled or prohibited, to come into compliance with the rule by obtaining a COR from the division by December 31, 2002. The Commercial Use sections of the rule are being combined and clarified to explain when a zoological animal that is classified as noncontrolled, controlled, or prohibited may be used for a commercial purpose, and when a COR may be required. The classification and specific rules for each of the following groups of zoological animals have been combined for clarification: amphibians, birds, invertebrates, fish, mammals, and reptiles. Some of the specific classifications for species in

each of the zoological groups have been changed to comply with CITES. In addition to CITES, most of these animals were classified or reclassified as controlled or prohibited because they posed a threat to human safety, were included on state, federal, or international lists of protected species, were likely to compete with native species, were likely to damage native habitats, were likely to become nuisance species, or had been renamed or taxonomically reclassified. A list of the specific species classification changes are available at the division office. Finally, Section R657-3-31 was added to the rule to clarify the propagation of zoological animals depending on the zoological animal's classification. Other changes were 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: 7 CFR 2.17, 2000 ed.; 7 CFR 2.51, 2000 ed.; 7 CFR 371.2(g), 2000 ed.; 50 CFR 21.42, 2000 ed.; 50 CFR 21.43, 2000 ed.; 50 CFR 21.30, 2000 ed.; 50 CFR 23.23, 2000 ed.; and 9 CFR 3, Subpart F, 2000 ed.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: These amendments are for clarification and the classification or reclassification of zoological animals. As a result of the changes in the classification of specific species, the division may incur some cost in the enforcement to comply with the rule. Additional costs may also be incurred in issuing CORs and administering this program. However, the cost is unknown at this time and the Division of Wildlife Resources determines that the cost is minimal.

❖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 are for clarification and the classification or reclassification of zoological animals. As a result of the changes in the classification of specific species, other persons, may incur some cost to comply with the rule by obtaining a COR. However, 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: The classification or reclassification of zoological animals may result in an affected person being required to obtain a COR for a zoological animal in their possession that changed from a noncontrolled classification to a controlled or prohibited classification. This would include the cost of an application, which requires a \$5 nonrefundable handling fee, and the cost of a COR, which is \$50.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The classification or reclassification of zoological animals may result in businesses, specifically pet stores or businesses in the pet trade, being required to obtain a COR for a zoological animal in their possession that changed from a noncontrolled classification to a controlled or prohibited classification. This would include

the cost of an application, which requires a \$5 nonrefundable handling fee, and the cost of a COR, which is \$50. Pet stores or businesses in the pet trade may be restricted in selling the animal, unless the buyer of the animal obtains a COR for possession.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

##### **~~R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.~~**

##### **~~R657-3-1. Purpose and Authority.~~**

~~—(1) Under Title 23, Wildlife Resources Code of Utah and in accordance with a memorandum of understanding with the Department of Agriculture, Department of Health, and the Division of Wildlife Resources, this rule governs the collection, importation, exportation, transportation, and possession of zoological animals and their parts.~~

~~—(2) Nothing in this rule shall be construed as superseding the provisions set forth in Title 23, Wildlife Resources Code of Utah. Any provision of this rule setting forth a criminal violation that overlaps a section of that title is provided in this rule only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.~~

~~—(3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, and possession of species of zoological animals under specific circumstances as provided in Rules R657-4 through R657-7, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-20 through R657-22, R657-33, and R657-37. Where a more specific provision has been adopted, that provision shall control.~~

~~—(4) Holding raccoons and coyotes in captivity is governed by the Department of Agriculture under Section 4-23-11 and Rule R58-14. The importation of coyotes and raccoons into Utah is governed by the Wildlife Board and is prohibited under this rule.~~

~~—(5) This rule does not apply to division employees acting within the scope of their assigned duties.~~

##### **~~R657-3-2. Species Not Covered by This Rule.~~**

~~—The following species of domestic animals are not governed by this rule:~~

~~—(1) Alpaca (Lama pacoos);~~

- (2) Ass and donkey (*Equus asinus*);
- (3) Bison, privately owned (*Bison bison*);
- (4) Camel (*Camelus bactrianus* and *Camelus dromedarius*);
- (5) Cassowary (all species);
- (6) Cat (*Felis catus*);
- (7) Cattle (*Bos taurus* and *Bos indicus*);
- (8) Chicken (*Gallus gallus*);
- (9) Chinchilla (*Chinchilla laniger*);
- (10) Dog and dog hybrids (*Canis familiaris*);
- (11) Ducks distinguishable morphologically from wild birds (*Anatidae*);
- (12) Elk, privately owned (*Cervus elaphus canadensis*);
- (13) Emu (*Dromaius novaehollandiae*);
- (14) European ferret (*Mustela putorius furo*);
- (15) Fowl (guinea) (*Numida meleagris*);
- (16) Fox, privately owned, ranch raised amber, blue and silver forms (*Vulpes fulva*);
- (17) Geese, distinguishable morphologically from wild geese (*Anatidae*);
- (18) Gerbils (*Meriones unguiculatus*);
- (19) Goat (*Capra hircus*);
- (20) Hamster (Syrian or golden) (*Mesocricetus auratus* and *Mesocricetus brandti*);
- (21) Hedgehog (white bellied) (*Erinaceidae Atelerix albiventris*);
- (22) Horse (*Equus caballus* and hybrids with *Equus asinus*);
- (23) Llama (*Lama glama*);
- (24) Mice (*Mus musculus*);
- (25) Mink, privately owned, ranch raised (*Mustela vison*);
- (26) Ostrich (*Struthio camelus*);
- (27) Peafowl (*Pavo cristatus*);
- (28) Pig (guinea) (*Cavia porcellus*);
- (29) Pigeon (*Columba livia*);
- (30) Rabbit (European) (*Oryctolagus cuniculus*);
- (31) Rats (*Rattus norvegicus* and *Rattus rattus*);
- (32) Rhea (*Rhea americana*);
- (33) Sheep (*Ovis aries*);
- (34) Swine (*Sus scrofa domestica*); and
- (35) Turkey, privately owned, pen raised domestic varieties (*Meleagris gallopavo*). Domestic varieties means any turkey or turkey egg held under human control or which is imprinted on other poultry or humans and which does not have morphological characteristics of wild turkeys.

**R657-3-3. Cooperative Agreements with Department of Health and Department of Agriculture — Agency Responsibilities.**

- (1) The division, the Department of Agriculture, and the Department of Health work cooperatively through memorandums of understanding to:
  - (a) protect the health, welfare, and safety of the public;
  - (b) protect the health, welfare, safety, and genetic integrity of wildlife, including environmental and ecological impacts; and
  - (c) protect the health, welfare, safety, and genetic integrity of domestic livestock, poultry, and other animals.
- (2) The division is responsible for:
  - (a) issuing certificates of registration for the collection, possession, importation, and transportation of zoological animals;
  - (b) maintaining the integrity of wild and free roaming protected wildlife;
  - (c) determining the species of aquatic animals which may be imported into, possessed, and transported within the state;

- (d) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities;
- (e) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans; and
- (f) enforcing laws and rules made by the Wildlife Board governing the collection, importation, transportation, and possession of zoological animals.
- (3)(a) The Utah Department of Agriculture is responsible for eliminating, reducing, and preventing the spread of diseases among livestock, fish, poultry, wildlife, and other animals by providing standards for:
  - (i) the importation of livestock, fish, poultry, and other animals, including wildlife, as provided in Section R58-1-4;
  - (ii) the control of predators and depredating animals as provided in Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act;
  - (iii) enforcing laws and rules made by the Wildlife Board governing species of aquatic animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;
  - (iv) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and
  - (v) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, or other animals, and humans.
- (b) The Department of Agriculture may make regulatory decisions concerning the collection, importation, transportation, and possession of zoological animals if a disease is suspected of endangering livestock, fish, poultry, or other domestic animals.
- (4) The Utah Department of Health is responsible for promoting and protecting public health and welfare and may make recommendations to the division concerning the collection, importation, transportation, and possession of zoological animals if a disease or animal is suspected of endangering public health or welfare.

**R657-3-4. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Aquaculture" means the controlled cultivation of aquatic animals.
  - (b)(i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.
  - (ii) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.
  - (c) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian, including their gametes.
  - (d) "Certificate of veterinary inspection" means an official health authorization issued by an accredited veterinarian required for the importation of zoological animals, as provided in Rule R58-1.
  - (e) "CFR" means the Code of Federal Regulations.
  - (f) "Collect" means to catch, capture, salvage, or kill any zoological animal within Utah and subsequently possess it for a personal, scientific, or educational use.

—(g) "Commercial use" means any activity through which a person in possession of a zoological animal:

—(i) receives any consideration for that zoological animal or for a use of that zoological animal, including nuisance control and roadkill removal; or

—(ii) expects to recover all or any part of the cost of keeping the zoological animal through selling, bartering, trading, exchanging, breeding, or other use, including displaying the zoological animal for entertainment, advertisement, or business promotion.

—(h) "Controlled species" means a species or subspecies of zoological animal that may pose a threat of disease or other ecological, environmental, or human health or safety risk.

—(i) "Den" means any place where reptiles congregate for winter survival.

—(j) "Educational use" means the possession and use of a zoological animal for conducting educational activities concerning wildlife and wildlife related activities.

—(k) "Entry permit number" means a number issued by the state veterinarian's office to a veterinarian signing a certificate of veterinary inspection. The entry permit number must be written on the certificate of veterinary inspection before the importation of the zoological animal. The entry permit is valid only for 30 days after its issuance.

—(l) "Export" means to move or cause to move any zoological animal from Utah by any means.

—(m) "Fee fishing facility" means a body of water used for holding or rearing fish to provide fishing for a fee or for pecuniary consideration or advantage.

—(n) "Import" means to bring or cause a zoological animal to be brought into Utah by any means and subsequently possess or use that zoological animal for a personal, commercial, scientific, or educational use.

—(o) "Native species" means any species or subspecies of zoological animal that historically occurred in Utah and has not been introduced by humans or migrated into Utah as a result of human activity.

—(p) "Naturalized species" means any species or subspecies of zoological animal that is not native to Utah but has established a wild, self-sustaining population in Utah.

—(q) "Noncontrolled species" means a species or subspecies of zoological animal that poses a minimal threat of disease or ecological, environmental, or human health or safety risk.

—(r)(i) "Nonnative species" means a species or subspecies of zoological animal that is not native to Utah.

—(ii) "Nonnative species" does not include domestic animals or naturalized species of zoological animals.

—(s)(i) "Ornamental fish" means fish that are raised or kept for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi.

—(ii) "Ornamental fish" does not include any species listed as prohibited or controlled in Sections R657-3-23 or R657-3-34.

—(t) "Personal use" means the possession and use of a zoological animal for a hobby or for its intrinsic pleasure and where no consideration for the possession or use of the animal is received by selling, bartering, trading, exchanging, breeding, or any other use.

—(u) "Prohibited species" means a species or subspecies of zoological animal that poses a potential or actual threat of disease or other ecological, environmental, or human health or safety risk.

—(v) "Public aquaculture facility" means a tank, canal, raceway, pond, off stream reservoir, or other structure used for aquaculture by the division, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

—(w) "Transport" means to move or cause to move any zoological animal within Utah by any means.

—(x) "Scientific use" means the possession and use of a zoological animal for conducting scientific research that is directly or indirectly beneficial to wildlife or the general public.

—(y) "Wildlife Registration Office" means the division office in Salt Lake City responsible for processing applications and issuing certificates of registration.

—(z)(i) "Zoological animal" means:

—(A) native, naturalized, and nonnative species of animals, occurring in the wild, captured from the wild, or born or raised in captivity;

—(B) hybrids of any native, naturalized, or nonnative species or subspecies of animals; and

—(C) viable embryos or gametes of any native, naturalized, or nonnative species or subspecies of animals.

—(ii) "Zoological animal" does not include species listed as domestic in Subsection R657-3-2.

#### **R657-3-5. Liability.**

—(1)(a) Any person who accepts a certificate of registration assumes all liability and responsibility for the collection, importation, transportation, and possession of the zoological animal and for conducting any activity authorized by the issuance of the certificate of registration.

—(b) To the extent provided under the Utah Governmental Immunity Act, the division, Department of Agriculture, and Department of Health shall not be liable in any civil action for:

—(i) any injury, disease, or damage caused by or to any animal, person, or property as a result of any activity authorized under this rule or a certificate of registration; or

—(ii) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue, deny, suspend, or revoke any certificate of registration or similar authorization.

—(2) It is the responsibility of any person who obtains a certificate of registration to read and understand this rule and to comply with all federal, state, county, city, or other municipality laws, regulations, and ordinances governing zoological animals in addition to the provisions of this rule.

#### **R657-3-6. Animal Welfare.**

—(1) Any zoological animal held in possession under the authority of a certificate of registration shall be maintained under humane and healthy conditions, including the humane handling, care, confinement, transportation, and feeding, as provided in:

—(a) the Minimum Facility and Health Standards Guide, which is adopted and incorporated by reference;

—(b) Section 76-9-301; and

—(c) Section 7 CFR 2.17, 2.51, and 371.2(g), 1994, ed., which are incorporated by reference.

—(2) A person commits cruelty to animals under this section if that person intentionally, knowingly, or with criminal negligence, as defined in Section 76-2-103:

—(a) tortures or seriously overworks an animal; or

—(b) fails to provide necessary food, care, or shelter for any animal in that person's custody.

—(3) Adequate measures must be taken for the protection of the public when handling, confining, or transporting any zoological animal.



**R657-3-7. Nuisance Birds—Nuisance Porcupine, Striped Skunk, and Squirrel.**

— (1)(a) A person is not required to obtain a certificate of registration or a federal permit to take crows or magpies when found committing, or about to commit, depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

— (i) none of the birds killed pursuant to this section, nor their plumage, are sold or offered for sale; and

— (ii) any person taking crows or magpies shall:

— (A) allow any federal warden or conservation officer unrestricted access over the premises where crows or magpies are taken; and

— (B) furnish any information concerning the control operations to the division or federal official upon request.

— (b) A person may kill crows or magpies only using a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area.

— (c) Crows and magpies killed pursuant to this section shall be collected immediately and must be disposed of at a landfill that accepts wildlife carcasses or must be buried or incinerated.

— (d) This subsection incorporates Section 50 CFR 21.42 and 21.43, 1994 ed., by reference.

— (2)(a) A person may capture, transport, and kill or release a nuisance porcupine, striped skunk, or squirrel without obtaining a certificate of registration.

— (b) A nuisance porcupine, striped skunk, or squirrel may be released only as follows:

— (i) within 48 hours of capture;

— (ii) within the county in which it was captured; and

— (iii) in a location where it does not pose a risk to human health or safety, or create other conflict with humans, agriculture, or other animals.

**R657-3-8. Specific Rules for Reptiles.**

— (1) A person may not:

— (a) disturb the den of any reptile or kill, capture, or harass any reptile within 100 yards of a reptile den without first obtaining a certificate of registration from the division; or

— (b) indiscriminately kill any reptile.

— (2)(a) Western rattlesnakes may be killed without a certificate of registration only for reasons of human safety.

— (b) The carcass of a Western rattlesnake killed pursuant to Subsection (a) may be retained for personal use only.

**R657-3-9. Collection, Importation, and Possession of Threatened and Endangered Species and Migratory Birds.**

— (1) The following species are prohibited from collection, possession, and importation into Utah without first obtaining a certificate of registration from the division, a federal permit from the U.S. Fish and Wildlife Service, and an entry permit number from the Department of Agriculture:

— (a) any species classified under this rule as prohibited or controlled which has been determined by the U.S. Fish and Wildlife Service to be endangered or threatened pursuant to Section 3 of the federal Endangered Species Act of 1973, as amended, including any species treated as threatened or endangered because it is sufficiently similar in appearance to a threatened or endangered species; and

— (b) any species of migratory birds classified as prohibited or controlled under this rule and protected under the Migratory Bird Treaty Act.

— (2) Federal laws and regulations apply to threatened and endangered species and migratory birds in addition to state and local laws.

**R657-3-10. Release of Zoological Animals to the Wild—Capture or Disposal of Escaped Wildlife.**

— (1)(a) Except as provided in Title 4, Chapter 37, the Aquaculture Act and Subsection R657-3-7(2), a person may not release to the wild or release into any public or private waters any zoological animal, including fish, without first obtaining authorization from the division.

— (b) A violation of this section is punishable under Section 23-13-14.

— (2) The division may seize or dispose of any illegally held zoological animal.

— (3)(a) Any peace officer, division representative, or authorized animal control officer may seize or dispose of any live zoological animal that escapes from captivity.

— (b) The division may retain custody of any recaptured zoological animal until the costs of recapture have been paid by its owner or keeper.

**R657-3-11. Inspection of Documentation, Facilities, and Zoological Animals.**

— (1) A conservation officer or any other peace officer may require any person engaged in activities covered by this rule to exhibit:

— (a) any documentation related to activities covered by this rule, including certificates of registration, permits, certificates of veterinary inspection, certification, bills of sale, or proof of ownership or legal possession;

— (b) any zoological animal; or

— (c) any device, apparatus, or facility used for activities covered by this rule.

— (2) Inspection shall be made during reasonable hours.

**R657-3-12. Certificate of Registration Required.**

— (1)(a) A person shall obtain a certificate of registration before collecting, importing, transporting, or possessing any species of zoological animal or its parts classified as prohibited or controlled, except as otherwise provided by the Wildlife Board.

— (b) A certificate of registration is not required:

— (i) to collect, import, transport, or possess any species or subspecies of zoological animal classified as noncontrolled, except as provided in Subsections R657-3-20(3)(b), R657-3-25(3)(b), and R657-3-31(3)(b); or

— (ii) to export any species or subspecies of zoological animal from Utah, provided that the zoological animal is held in legal possession.

— (c) Applications for zoological animals classified as prohibited are not accepted by the division without providing written justification as to why the applicant's proposed collection, importation, or possession of the zoological animal meets the criteria provided in Subsections R657-3-19(1)(b), R657-3-27(1)(b), or R657-3-28(1)(b).

— (2)(a) Certificates of registration are not transferable and expire December 31 of the year issued, except as provided in Subsection R657-3-42(2)(b) or as otherwise designated on the certificate of registration.

— (b) If the holder of a certificate of registration is a representative of an institution, organization, business, or agency, the certificate of registration shall end upon the discontinuation of association with that entity.

— (c) Certificates of registration do not provide the holder with any rights of succession and any certificate of registration issued to a

business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer.

—(3)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

—(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

—(4) A single certificate of registration may authorize more than one activity.

—(5)(a) In addition to this rule, the division may impose specific requirements on the holder of the certificate of registration necessary for the safe and humane handling and care of the zoological animal involved, including requirements for veterinary care, cage or holding pen sizes and standards, feeding requirements, social grouping requirements, and other requirements considered necessary by the division for the health and welfare of the zoological animal or the public.

—(b) The authorizations on the face of the certificate of registration setting forth specific times, dates, places, methods of take, numbers and species of zoological animals, location of activity, authorization for certain circumscribed transactions, or other designated conditions are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

—(6)(a) Upon or before the expiration date of a certificate of registration, the holder may apply for a new certificate of registration to continue the activity.

—(b) The division shall use the criteria provided in Section R657-3-14 in determining whether to issue the new certificate of registration.

—(c) If an application is not made by the expiration date, live wildlife held in possession shall be considered unlawfully held in possession and may be seized by the division.

—(d) If an application for a new certificate of registration is submitted before the expiration date, the existing certificate of registration shall remain valid while the application is pending.

—(7) Failure to submit timely, accurate, or valid reports as required under Section R657-3-16 and the certificate of registration may disqualify a person from obtaining a new certificate of registration as long as the deficiency exists.

—(8) A certificate of registration may be revoked as provided in Section 23-19-9 and Rule R657-26.

#### **R657-3-13. Application Procedures—Fees.**

—(1)(a) Applications for certificates of registration are available from, and must be submitted to, the Wildlife Registration Office in Salt Lake City or any regional division office.

—(b) The application may require up to 45 days for review and processing.

—(c) Applications that are incomplete, completed incorrectly, or submitted without the appropriate fee or other required information may be returned to the applicant.

—(2)(a) Legal tender in the correct amount must accompany the application.

—(b) The certificate of registration fee includes a nonrefundable handling fee.

—(c) Fees may be waived for wildlife rehabilitation, educational or scientific activities, or for state or federal agencies upon request if, in the opinion of the division, the activity is significantly beneficial to the division, wildlife, or wildlife management.

#### **R657-3-14. Issuance Criteria.**

—(1) The following factors shall be considered before the division may issue a certificate of registration:

—(a) the health, welfare, and safety of the public;

—(b) the health, welfare, safety, and genetic integrity of wildlife, domestic livestock, poultry, and other animals;

—(c) ecological and environmental impacts;

—(d) the suitability of the applicant's holding facilities;

—(e) the experience of the applicant for the activity requested; and

—(f) ecological or environmental impact on other states.

—(2) In addition to the criteria provided in Subsection (1), the division shall use the following criteria for the issuance of a certificate of registration for a scientific use of a zoological animal;

—(a) the validity of the objectives and design;

—(b) the likelihood the project will fulfill the stated objectives;

—(c) the applicant's qualifications to conduct the research, including the requisite education or experience;

—(d) the adequacy of the applicant's resources to conduct the study; and

—(e) whether the scientific use is in the best interest of the zoological animal, wildlife management, education, or the advancement of science without unnecessarily duplicating previously documented scientific research.

—(3) In addition to the criteria provided in Subsection (1), the division may use the following criteria for the issuance of a certificate of registration for an educational use of a zoological animal:

—(a) the objectives and structure of the educational program; and

—(b) whether the applicant has written approval from the appropriate official if the activity is conducted in a school or other educational facility.

—(4) The division may deny an application if the applicant:

—(a) has been convicted or pleaded guilty or nolo contendere to a wildlife violation relating to the activity or species of zoological animal requested or has been convicted or pleaded guilty or nolo contendere to multiple wildlife violations during the past five years; or

—(b) has failed to disclose material information required, or has made false statements as to any material fact, in connection with the application.

—(5) The collection or importation and subsequent possession of a zoological animal shall be granted only upon a clear demonstration that the criteria established in this section have been met by the applicant.

—(6) The division, in making a determination under this section, may use any information available that is relevant to the issuance of the certificate of registration, including independent inquiry or investigation to verify information or substantiate the qualifications asserted by the applicant.

—(7) If an application is denied, the division shall provide the applicant with written notice of the reasons for denial.

—(8) An appeal of the denial of an application may be made as provided in Section R657-3-48.

#### **R657-3-15. Amendment to Certificate of Registration.**

—(1)(a) If material circumstances have changed requiring a modification of the terms of the certificate of registration, the holder may request an amendment by submitting written justification and supporting information.

—(b) The division may amend the certificate of registration or deny the request based on the criteria for initial applications provided in Section R657-3-14, and, if the request for an amendment is denied, shall provide the applicant with written notice of the reasons for denial.

—(e) The division may charge a fee for amending the certificate of registration.

—(d) An appeal of a request for an amendment may be made as provided in Section R657-3-48.

—(2) The division reserves the right to amend any certificate of registration for good cause upon notification to the holder and written findings of necessity.

—(3)(a) Each holder of a certificate of registration shall notify the division within 30 days of any change in mailing address.

—(b) Zoological animals or activities authorized by a certificate of registration may not be held at any location not specified on the certificate of registration without prior written permission from the division.

**R657-3-16. Records and Reports.**

—(1)(a) From the date of the issuance of the certificate of registration, the holder shall maintain complete and accurate records of any taking, possession, transportation, propagation, sale, purchase, barter, or importation pursuant to the certificate of registration.

—(b) Records must be kept current and shall include the names, phone numbers, and addresses of persons with whom any zoological animal has been sold, bartered, or otherwise transferred or received, and the dates of the transactions.

—(c) The records required under this section must be maintained for two years from the expiration date of the certificate of registration.

—(2) Reports of activity must be submitted to the Wildlife Registration Office as specified on the certificate of registration.

—(3) Failure to submit the appropriate records and reports may result in revocation or denial of a certificate of registration.

**R657-3-17. Personal Use.**

—A person may collect and subsequently possess live or dead zoological animals or their parts for a personal use only as follows:

—(1) Certificates of registration are not issued for the collection and subsequent possession of any species or subspecies of zoological animals or their parts classified as prohibited.

—(2) A certificate of registration is required for collecting and subsequently possessing any species or subspecies of zoological animals or their parts classified as controlled, except as otherwise provided by the Wildlife Board.

—(3) A certificate of registration is not required for collecting and subsequently possessing species or subspecies of zoological animals or their parts classified as noncontrolled, except as provided in Subsections R657-3-20(3)(b), R657-3-25(3)(b), and R657-3-31(3)(b).

**R657-3-18. Collection for a Commercial Use.**

—(1) A person may not collect or possess any zoological animal or its parts for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

—(2) This section does not apply to a business entity that has obtained a certificate of registration from the division to conduct nuisance wildlife control or carcass removal.

—(3) The commercial use of a dead coyote, jackrabbit, muskrat, or raccoon, or its parts, is allowed without a certificate of registration.

—(4) Use of brine shrimp for culturing ornamental fish is not a commercial use if the brine shrimp eggs are not sold, bartered, or traded and no more than 200 pounds are collected annually.

**R657-3-19. Scientific or Educational Use.**

—A person may collect and subsequently possess live or dead zoological animals or their parts for a scientific or educational use only as follows:

—(1)(a) Certificates of registration are not issued for collecting and subsequently possessing species or subspecies of live or dead zoological animals classified as prohibited, except as provided in Subsection (b).

—(b) The division may issue a certificate of registration to a university, college, governmental agency, bona fide nonprofit institution, or a person involved in wildlife research to collect and subsequently possess live species or subspecies of zoological animals classified as prohibited if, in the opinion of the division, the scientific or educational use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

—(2) A person shall obtain a certificate of registration before collecting and subsequently possessing a species or subspecies of live or dead zoological animals or their parts classified as controlled.

—(3) A certificate of registration is not required to collect and subsequently possess species or subspecies of live or dead zoological animals classified as noncontrolled, except as provided in Subsections R657-3-20(3)(b), R657-3-25(3)(b), and R657-3-31(3)(b).

**R657-3-20. Classification of Amphibians.**

—(1) Amphibians are classified as follows for collection:

TABLE 1

Common Name	Family	Genus/Species	Classification
Arizona toad	Bufo	<i>Bufo microscaphus</i>	Controlled
		<i>microscaphus</i>	
Boreal toad	Bufo	<i>Bufo boreas boreas</i>	Prohibited
Lowland leopard frog	Rana	<i>Rana yavapaensis</i>	Prohibited
Northern leopard frog	Rana	<i>Rana pipiens</i>	Controlled
Pacific chorus frog	Hyla	<i>Pseudacris regilla</i>	Controlled
Relict leopard frog	Rana	<i>Rana onca</i>	Prohibited
Spotted frog	Rana	<i>Rana pretiosa</i>	Prohibited

—(2) All species and subspecies of amphibians not listed in Table 1 are classified as noncontrolled.

—(3)(a) Up to three amphibians of each species classified as noncontrolled may be collected and held in possession without obtaining a certificate of registration.

—(b) A person must obtain a certificate of registration to collect and subsequently possess four or more amphibians of each species classified as noncontrolled within a calendar year, except as provided in Subsection (4).

—(4)(a) A person may collect and subsequently possess any number of the following species of zoological animals without obtaining a certificate of registration:

—(i) Arizona tiger salamander (*Ambystoma tigrinum nebulosum*);

—(ii) Bullfrog (*Rana catesbeiana*); and

—(iii) Green frog (*Rana clamitans*).

—(b) A person may not transport a bullfrog or green frog live from the water in which it was collected without first obtaining a certificate of registration.

**R657 3 21. Classification of Birds.**

(1) Birds are classified as follows for collection:

TABLE 2

Common Name	Family	Genus/Species	Classification
European starling	Laniidae	Sturnus vulgaris	Noncontrolled
House sparrow	Ploceidae	Passer domesticus	Noncontrolled
Rock dove	Columbidae	Columba livia	Noncontrolled
(pigeon)			

(2) All species and subspecies of birds and their parts, including feathers, not listed in Table 2 are classified as prohibited.

**R657 3 22. Classification of Crustaceans, Mollusks, and Aquatic Insects.**

(1) Crustaceans are classified as follows for collection:

TABLE 3

Common Name	Family	Genus/Species	Classification
Brian Head mountainsnail	Helicidae	Oreohelix parowanensis	Controlled
Brine shrimp	Mysidae	All species	Controlled
California floater	Anodontidae	Anodonta californiensis	Prohibited
Clinton cave snail	Zonitidae	Pristiloma subrupicola	Controlled
Crayfish (crawdads) and	Astacidae	All species	Prohibited
Cambaridae			
Desert Spring snail	Amnicolidae	Pyrgulopsis deserta	Controlled
Eureka mountainsnail	Helicidae	Oreohelix eurekaensis	Controlled
Fat whorled pondsnail	Lymnaeidae	Stagnicola bonnevillensis	Controlled
Fish Lake Physa snail	Physella	Physella microstriata	Controlled
Fish Springs pond snail	Lymnaeidae	Stagnicola pilsbryi	Prohibited
Kanab amber snail	Succineidae	Oxyloma haydeni kanabensis	Prohibited
Lyrate mountainsnail	Helicidae	Oreohelix haydeni haydeni	Controlled
Ogden Rocky mountainsnail	Helicidae	Oreohelix peripherica wasatehensis	Controlled
Round Mouth Valvata	Valvatidae	Valvata humeralis	Controlled
Thickshell pondsnail	Lymnaeidae	Stagnicola utahensis	Prohibited
Uinta mountainsnail	Helicidae	Oreohelix eurekaensis uinta	Controlled
Utah Physa	Physella	Physella utahensis	Controlled
Utah Valvatasnail	Valvatidae	Valvata utahensis	Prohibited
Wet rock Physa	Physella	Physella zionis	Controlled
Yavapai mountainsnail	Helicidae	Oreohelix yavapai	Controlled

(2) All species and subspecies of crustaceans not listed in Table 3 and all aquatic insects and mollusks are classified as noncontrolled.

**R657 3 23. Classification of Fish.**

All species of fish are classified as prohibited for collection.

**R657 3 24. Classification of Mammals.**

(1) Mammals are classified as follows for collection:

TABLE 4

Common Name	Family	Genus/Species	Classification
Abert's squirrel	Sciuridae	Sciurus aberti	Prohibited
Bats	All families	All species	Prohibited
Bears	Ursidae		
Black bear		Ursus americanus	Prohibited
Grizzly bear		Ursus arctos	Prohibited
Big game mammals			
Bighorn sheep	Bovidae	All species	Prohibited
Bison (wild, free-ranging)	Bovidae	Bison bison	Prohibited
Elk (wild, free-ranging)	Cervidae	Cervus elaphus canadensis	Prohibited
Mule deer	Cervidae	Odocoileus hemionus	Prohibited
Moose	Cervidae	Alces alces	Prohibited
Pronghorn antelope	Antilope capridae	americana	Prohibited
Rocky Mountain goat	Bovidae	Oreamnos americanus	Prohibited
Canids	Canidae	All species	Prohibited
Cats	Felidae	All species except felis catus which is domestic	Prohibited
Chipmunks	Sciuridae	Tamias/all species	Noncontrolled
Ground squirrel	Sciuridae		
Golden mantled Townsend	Spermophilus lateralis		Noncontrolled
Townsend	Spermophilus townsendii		Noncontrolled
Uinta	Spermophilus armatus		Noncontrolled
Whitetail antelope	Spermophilus leucurus		Noncontrolled
Hares and rabbits	Leporidae		
Cottontail	Sylvilagus/ all species		Prohibited
Snowshoe	Lepus americanus		Prohibited
Kangaroo mice	Heteromyidae Microdipodops megacephalus		Noncontrolled
Kangaroo rats	Heteromyidae		
Merriam kangaroo rat	Dipodomys merriami		Prohibited
Desert kangaroo rat	Dipodomys deserti		Prohibited
Mustelids	Mustelidae	All species (badger, black footed ferret, marten, mink, river otter, skunk, weasel, and wolverine)	Prohibited
Northern pocket gopher	Geomyidae	Thomomys bottae	Noncontrolled
Rats	Muridae	All species	Noncontrolled
Ringtail	Bassari	Bassariscus astutus	Prohibited
Utah prairie dog	Sciuridae	Cynomys parvidens	Prohibited

(2) All species and subspecies of mammals not listed in Table 4 are classified as controlled.

**R657-3-25. Classification of Reptiles.**

(1) Reptiles are classified as follows for collection:

TABLE 5

Common Name	Family	Genus/Species	Classification
<b>Lizards</b>			
Banded gila monster	Helodermatidae	Heloderma suspectum	Prohibited
Desert night lizard	Xantusiidae	Xantusia vigilis	Controlled
Desert iguana	Iguanidae	Dipsosaurus dorsalis	Prohibited
Mojave zebra-tailed lizard	Phrynosomatidae	Callisaurus draconoides	Controlled
Glen Canyon chuckwalla	Iguanidae	Sauromalus obesus	Prohibited
Utah banded gecko	Gekkonidae	Coleonyx variegatus	Controlled
Utah night lizard	Xantusiidae	Xantusia vigilis	Controlled
Western chuckwalla	Iguanidae	Sauromalus obesus	Prohibited
<b>Snakes</b>			
California kingsnake (black and white banded form)	Colubridae	Lampropeltis getula californiae	Controlled
Desert glossy snake	Colubridae	Arizona elegans	Prohibited
Great Plains rat snake	Colubridae	Elaphe guttata emoryi	Controlled
Mojave Desert sidewinder	Viperidae	Crotalus cerastes	Prohibited
Mojave patch-nosed snake	Colubridae	Salvadora hexalepis mojavensis	Controlled
Mojave rattlesnake	Viperidae	Crotalus scutulatus	Prohibited
Sonoran lyre snake	Colubridae	Trimorphodon lambda	Prohibited
Speckled rattlesnake	Viperidae	Crotalus mitchellii	Prohibited
Utah (western) blind snake	Leptotyphlopidae	Leptotyphlops humilis	Controlled
Utah milk snake	Colubridae	Lampropeltis triangulum taylori	Prohibited
Utah mountain kingsnake	Colubridae	Lampropeltis pyromelana	Prohibited
Western rattlesnake	Viperidae	Crotalus viridis	Controlled
<b>Turtles</b>			
Desert tortoise	Testudinidae	Gopherus agassizii	Prohibited

(2) All species and subspecies of reptiles not listed in Table 5 are classified as noncontrolled.

(3)(a) Up to three reptiles of each species classified as noncontrolled may be collected and subsequently possessed without obtaining a certificate of registration.

(b) A person must obtain a certificate of registration to collect and subsequently possess four or more reptiles of each species classified as

noncontrolled within a calendar year, except as provided in Subsection (4).

(4) A person may collect and subsequently possess any number of the following species of zoological animals without obtaining a certificate of registration:

- (a) Side-blotched lizard (*Uta stansburiana*); and
- (b) Western terrestrial garter snake (*Thamnophis elegans*).

(5) A person may not transport a live snapping turtle or Texas spiny softshell turtle from the water from which it was captured without first obtaining a certificate of registration.

**R657-3-26. Importation of Zoological Animals into Utah.**

(1) As provided in Rule R58-1, the Department of Agriculture requires a valid certificate of veterinary inspection and an entry permit number before any zoological animal may be imported into Utah.

(2)(a) All fish imported into Utah and not destined for an aquaculture facility or fee fishing facility must be accompanied by the following documentation:

- (i) common or scientific names of fish;
- (ii) name and address of the consignor and consignee;
- (iii) origin of shipment;
- (iv) final destination; and
- (v) number of fish shipped.

(b) A person may import live fish destined for an aquaculture facility or fee fishing facility only as provided by Title 4, Chapter 37, Aquaculture Act and the rules promulgated thereunder.

(3) Subsection (2)(a) does not apply to fish or crayfish caught in Lake Powell, Bear Lake, or Flaming Gorge reservoirs under the authority of a valid fishing license and in accordance with Rule R657-13 and the proclamation of the Wildlife Board for taking fish and crayfish.

**R657-3-27. Personal, Scientific, or Educational Use.**

A person may import and subsequently possess live species or subspecies of zoological animals for a personal, scientific, or educational use only as follows:

(1)(a) Certificates of registration are not issued for importing and subsequently possessing any live species or subspecies of zoological animals classified as prohibited, except as provided in Subsection (b).

(b) The division may issue a certificate of registration to a zoo, aviary, government agency, a person involved in wildlife research, university, or college to import and subsequently possess live species or subspecies of zoological animals classified as prohibited if, in the opinion of the division, the scientific or educational activity is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(2) A certificate of registration, an entry permit number, and a certificate of veterinary inspection are required for importing and subsequently possessing any live species or subspecies of zoological animals classified as controlled.

(3) A certificate of registration is not required for importing and subsequently possessing any live species or subspecies of zoological animals classified as noncontrolled.

**R657-3-28. Importation of Live Zoological Animals for a Commercial Use.**

(1) A person may import and subsequently possess live zoological animals for a commercial use only as follows:

(a) Certificates of registration are not issued for importing and subsequently possessing any species or subspecies of live zoological animals classified as prohibited, except as provided in Subsection (b).

—(b) The division may issue a certificate of registration to a zoo, circus, amusement park, aviary, or film company to import and subsequently possess live species or subspecies of zoological animals classified as prohibited if, in the opinion of the division, the importation for a commercial use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

—(2) A certificate of registration, an entry permit, and a certificate of veterinary health are required to import and subsequently possess any species or subspecies of live zoological animals classified as controlled.

—(3)(a) A certificate of registration is not required to import and subsequently possess any species or subspecies of live zoological animals classified as noncontrolled.

—(b) An entry permit and a certificate of veterinary inspection are required by the Department of Agriculture.

—(4) The commercialization of any turtle less than 4" in carapace length is prohibited.

**R657-3-29. Importation of Dead Zoological Animals or Their Parts.**

—A person may import and subsequently possess a dead zoological animal or its parts, except as provided in Section R657-3-9, for a personal use without obtaining a certificate of registration, provided the animal was legally taken, is held in legal possession, and a valid license, permit, tag, certificate of registration, bill of sale, or invoice is available for inspection upon request.

**R657-3-30. Importation of Dead Zoological Animals or Their Parts for a Commercial Use.**

—(1) Except as provided in Subsection (2), a person may not import or possess any dead zoological animal or its parts for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

—(2) The commercial use of a dead coyote, jackrabbit, muskrat, raccoon, or its parts is allowed without a certificate of registration.

**R657-3-31. Classification of Amphibians.**

—(1) Amphibians, including their parts and eggs, are classified as follows for importation:

TABLE 6

Common Name	Family	Genus/Species	Classification
<b>Frogs</b>			
Bullfrog	Ranidae	Rana catesbeiana	Prohibited
Canyon treefrog	Hylidae	Hyla arenicolor	Noncontrolled
Clawed frog	Pipidae	Xenopus (all species)	Prohibited
Giant (marine) toad	Bufo	Bufo marinus	Prohibited
Green frog	Ranidae	Rana clamitans	Prohibited
Lowland leopard frog	Ranidae	Rana yavapaensis	Controlled
Northern leopard frog	Ranidae	Rana pipiens	Controlled
Pacific chorus frog	Hylidae	Pseudacris regilla	Controlled
Relict leopard frog	Ranidae	Rana onca	Controlled

Spotted frog	Ranidae	Rana pretiosa	Prohibited
Western chorus frog	Hylidae	Pseudacris triseriata	Noncontrolled
<b>Salamanders</b>			
Arizona tiger salamander	Ambystoma	Ambystoma tigrinum	Noncontrolled
		nebulosum	
<b>Toads</b>			
Arizona toad	Bufo	Bufo microscaphus	Controlled
		microscaphus	
Great Basin spadefoot	Pelobatidae	Spea intermontana	Noncontrolled
Great Plains toad	Bufo	Bufo cognatus	Noncontrolled
New Mexico spadefoot	Pelobatidae	Spea multiplicata	Noncontrolled
Plains spadefoot	Pelobatidae	Spea bombifrons	Noncontrolled
Red spotted toad	Bufo	Bufo punctatus	Noncontrolled
Western toad	Bufo	Bufo boreas	Controlled
Woodhouse's toad	Bufo	Bufo woodhousii	Noncontrolled
		woodhousii	

—(2) All species and subspecies of amphibians listed in Table 6 as noncontrolled and all species not listed in Table 6 are classified as noncontrolled.

—(3)(a) Up to three amphibians of each species classified as noncontrolled and listed in Table 6 may be imported and subsequently possessed without obtaining a certificate of registration.

—(b) A person must obtain a certificate of registration to import and subsequently possess four or more amphibians of each species classified as noncontrolled and listed in Table 6 within any calendar year.

**R657-3-32. Classification of Birds.**

—(1) Birds are classified as follows for importation:

TABLE 7

Common Name	Family	Genus/Species	Classification
Babblers	Timaliidae	All species	Noncontrolled
Barbets	Capitonidae	All species	Noncontrolled
Broadbills	Eurylaimidae	All species	Noncontrolled
Buttonquails and Hemipodes	Turnicidae	All species	Noncontrolled
Cotingas	Cotingidae	All species	Noncontrolled
Finches	Fringillidae	All species (except Acanthis hornemanni, Carduelis lawrencei, Carduelis pinus, Carduelis psaltria, Carduelis tristis, Carpodacus mexicanus, Carpodacus purpureus, Coccythraustes vespertinus, Leucosticte arctica, Loxia leucoptera, Pinicola enucleator)	Noncontrolled
Honeyeaters	Meliphagidae	All species	Noncontrolled
Hornbills	Bucerotidae	All species	Noncontrolled
Icterids	Icteridae	All species (except Agelaius phoeniceus, Agelaius tricolor, Dolichonyx oryzivorus, Euphagus carolinus, Euphagus cyanocephalus, Icterus cucullatus)	Noncontrolled

		<i>Icterus galbula</i>	
		<i>Icterus spurius</i>	
		<i>Molothrus aeneus</i>	
		<i>Molothrus ater</i>	
		<i>Quiscalus major</i>	
		<i>Quiscalus mexicanus</i>	
		<i>Quiscalus quiscula</i>	
		<i>Sturnella neglecta</i>	
		<i>Xanthocephalus</i>	
		<i>xanthocephalus</i>	
Leafbirds and fairy bluebirds	Irenidae	All species	Noncontrolled
Megapodes	Megapodiidae	All species	Noncontrolled
Motmots	Momotidae	All species	Noncontrolled
Ocellated turkey	Meleagridae	<i>Meleagro ocellata</i>	Prohibited
Parrots	Psittacidae	All species	Noncontrolled
Penguins	Spheniscidae	All species	Noncontrolled
Pigeons and doves	Columbidae	All species, except common ground (Columbina), passerina), Inca (Scardafella inca), mourning (Zenaida macroura), ruddy ground (Columbigallina passerina), white tipped (Leptotila verreauxi), and white winged doves (Zenaida asiatica), and band tailed (Columba fasciata) and red billed pigeon (Columba flavirostris) which are governed by Rule R657-4	Noncontrolled
Quail			
Painted (Button) Coturnix	Phasianidae	Excalfactoria chinensis	Noncontrolled
Rollers	Coraciidae	All species	Noncontrolled
Starlings	Sturnidae	All species	Noncontrolled
Sugarbirds	Promeropidae	All species	Noncontrolled
Sunbirds	Nectariniidae	All species	Noncontrolled
Swans	Anatidae		
Black-necked		<i>Cygnus melanocoryphus</i>	Noncontrolled
Black Mute		<i>Cygnus atratus</i>	Noncontrolled
		<i>Cygnus olor</i>	Noncontrolled
Swallow tanager	Tersinidae	All species	Noncontrolled
Tanagers	Thraupidae	All species (except Piranga flava, Piranga rubra, Piranga olivacea, Piranga ludoviciana)	Noncontrolled
Toucans	Ramphastidae	All species	Noncontrolled
Turacos, plain tain eaters and go away birds	Musophagidae	All species	Noncontrolled
Waxbills, mannikins, munias	Estrilididae	All species	Noncontrolled
Weavers, sparrows, viduine weavers, whydahs, and indigo birds	Ploceidae	All species	Noncontrolled
White eyes	Zosteropidae	All species	Noncontrolled

(2) All species and subspecies of birds not listed in Table 7 are classified as controlled.

**R657-33. Classification of Crustaceans, Mollusks, and Aquatic Insects.**

(1) Crustaceans, mollusks, and aquatic insects are classified as follows for importation:

TABLE 8

Common Name	Family	Genus/Species	Classification
African giant snail	Achatinidae	<i>Achatina fulica</i>	Prohibited
Asiatic (mitten) crab	Grapsidae	<i>Eriocheir</i> /all species	Prohibited
Crayfish (crawdads)	Astacidae	All species	Prohibited
	Cambaridae	except <i>Cherax</i>	Controlled
	Parastacidae	<i>quadricarinatus</i>	
Zebra mussel	Dreissenidae	<i>Dreissena polymorpha</i>	Prohibited

(2) All species and subspecies of crustaceans, mollusks, and aquatic insects not listed in Table 8 are classified as noncontrolled.

**R657-34. Classification of Fish.**

(1) Fish are classified as follows for importation:

TABLE 9

Common Name	Family	Genus/Species	Classification
Basses (temperate)	Percichthyidae		
White perch		<i>Morone americana</i>	Prohibited
Bowfin	Amiidae	All species	Prohibited
Carp (including hybrids)	Cyprinidae		
Bighead		<i>Hypophthalmichthys nobilis</i>	Prohibited
Black (snail)		<i>Mylopharyngodon piceus</i>	Prohibited
Crucian		<i>Carassius carassius</i>	Prohibited
Grass (diploid forms)		<i>Ctenopharyngodon idella</i>	Prohibited
Indian Bata		<i>Labeo bata</i>	Prohibited
Calbasu		<i>Labeo calbasu</i>	Prohibited
Catla		<i>Catla catla</i>	Prohibited
Mrigal		<i>Cirrhina mrigala</i>	Prohibited
Reba		<i>Cirrhina reba</i>	Prohibited
Rohu		<i>Labeo rohita</i>	Prohibited
Rudd		<i>Scardinius erythrophthalmus</i>	Prohibited
Silver		<i>Hypophthalmichthys molitrix</i>	Prohibited
Catfish			
Flathead	Ictaluridae	<i>Pylodictus olivaris</i>	Prohibited
Giant walking (airsac)	Heteropneustidae	All species	Prohibited
Labyrinth (walking)	Clariidae	All species	Prohibited
Parasitic catfish (candiru, carnero)	Trichomycteridae	All species	Prohibited
Drum (freshwater forms)	Sciaenidae	All species	Prohibited
Gar	Lepisosteidae	All species	Prohibited
Goldfish	Cyprinidae	<i>Carassius auratus</i>	Noncontrolled
Herring	Clupeidae		
Alwife		<i>Alosa pseudoharengus</i>	Prohibited
Gizzard shad		<i>Dorosoma cepedianum</i>	Prohibited

Killifish	Cyprinodontidae		
Killifish	Cyprino dontidae	Prohibited	
Plains	Fundulus zebrinus	Prohibited	
Rainwater	Lucania parva	Prohibited	
Koi	Cyprinidae	Cyprinus carpio	Noncontrolled
Lamprey	Petromyzon	All species	Prohibited
	idae		
Mexican tetra	Characidae	Astyanax mexicanus	Prohibited
		(except blind form)	
Minnows	Cyprinidae		
Bonytail	Gila elegans	Prohibited	
Colorado squawfish	Ptychocheilus lucius	Prohibited	
Creek chub	Semotilus	Prohibited	
	atromaculatus		
Humpback chub	Gila cypha	Prohibited	
Least chub	Notropis phlegethontis	Prohibited	
Leatherside chub	Gila copei	Prohibited	
Redside shiner	Richardsonius	Prohibited	
	balteatus		
Red shiner	Cyprinella lutrensis	Prohibited	
Roundtail chub	Gila robusta	Prohibited	
Sand shiner	Notropis stramineus	Prohibited	
Utah chub	Gila atraria	Prohibited	
Virgin River chub	Gila robusta seminuda	Prohibited	
Virgin spinedace	Lepidomeda	Prohibited	
	mollispinis		
Woundfin	Plagopterus	Prohibited	
	argentissimus		
Mooneye	Hiodontidae	All species	Prohibited
Nile perch	Centropom	Lates (-Luciolates)	Prohibited
	idae	All species	
Pike	Poeciliidae	Belonesox belizanus	Prohibited
killifish			
Piranha	Characidae	Serrasalmus,	Prohibited
		all species	
Sharks, bull	Carcharhin	Carcharhinus leucas	Prohibited
	idae		
Snakehead	Channidae	All species	Prohibited
Stickleback	Gasteroste	All species	Prohibited
	idae		
Stingray	Dasyatidae	All species	Prohibited
(freshwater)	(-Potamotry-		
	gonidae)		
Sucker	Catostomidae		
Flannelmouth	Catostomus	latipinnis	Prohibited
June	Chasmistes	liorus	Prohibited
Razorback	Xyrauchen	texanus	Prohibited
Utah	Catostomus	ardens	Prohibited
White	Catostomus	commersoni	Prohibited
Tiger fish	Erythrinidae	Hoplias malabaricus	Prohibited
(guavinas)			
Tilapia and	Cichlidae	All	Prohibited
Sarotherodon		species	
Trout	Salmonidae		
Bonneville	Oncorhynchus	clarki	Prohibited
cutthroat		utah	
Colorado	Oncorhynchus	clarki	Prohibited
cutthroat		pleuriticus	
Lahontan	Oncorhynchus	clarki	Prohibited
cutthroat		henshawi	

(2) Those species and subspecies of fish not listed in Table 9 are classified as controlled, except species and subspecies of fish that are commonly recognized as ornamental species and which are held in an aquarium are classified as noncontrolled.

**R657-3-35. Classification of Mammals.**

(1) Mammals are classified as follows for importation:

TABLE 10

Common Name	Family	Genus/Species	Classification
Abert's	Sciuridae	Sciurus aberti	Prohibited
squirrel			
Bats	All families	All species	Prohibited
Bears	Ursidae	Ursus/all species	Prohibited
Big game mammals			
Axis deer	Cervidae	Cervus axis	Prohibited
Barbary	Bovidae	Ammotragus lervia	Prohibited
(Aoudad)		(including hybrids)	
sheep			
Bighorn	Bovidae	Ovis canadensis	Prohibited
sheep			
Bison	Bovidae	Bison bison	Prohibited
(wild,			
free			
ranging)			
Elk	Cervidae	Cervus elaphus	Prohibited
		(all forms)	
Moose	Cervidae	Alces alces	Prohibited
Mouflon	Bovidae	Ovis musimon	Prohibited
sheep		(including hybrids)	
(all forms)			
Mule deer	Cervidae	Odocoileus hemionus	Prohibited
Pronghorn	Antilope	Antilocapra	Prohibited
	pridae	americana	
Red deer	Cervidae	Cervus elaphus (all	Prohibited
		forms)	
Rocky	Bovidae	Oreamnos americanus	Prohibited
Mountain			
goat			
Rusa deer	Cervidae	Cervus timorensis	Prohibited
Sambar deer	Cervidae	Cervus unicolor	Prohibited
Sika deer	Cervidae	Cervus nippon	Prohibited
White tailed	Cervidae	Odocoileus	Prohibited
deer		virginianus	
Black-tailed	Sciuridae	Cynomys ludovicianus	Prohibited
prairie dog			
Cats	Felidae	All species (except	Prohibited
		captive raised bobcat	
		(Lynx rufus) and	
		lynx (Lynx canadensis)	
		used only for commercial	
		captive fur breeding and	
		felis catus which is domestic)	
Collared	Tayassuidae	Pecari angulatus	Prohibited
peccary			
(javelina)			
Coyote	Canidae	Canis latrans	Prohibited
Fox	Canidae	All species (except	Prohibited
		amber, blue, and	
		silver forms which	
		are domestic)	
Monkeys	Cercopithe	All species	Prohibited
	idae		
	Cebidae and		
	Callitri-		
	chidae		
Mustelids	Mustelidae	All species (except	Prohibited
badger,		those mink classified	
black footed		as domesticated and	
ferret,		captive raised marten	
marten, mink,		used for commercial	
river otter,		captive fur breeding)	
skunk,			
weasel,			
wolverine			
Nutria	Myocastoridae	Myocastor coypus	Prohibited
Opossum	Didelphidae	Didelphis virginiana	Prohibited
Raccoon	Procyonidae	Procyon lotor	Prohibited
Wolf	Canidae	All species, except	Prohibited
		canis familiaris and	
		hybrids which are domestic	



(2) All species and subspecies of mammals not listed in Table 10 are classified as controlled.

**R657 3-36. Classification of Reptiles.**

(1) Reptiles and their eggs are classified as follows for importation:

TABLE 11

Common Name	Family	Genus/Species	Classification
<b>Crocodiles</b>			
Alligators and caimans	Alligatoridae	All species	Prohibited
Crocodiles	Crocodylidae	All species	Prohibited
Garial	Gavialidae	Gavialis gangeticus	Prohibited
<b>Lizards</b>			
Chuckwalla	Iguanidae	Sauromalus obesus (all ssp.)	Controlled
Desert iguana	Iguanidae	Dipsosaurus dorsalis	Controlled
Desert night lizard	Xantusiidae	Xantusia vigilis	Controlled
Gila monsters and beaded lizards	Helodermatidae	All species	Prohibited
Great Basin fence lizard	Phrynosomatidae	Sceloporus occidentalis longipes	Noncontrolled
Great Basin skink	Scincidae	Eumeces skiltonianus utahensis	Noncontrolled
Lesser earless lizard	Phrynosomatidae	Holbrookia maculata	Noncontrolled
Longnose leopard lizard	Crotaphytidae	Gambelia wislizenii	Noncontrolled
Mojave black collared lizard	Crotaphytidae	Crotaphytus bicinctores	Noncontrolled
Mojave zebra tailed lizard	Phrynosomatidae	Callisaurus draconoides	Controlled
Northern desert horned lizard	Phrynosomatidae	Phrynosoma platyrhinos	Noncontrolled
Northern sagebrush lizard	Phrynosomatidae	Sceloporus graciosus	Noncontrolled
Northern plateau lizard	Phrynosomatidae	Sceloporus undulatus elongatus	Noncontrolled
Orangehead desert spiny lizard	Phrynosomatidae	Sceloporus magister cephaloflavus	Noncontrolled
Pale leopard lizard	Crotaphytidae	Gambelia wislizenii punctatus	Noncontrolled
Plateau striped whiptail	Teiidae	Cnemidophorus velox	Noncontrolled
Southern desert horned lizard	Phrynosomatidae	Phrynosoma platyrhinos calidiarum	Noncontrolled
Short horned lizard	Phrynosomatidae	Phrynosoma douglassii	Noncontrolled

Side-blotched lizard	Phrynosomatidae	Uta stansburiana	Noncontrolled
Southern plateau lizard	Phrynosomatidae	Sceloporus undulatus consobrinus	Noncontrolled
Tree lizard	Phrynosomatidae	Urosaurus ornatus	Noncontrolled
Utah banded gecko	Gekkonidae	Coleonyx variegatus utahensis	Controlled
Utah night lizard	Xantusiidae	Xantusia vigilis utahensis	Controlled
Variable (many lined) skink	Scincidae	Eumeces multivirgatus gaigeae	Noncontrolled
Western whiptail	Teiidae	Cnemidophorus tigris (all ssp.)	Noncontrolled
Yellowback lizard	Phrynosomatidae	Sceloporus magister uniformis	Noncontrolled
Yellow headed collared lizard	Crotaphytidae	Crotaphytus collaris auriceps	Noncontrolled
<b>Snakes</b>			
Bird snake	Colubridae	Thelotornis (all species)	Prohibited
Boomsnang	Colubridae	Dispholidus typus	Prohibited
Burrowing asp	Atractaspidae	All species	Prohibited
California kingsnake (black and white banded form)	Colubridae	Lampropeltis getula californiae	Controlled
Desert glossy snake	Colubridae	Arizona elegans eburnata	Prohibited
Desert striped whipsnake	Colubridae	Masticophis taeniatus	Noncontrolled
Great Basin gopher snake	Colubridae	Pituophis melanoleucus deserticola	Noncontrolled
Great Plains rat snake	Colubridae	Elaphe guttata emoryi (intermontana phase)	Noncontrolled
Ground snake	Colubridae	Sonora semiannulata	Noncontrolled
Keelback	Colubridae	Rhabdophis (all species)	Prohibited
Mojave patch nosed snake	Colubridae	Salvadora hexalepis mojavensis	Noncontrolled
Night snake	Colubridae	Hypsiglena torquata	Noncontrolled
Painted desert glossy snake	Colubridae	Arizona elegans / philipi	Noncontrolled
Pit vipers and true vipers	Viperidae	All species	Prohibited
Proteroglyphus snakes	Elapidae	All species	Prohibited
Australasian coral snakes, kraits, mambas, sea snakes, and their allies	Elapidae	All species	Prohibited
Red coach whip (red racer)	Colubridae	Masticophis flagellum piceus	Noncontrolled

<del>Regal ringneck snake</del>	<del>Colubridae</del>	<del>Diadophis punctatus regalis</del>	<del>Noncontrolled</del>
<del>Rubber boa</del>	<del>Boidae</del>	<del>Charina bottae</del>	<del>Noncontrolled</del>
<del>South western black- headed snake</del>	<del>Colubridae</del>	<del>Tantilla hobartsmithi</del>	<del>Noncontrolled</del>
<del>Sonoran lyre snake</del>	<del>Colubridae</del>	<del>Trimorphodon biscutatus lambda</del>	<del>Prohibited</del>
<del>Utah (western) blind snake</del>	<del>Leptotyph lopidae</del>	<del>Leptotyphlops humilis utahensis</del>	<del>Controlled</del>
<del>Utah milk snake</del>	<del>Colubridae</del>	<del>Lampropeltis triangulum taylori</del>	<del>Prohibited</del>
<del>Utah mountain kingsnake</del>	<del>Colubridae</del>	<del>Lampropeltis pyromelana infralabialis</del>	<del>Prohibited</del>
<del>Valley garter snake</del>	<del>Colubridae</del>	<del>Thamnophis sirtalis fitchii</del>	<del>Noncontrolled</del>
<del>Wandering garter snake</del>	<del>Colubridae</del>	<del>Thamnophis elegans vagrans</del>	<del>Noncontrolled</del>
<del>Western black necked garter snake</del>	<del>Colubridae</del>	<del>Thamnophis cyrtopsis cyrtopsis</del>	<del>Noncontrolled</del>
<del>Western leaf nosed snake</del>	<del>Colubridae</del>	<del>Phyllorhynchus decurtatus perkinsi</del>	<del>Noncontrolled</del>
<del>Western long nosed snake</del>	<del>Colubridae</del>	<del>Rhinocheilus lecontei</del>	<del>Noncontrolled</del>
<del>Western smooth green snake</del>	<del>Colubridae</del>	<del>Ophedrys vernalis blanchardi</del>	<del>Noncontrolled</del>
<del>Western yellow bellied racer</del>	<del>Colubridae</del>	<del>Coluber constrictor mormon</del>	<del>Noncontrolled</del>
<b>Turtles</b>			
<del>Desert tortoise</del>	<del>Testudinidae</del>	<del>Gopherus agassizii (Xerobates)</del>	<del>Prohibited</del>
<del>Texas spiny softshell</del>	<del>Trionychidae</del>	<del>Apalone spiniferous emoryi</del>	<del>Prohibited</del>
<del>Snapping turtle</del>	<del>Chelydridae</del>	<del>Chelydra serpentina</del>	<del>Prohibited</del>

(2) All species and subspecies of reptiles listed in Table 11 as noncontrolled and all species not listed in Table 11 are classified as noncontrolled.

(3)(a) Up to three reptiles of each species classified as noncontrolled and listed in Table 11 may be imported and subsequently possessed without obtaining a certificate of registration.

(b) A person must obtain a certificate of registration to import and subsequently possess four or more reptiles of each species classified as noncontrolled and listed in Table 11 within a calendar year.

**R657-3-37. Transporting Live Zoological Animals Through Utah.**

(1) Any zoological animal may be transported through Utah without a certificate of registration if:

(a) the zoological animal remains in Utah no more than 72 hours; and

(b) the zoological animal is not sold, transferred, exhibited, displayed, or used for a commercial venture while in Utah.

(2) A certificate of veterinary inspection is required from the state of origin as provided in Rule R58-1 and proof of legal possession must accompany the zoological animal.

(3) If delays in transportation arise, an extension of the 72 hours may be requested by contacting the Wildlife Registration Office in Salt Lake City.

**R657-3-38. Importing Zoological Animals into Utah for Processing.**

(1) A person shipping zoological animals directly to a state or federally regulated establishment for processing is not required to obtain a certificate of registration or certificate of veterinary inspection provided the animals or their parts are accompanied by a waybill or other proof of legal ownership describing the animals, their source, and indicating the destination.

(2) Any water used to hold or transport fish may not be emptied into a stream, lake, or other natural body of water.

**R657-3-39. Transfer of Possession.**

(1) Except as provided in Parts 5 and 6, a person may possess a zoological animal classified as prohibited or controlled only after applying for and obtaining a certificate of registration from the division as provided in this rule.

(2) Any person who possesses a zoological animal classified as prohibited or controlled may transfer possession of a zoological animal only to a person who has first applied for and obtained a certificate of registration from the division.

(3) The division may issue a certificate of registration granting the transfer and possession of that zoological animal only if the applicant meets the issuance criteria provided in Section R657-3-14.

**R657-3-40. Propagation of Raptors.**

(1) A person may propagate raptors only as provided in this section and Section 50 CFR 21.30, 1996, ed., which is incorporated by reference. All applicants for captive breeding permits must become familiar with this rule and the applicable federal regulations.

(2) A person must apply for a federal raptor propagation permit and a certificate of registration from the division to propagate raptors.

(3) If the applicant requests authority to use raptors taken from the wild, the avian program coordinator must determine the following:

(a) whether issuance of the permit would have significant effect on any wild population of raptors;

(b) whether suitable captive stock is available; and

(c) whether wild stock is needed to enhance the genetic variability of captive stock.

(4) Raptors may not be taken from the wild for captive breeding, except as provided in Subsection (3).

(5) A person must obtain authorization from the division before importing raptor semen into Utah or importing captive raised raptors for sale. The authorization shall be noted on the certificate of registration.

(6) A person may sell a captive bred raptor properly marked with a band approved by the U.S. Fish and Wildlife Service or issued by the U.S. Fish and Wildlife Service to a raptor breeder who has a valid federal and state license or to state and federally licensed falconer of a general or master class.

(7) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

— (8) Each captive bred raptor brought into Utah must be accompanied by a valid certificate of veterinary inspection issued by an accredited veterinarian from the state of origin.

— (9) A permittee may use raptors held in possession for propagation in the sport of falconry only if such use is designated on both the propagation permit and the permittee's falconry permit.

— (10) Raptors used for falconry on temporary loan to a breeding project, with the division's authorization and accompanied by a Form 3-186A, Migratory Bird Acquisition and Disposition Report, provided by the U.S. Fish and Wildlife Service, must be included in the loaning falconer's bird number limitation as permitted in the license class designation.

— (11)(a) Hybridization with the female of a species which is endangered or threatened is prohibited.

— (b) Interspecific hybridization between species is authorized only if each raptor produced is either imprinted on humans or surgically sterilized.

— (i) "Imprinted on humans" means hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered.

— (c) Documentation of imprinting on humans required under Subsection (b) must be provided by the propagator.

— (12) Raptors considered unsuitable for release to the wild from rehabilitation projects, and certified as not releasable by a licensed veterinarian, may be placed in a captive breeding project upon written request from an authorized breeder and with concurrence of the U.S. Fish and Wildlife Service and the division.

— (13) A copy of the propagator's annual report of activities required by the U.S. Fish and Wildlife Service must be sent to the division as specified on the certificate of registration.

#### **R657 3 41. Propagation of Bobcat, Lynx, and Marten.**

— (1) A person may propagate bobcat, lynx, or marten only after obtaining a certificate of registration from the division.

— (2)(a) Any person engaged in propagation must keep at least one male and one female in possession.

— (b) Live bobcat, lynx, and marten may not be obtained from the wild.

— (3) The progeny and descendants of any bobcat, lynx, or marten may be pelted or sold.

— (4)(a) If any bobcat, lynx, or marten is sold live to a person residing in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

— (b) The offense of selling or transferring a live bobcat, lynx, or marten to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

— (5)(a) Each pelt must have attached to it a permanent possession tag before being sold, bartered, traded, or transferred to another person.

— (b) Permanent possession tags may be obtained at any regional division office and shall be affixed to the pelt by a division employee.

— (6) The progeny of bobcat, lynx, or marten may not be released to the wild.

— (7) Nothing in this section shall be construed to allow a person holding a certificate of registration for propagation to use or possess a bobcat, lynx, or marten for any purpose other than propagation without express authorization on the certificate of registration.

#### **R657 3 42. Propagation of Reptiles.**

— (1) The following species of snakes may be collected in Utah and held in possession for propagation:

— (a) California kingsnake (*Lampropeltis getula californicae*) (black and white banded form);

— (b) Great Plains rat snake (*Elaphe guttata emoryi*); and

— (c) Mojave patch-nosed snake (*Salvadora hexalepis mojavnensis*).

— (2)(a) The division may issue a total of six certificates of registration for captive breeding.

— (b) Certificates of registration for the propagation of reptiles are issued on a one per household basis for a five-year term.

— (c) Application forms are available from the Wildlife Registration Office and must be submitted during the month of January.

— (d) If more applications are received than the number of available certificates of registration, a public drawing will be held on the second Friday in February to determine successful applicants.

— (3) Certificates of registration may be issued to an applicant who:

— (a) is a resident of Utah;

— (b) presents written documentation showing at least five years of experience in reptile husbandry and at least three years of experience in the captive propagation of reptiles;

— (c) is able to demonstrate the ability to provide and maintain suitable, disease-free facilities to humanely hold and maintain reptiles in good condition;

— (d) is able to demonstrate the ability to prevent commingling with other reptiles not collected under the authority of a certificate of registration;

— (e) has not been convicted of any wildlife violation involving reptiles within the past five years; and

— (f) presents documentation to the division showing that captive breeding is allowed in the county or other political subdivision in which the applicant resides.

— (4) The disposition of any reptile held in possession under the authority of a certificate of registration and its progeny and descendants born in captivity remain property of the state of Utah and shall be determined by the division in accordance with the needs for public health, welfare, and safety, and impacts on wildlife.

#### **R657 3 43. Propagation of Caribou, Fallow Deer, Musk ox, and Reindeer.**

— (1)(a) A person may propagate caribou, fallow deer, musk ox, or reindeer only after obtaining a certificate of registration from the division.

— (b) Any person engaged in the propagation of caribou, fallow deer, musk ox, or reindeer must submit an annual report identifying the disposition of each animal held in possession during the year.

— (2)(a) If any live caribou, fallow deer, musk ox, or reindeer is sold, traded, or given to another person as a gift in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

— (b) The offense of selling or transferring a live caribou, fallow deer, musk ox, or reindeer to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

— (3) If, at any time, the division determines that the possession or propagation of caribou, fallow deer, musk ox, or reindeer has a significantly detrimental effect to the health of any population of wildlife, the division may:

— (a) terminate the authorization for propagation; and

— (b) require the removal or destruction of the animals at the owner's expense.

**R657-3-44. Violations.**

—(1) Any violation of this rule is a class C misdemeanor, as provided in Section 23-13-11.

—(2) Nothing in this rule shall be construed to supersede any provision of Title 23, Wildlife Resources Code of Utah which establishes a penalty greater than a class C misdemeanor. Any provision of this rule which overlaps a provision of that title is intended only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

**R657-3-45. Certification Review Committee.**

—(1) The division shall establish a Certification Review Committee which shall be responsible for:

—(a) reviewing:

—(i) petitions to reclassify species and subspecies of zoological animals;

—(ii) appeals of certificates of registration; and

—(iii) requests for variances to this rule;

—(b) making recommendations to the Wildlife Board; and

—(c) preparing and maintaining a Minimum Facility and Health Standards Guide.

—(2) The committee shall consist of the following individuals:

—(a) the director or the director's designee who shall represent the director's office and shall act as chair of the committee;

—(b) the chief of the Aquatic Section;

—(c) the chief of the Wildlife Section;

—(d) the chief of the Public Services Section;

—(e) the state veterinarian or his designee; and

—(f) a person designated by the Department of Health.

—(3) The Minimum Facility and Health Standards Guide shall include:

—(a) minimum facility and caging standards necessary for the protection of zoological animals held in possession, prevention of escape, and protection of the public and other animals; and

—(b) minimum care that must be provided to the zoological animals, including veterinary care, vaccinations, and other health considerations.

—(4) The division shall require a fee for the submission of a request provided in Section R657-3-46 and R657-3-47.

**R657-3-46. Request for Species Reclassification.**

—(1) A person may make a request to change the classification of a species or subspecies of zoological animal provided in this rule.

—(2) A request for reclassification must be made to the Certification Review Committee by submitting an application for reclassification:

—(3)(a) The application shall include:

—(i) the petitioner's name, address, and phone number;

—(ii) the species or subspecies for which the application is made;

—(iii) the name of all interested parties known by the petitioner;

—(iv) the current classification of the species or subspecies;

—(v) a statement of the facts and reasons forming the basis for the reclassification; and

—(vi) copies of scientific literature or other evidence supporting the change in classification.

—(b) In addition to the information required under Subsection (a), the petitioner must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

—(3)(a) The committee shall, within a reasonable time, consider the request for reclassification and shall submit its recommendation to the Wildlife Board.

—(b) The committee shall send a copy of its recommendation to the petitioner and other interested parties specified on the application.

—(4)(a) At the next available Wildlife Board meeting the Wildlife Board shall:

—(i) consider the committee recommendation; and

—(ii) any information provided by the petitioner or other interested parties.

—(b) The Wildlife Board shall approve or deny the request for reclassification based on the issuance criteria provided in Section R657-3-14.

—(5) A change in species classification shall be made in accordance with Title 63, Chapter 46a, Administrative Rulemaking Act.

—(6) A request for species reclassification shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

**R657-3-47. Request for Variance.**

—(1) A person may make a request for a variance to this rule for the collection, importation, propagation, or possession of a species or subspecies of zoological animal classified as prohibited under this rule by submitting a request for variance to the Certification Review Committee.

—(2)(a) A request for variance shall include the following:

—(i) the name, address, and phone number of the person making the request;

—(ii) the species or subspecies of zoological animal and associated activities for which the request is made; and

—(iii) a statement of the facts and reasons forming the basis for the variance.

—(b) In addition to the information required under Subsection (a), the person making the request must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

—(3) The committee shall, within a reasonable time, consider the request and shall submit its recommendation to the Wildlife Board.

—(4) At the next available Wildlife Board meeting the Wildlife Board shall:

—(a) consider the committee recommendation; and

—(b) any information provided by the person making the request.

—(5)(a) The Wildlife Board shall approve or deny the request based on the issuance criteria provided in Section R657-3-14.

—(b) If the request applies to a broad class of persons and not to unique circumstances of the applicant, the Wildlife Board shall consider changing the species classification before issuing a variance to this rule.

—(6)(a) If the request is approved, the Wildlife Board may impose any restrictions on the person making the request considered necessary for that person to maintain the standards upon which the variance is made.

—(b) Any restrictions imposed on the person making the request shall be included in writing on the certificate of registration which shall be signed by the person making the request before its issuance.

—(7) A request for variance shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

**R657-3-48. Appeal of Certificate of Registration Denial.**

—(1) A person may appeal the denial of a certificate of registration by submitting an appeal request to the Certification Review Committee.

—(2) The request must be made within 30 days after the date of the denial.

- (3) The request shall include:
- (a) the name, address, and phone number of the petitioner;
- (b) the date the request was mailed;
- (c) the species or subspecies of zoological animals and the activity for which the application was made; and
- (d) supporting facts and other evidence applicable to resolving the issue.
- (4) The committee shall review the request within a reasonable time after it is received.
- (5) Upon reviewing the application and the reasons for its denial, the committee may:
- (a) overturn the denial and approve the application; or
- (b) uphold the denial.
- (6) The committee may overturn a denial if the denial was:
- (a) based on insufficient information;
- (b) inconsistent with prior action of the division or the Wildlife Board;
- (c) arbitrary or capricious; or
- (d) contrary to law.
- (7)(a) Within a reasonable time after making its decision, the committee shall mail a notice to the petitioner specifying the reasons for its decision.
- (b) The notice shall include information that a person may seek Wildlife Board review of that decision.
- (8)(a) If the committee upholds the denial, the petitioner may seek Wildlife Board review of the decision by submitting a request for Wildlife Board review within 30 days after its issuance.
- (b) The request must include the information provided in Subsection (3).
- (9)(a) Upon receiving a request for Wildlife Board review, the Wildlife Board shall, within a reasonable time, hold a hearing to consider the request.
- (b) The Wildlife Board may:
- (i) overturn the denial and approve the application; or
- (ii) uphold the denial.
- (c) The Wildlife Board shall provide the petitioner with a written decision within a reasonable time after making its decision.
- (10) An appeal contesting initial division determination of eligibility for a certificate of registration shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

**R657-3. Collection, Importation, Transportation, and Possession of Zoological Animals.**

**R657-3-1. Purpose and Authority.**

- (1) Under Title 23, Wildlife Resources Code of Utah and in accordance with a memorandum of understanding with the Department of Agriculture and Food, Department of Health, and the Division of Wildlife Resources, this rule governs the collection, importation, exportation, transportation, and possession of zoological animals and their parts.
- (2) Nothing in this rule shall be construed as superseding the provisions set forth in Title 23, Wildlife Resources Code of Utah. Any provision of this rule setting forth a criminal violation that overlaps a section of that title is provided in this rule only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.
- (3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, and possession of species of zoological animals under specific circumstances as provided in Rules R657-4 through R657-6, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-19, R657-20 through R657-22, R657-33,

R657-37, R657-40 and R657-46. Where a more specific provision has been adopted, that provision shall control.

(4) Holding raccoons and coyotes in captivity is governed by the Department of Agriculture and Food under Section 4-23-11 and Rule R58-14. The importation of coyotes and raccoons into Utah is governed by the Wildlife Board and is prohibited under this rule.

(5) This rule does not apply to division employees acting within the scope of their assigned duties.

**R657-3-2. Species Not Covered by This Rule.**

The following species of domestic animals are not governed by this rule:

- (1) Alpaca (*Lama pacos*);
- (2) Ass and donkey (*Equus asinus*);
- (3) Bison, privately owned (*Bos bison*);
- (4) Camel (*Camelus bactrianus* and *Camelus dromedarius*);
- (5) Cassowary (all species)
- (6) Cat, including any domestic breed recognized by The International Cat Association (*Felis catus*);
- (7) Cattle (*Bos taurus* and *Bos indicus*);
- (8) Chicken (*Gallus gallus*);
- (9) Chinchilla (*Chinchilla laniger*);
- (10) Dog and dog hybrids (*Canis familiaris*);
- (11) Ducks distinguishable morphologically from wild birds (*Anatidae*);
- (12) Elk, privately owned (*Cervus elaphus canadensis*);
- (13) Emu (*Dromaius novaehollandiae*);
- (14) European ferret (*Mustela putorius*);
- (15) Fowl (guinea) (*Numida meleagris*);
- (16) Fox, privately owned, ranch-raised amber, blue and silver forms (*Vulpes vulpes*);
- (17) Geese, distinguishable morphologically from wild geese (*Anatidae*);
- (18) Gerbils (*Meriones unguiculatus*);
- (19) Goat (*Capra hircus*);
- (20) Hamster (Syrian or golden) (*Mesocricetus auratus* and *Mesocricetus brandti*);
- (21) Hedgehog (white bellied) (*Erinaceidae atelerix albiventris*);
- (22) Horse (*Equus caballus* and hybrids with *Equus asinus*);
- (23) Llama (*Lama glama*);
- (24) Mice (*Mus musculus*);
- (25) Mink, privately owned, ranch-raised (*Mustela vison*);
- (26) Ostrich (*Struthio camelus*);
- (27) Peafowl (*Pavo cristatus*);
- (28) Pig (guinea) (*Cavia porcellus*);
- (29) Pigeon (*Columba livia*);
- (30) Rabbit (European) (*Oryctolagus cuniculus*);
- (31) Rats (*Rattus norvegicus* and *Rattus rattus*);
- (32) Rhea (*Rhea americana*);
- (33) Sheep (*Ovis aries*);
- (34) Swine (*Sus scrofa*);
- (35) Turkey, privately owned, pen-raised domestic varieties (*Meleagris gallopavo*). Domestic varieties means any turkey or turkey egg held under human control and which is imprinted on other poultry or humans and which does not have morphological characteristics of wild turkeys;
- (36) Water buffalo (*Bubalis arnee*);
- (37) Yak (*Bos mutus*); and
- (38) Zebu (*Bos indicus*)

**R657-3-3. Cooperative Agreements with Department of Health and Department of Agriculture and Food -- Agency Responsibilities.**

(1) The division, the Department of Agriculture and Food, and the Department of Health work cooperatively through memorandums of understanding to:

- (a) protect the health, welfare, and safety of the public;
- (b) protect the health, welfare, safety, and genetic integrity of wildlife, including environmental and ecological impacts; and
- (c) protect the health, welfare, safety, and genetic integrity of domestic livestock, poultry, and other animals.

(2) The division is responsible for:

- (a) issuing certificates of registration for the collection, possession, importation, and transportation of zoological animals;
- (b) maintaining the integrity of wild and free-roaming protected wildlife;
- (c) determining the species of aquatic animals which may be imported into, possessed, and transported within the state;

(d) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities;

(e) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans; and

(f) enforcing laws and rules made by the Wildlife Board governing the collection, importation, transportation, and possession of zoological animals.

(3)(a) The Utah Department of Agriculture and Food is responsible for eliminating, reducing, and preventing the spread of diseases among livestock, fish, poultry, wildlife, and other animals by providing standards for:

(i) the importation of livestock, fish, poultry, and other animals, including wildlife, as provided in Section R58-1-4;

(ii) the control of predators and predated animals as provided in Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act;

(iii) enforcing laws and rules made by the Wildlife Board governing species of aquatic animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;

(iv) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and

(v) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, or other animals, and humans.

(b) The Department of Agriculture and Food may make regulatory decisions concerning the collection, importation, transportation, and possession of zoological animals if a disease is suspected of endangering livestock, fish, poultry, or other domestic animals.

(4) The Utah Department of Health is responsible for promoting and protecting public health and welfare and may make recommendations to the division concerning the collection, importation, transportation, and possession of zoological animals if a disease or animal is suspected of endangering public health or welfare.

**R657-3-4. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2 and Subsection (2) through Subsection (31).

(2) "Aquaculture" means the controlled cultivation of aquatic animals.

(3)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than ½ mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(4) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian, including their gametes.

(5) "Captive-bred" means any privately owned zoological animal, which is born inside of and has spent its entire life in captivity and is the offspring of privately owned zoological animals that are born inside of and have spent their entire life in captivity.

(6) "Certificate of veterinary inspection" means an official health authorization issued by an accredited veterinarian required for the importation of zoological animals, as provided in Rule R58-1.

(7) "CFR" means the Code of Federal Regulations.

(8) "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(a) Appendix I of CITES protects threatened species from all international commercial trade; and

(b) Appendix II of CITES regulates trade in species not threatened with extinction, but which may become threatened if trade goes unregulated.

(c) CITES appendices are published periodically by the CITES Secretariat and reprinted by the U.S. Fish and Wildlife Service in 50 CFR 23.23, 2000, ed., which is incorporated herein by reference.

(9) "Collect" means to take, catch, capture, salvage, or kill any zoological animal within Utah.

(10) "Commercial use" means any activity through which a person in possession of a zoological animal:

(a) receives any consideration for that zoological animal or for a use of that zoological animal, including nuisance control and roadkill removal; or

(b) expects to recover all or any part of the cost of keeping the zoological animal through selling, bartering, trading, exchanging, breeding, or other use, including displaying the zoological animal for entertainment, advertisement, or business promotion.

(11) "Controlled species" means a species or subspecies of zoological animal that may be taken from or escape into the wild, or held in captivity, without possible significant detrimental impacts to wild populations, the environment, or human health or safety, and for which a certificate of registration is required.

(12) "Den" means any place where reptiles congregate.

(13) "Educational use" means the possession and use of a zoological animal for conducting educational activities concerning wildlife and wildlife-related activities.

(14) "Entry permit number" means a number issued by the state veterinarian's office to a veterinarian signing a certificate of veterinary inspection. The entry permit number must be written on the certificate of veterinary inspection before the importation of the zoological animal. The entry permit is valid only for 30 days after its issuance.

(15) "Export" means to move or cause to move any zoological animal from Utah by any means.

(16) "Fee fishing facility" means a body of water used for holding or rearing fish to provide fishing for a fee or for pecuniary consideration or advantage.

(17) "Import" means to bring or cause a zoological animal to be brought into Utah by any means.

(18) "Native species" means any species or subspecies of zoological animal that historically occurred in Utah and has not been introduced by humans or migrated into Utah as a result of human activity.

(19) "Naturalized species" means any species or subspecies of zoological animal that is not native to Utah but has established a wild, self-sustaining population in Utah.

(20) "Noncontrolled species" means a species or subspecies of zoological animal that if taken from the wild, introduced into the wild, or held in captivity, poses no detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is not required, unless otherwise specified.

(21)(a) "Nonnative species" means a species or subspecies of zoological animal that is not native to Utah.

(b) "Nonnative species" does not include domestic animals or naturalized species of zoological animals.

(22)(a) "Ornamental fish" means fish that are raised or kept for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi.

(b) "Ornamental fish" does not include any species listed as prohibited or controlled in Sections R657-3-24.

(23) "Personal use" means the possession and use of a zoological animal for a hobby or for its intrinsic pleasure and where no consideration for the possession or use of the animal is received by selling, bartering, trading, exchanging, breeding, or any other use.

(24) "Possession" means to physically retain or to exercise dominion or control over a zoological animal.

(25) "Prohibited species" means a species or subspecies of zoological animal that if taken from the wild, introduced into the wild, or held in captivity, poses a significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration shall only be issued in accordance with Sections R657-3-20(1)(b) or R657-3-39.

(26) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the division, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

(27) "Transport" means to move or cause to move any zoological animal within Utah by any means.

(28) "Turtle" means all animals commonly known as turtles, tortoises and terrapins, and all other animals of the order Testudinata, class Reptilia.

(29) "Scientific use" means the possession and use of a zoological animal for conducting scientific research that is directly or indirectly beneficial to wildlife or the general public.

(30) "Wildlife Registration Office" means the division office in Salt Lake City responsible for processing applications and issuing certificates of registration.

(31)(a) "Zoological animal" means:

(i) native, naturalized, and nonnative species of animals, occurring in the wild, captured from the wild, or born or raised in captivity;

(ii) hybrids of any native, naturalized, or nonnative species or subspecies of animals; and

(iii) viable embryos or gametes of any native, naturalized, or nonnative species or subspecies of animals.

(A) "Zoological animal" does not include species listed as domestic in Subsection R657-3-2.

#### **R657-3-5. Liability.**

(1)(a) Any person who accepts a certificate of registration assumes all liability and responsibility for the collection, importation, transportation, and possession of the zoological animal and for conducting any activity authorized by the issuance of the certificate of registration.

(b) To the extent provided under the Utah Governmental Immunity Act, the division, Department of Agriculture and Food, and Department of Health shall not be liable in any civil action for:

(i) any injury, disease, or damage caused by or to any animal, person, or property as a result of any activity authorized under this rule or a certificate of registration; or

(ii) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue, deny, suspend, or revoke any certificate of registration or similar authorization.

(2) It is the responsibility of any person who obtains a certificate of registration to read and understand this rule and to comply with all federal, state, county, city, or other municipality laws, regulations, and ordinances governing zoological animals in addition to the provisions of this rule.

#### **R657-3-6. Animal Welfare.**

(1) Any zoological animal held in possession under the authority of a certificate of registration shall be maintained under humane and healthy conditions, including the humane handling, care, confinement, transportation, and feeding, as provided in:

(a) 9 CFR Section 3 Subpart F, 2000 ed., which is adopted and incorporated by reference;

(b) Section 76-9-301; and

(c) Section 7 CFR 2.17, 2.51, and 371.2(g), 2000 ed., which are incorporated by reference.

(2) A person commits cruelty to animals under this section if that person intentionally, knowingly, or with criminal negligence, as defined in Section 76-2-103:

(a) tortures or seriously overworks an animal; or

(b) fails to provide necessary food, care, or shelter for any animal in that person's custody.

(3) Adequate measures must be taken for the protection of the public when handling, confining, or transporting any zoological animal.

#### **R657-3-7. Nuisance Birds -- Nuisance Porcupine, Striped Skunk, and Squirrel.**

(1)(a) A person is not required to obtain a certificate of registration or a federal permit to kill American Crows or Black-billed Magpies when found committing, or about to commit, depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

(i) none of the birds killed pursuant to this section, nor their plumage, are sold or offered for sale; and

(ii) any person killing American Crows or Black-billed Magpies shall:

(A) allow any federal warden or conservation officer unrestricted access over the premises where American Crows or Black-billed Magpies are killed; and

(B) furnish any information concerning the control operations to the division or federal official upon request.

(b) A person may kill American Crows or Black-billed Magpies by any means, excluding bait, explosives or poison, and only on or over the threatened area.

(c) American Crows and Black-billed Magpies killed pursuant to this section shall be collected immediately and must be disposed of at a landfill that accepts wildlife carcasses or must be buried or incinerated.

(d) This subsection incorporates Section 50 CFR 21.42 an 21.43, 2000, ed., by reference.

(2)(a) A person may capture, transport, and kill or release a nuisance porcupine, striped skunk, or squirrel without obtaining a certificate of registration.

(b) A nuisance porcupine, striped skunk, or squirrel may be released only as follows:

(i) within 48 hours of capture;

(ii) within the county in which it was captured; and

(iii) in a location where it does not pose a risk to human health or safety, or create other conflict with humans, agriculture, or other animals.

#### **R657-3-8. Collection, Importation, and Possession of Threatened and Endangered Species and Migratory Birds.**

(1) The following species are prohibited from collection, possession, and importation into Utah without first obtaining a certificate of registration from the division, a federal permit from the U.S. Fish and Wildlife Service, and an entry permit number from the Department of Agriculture and Food if importing:

(a) any species which have been determined by the U.S. Fish and Wildlife Service to be endangered or threatened pursuant to the federal Endangered Species Act, as amended; and

(b) any species of migratory birds protected under the Migratory Bird Treaty Act.

(2) Federal laws and regulations apply to threatened and endangered species and migratory birds in addition to state and local laws.

#### **R657-3-9. Release of Zoological Animals to the Wild -- Capture or Disposal of Escaped Wildlife.**

(1)(a) Except as provided in Title 4, Chapter 37, the Aquaculture Act and Subsection R657-3-7(2), a person may not release to the wild or release into any public or private waters any zoological animal, including fish, without first obtaining authorization from the division.

(b) A violation of this section is punishable under Section 23-13-14.

(2) The division may seize or dispose of any illegally held zoological animal.

(3)(a) Any peace officer, division representative, or authorized animal control officer may seize or dispose of any live zoological animal that escapes from captivity.

(b) The division may retain custody of any recaptured zoological animal until the costs of recapture or care have been paid by its owner or keeper.

#### **R657-3-10. Inspection of Documentation, Facilities, and Zoological Animals.**

(1) A conservation officer or any other peace officer may require any person engaged in activities covered by this rule to exhibit:

(a) any documentation related to activities covered by this rule, including certificates of registration, permits, certificates of veterinary inspection, certification, bills of sale, or proof of ownership or legal possession;

(b) any zoological animal; or

(c) any device, apparatus, or facility used for activities covered by this rule.

(2) Inspection shall be made during reasonable hours.

#### **R657-3-11. Certificate of Registration Required.**

(1)(a) A person shall obtain a certificate of registration before collecting, importing, transporting, or possessing any species of zoological animal or its parts classified as prohibited or controlled, except as otherwise provided by the Wildlife Board or rules of the Wildlife Board as provided in Subsection R657-3-1(3).

(b) A certificate of registration is not required:

(i) to collect, import, transport, or possess any species or subspecies of zoological animal classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a); or

(ii) to export any species or subspecies of zoological animal from Utah, provided that the zoological animal is held in legal possession.

(c) Applications for zoological animals classified as prohibited are not accepted by the division without providing written justification as to why the applicant's proposed collection, importation, or possession of the zoological animal meets the criteria provided in Subsections R657-3-20(1)(b) or R657-3-18(4)(b).

(2)(a) Certificates of registration are not transferable and expire December 31 of the year issued, except as otherwise designated on the certificate of registration.

(b) If the holder of a certificate of registration is a representative of an institution, organization, business, or agency, the certificate of registration shall end upon the representative's discontinuation of association with that entity.

(c) Certificates of registration do not provide the holder with any rights of succession and any certificate of registration issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer.

(3)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

(4) A single certificate of registration may authorize more than one activity.

(5)(a) In addition to this rule, the division may impose specific requirements on the holder of the certificate of registration necessary for the safe and humane handling and care of the zoological animal involved, including requirements for veterinary care, cage or holding pen sizes and standards, feeding requirements, social grouping requirements, and other requirements considered necessary by the division for the health and welfare of the zoological animal or the public.

(b) The authorizations on the face of the certificate of registration setting forth specific times, dates, places, methods of take, numbers and species of zoological animals, location of activity, authorization for certain circumscribed transactions, or other designated conditions are to be strictly construed and shall not be



interpreted to permit similar or related matters outside the scope of strict construction.

(6)(a) Upon or before the expiration date of a certificate of registration, the holder may apply for a new certificate of registration to continue the activity.

(b) The division shall use the criteria provided in Section R657-3-14 in determining whether to issue the new certificate of registration.

(c) If an application is not made by the expiration date, live or dead zoological animals held in possession under the expired certificate of registration shall be considered unlawfully held and may be seized by the division.

(d) If an application for a new certificate of registration is submitted before the expiration date, the existing certificate of registration shall remain valid while the application is pending.

(7) Failure to submit timely, accurate, or valid reports as required under Section R657-3-16 and the certificate of registration may disqualify a person from obtaining a new certificate of registration.

(8) A certificate of registration may be revoked as provided in Section 23-19-9 and Rule R657-26.

#### **R657-3-12. Application Procedures -- Fees.**

(1)(a) Applications for certificates of registration are available from, and must be submitted to, the Wildlife Registration Office in Salt Lake City or any regional division office.

(b) The application may require up to 45 days for review and processing.

(c) Applications that are incomplete, completed incorrectly, or submitted without the appropriate fee or other required information may be returned to the applicant.

(2)(a) Legal tender in the correct amount must accompany the application.

(b) The certificate of registration fee includes a nonrefundable handling fee.

(c) Fees may be waived for wildlife rehabilitation, educational or scientific activities, or for state or federal agencies upon request if, in the opinion of the division, the activity is significantly beneficial to the division, wildlife, or wildlife management.

#### **R657-3-13. Retroactive Effect on Possession.**

A person lawfully possessing a zoological animal prior to the effective date of this rule may receive a certificate of registration from the division for the continued possession of that individual animal where the animal's species classification has changed hereunder from noncontrolled to controlled or prohibited, or from controlled to prohibited. The certificate of registration shall be obtained by December 31, 2002, or possession of the zoological animal thereafter shall be unlawful.

#### **R657-3-14. Issuance Criteria.**

(1) The following factors shall be considered before the division may issue a certificate of registration:

- (a) the health, welfare, and safety of the public;
  - (b) the health, welfare, safety, and genetic integrity of wildlife, domestic livestock, poultry, and other animals;
  - (c) ecological and environmental impacts;
  - (d) the suitability of the applicant's holding facilities;
  - (e) the experience of the applicant for the activity requested;
- and
- (f) ecological or environmental impact on other states.

(2) In addition to the criteria provided in Subsection (1), the division shall use the following criteria for the issuance of a certificate of registration for a scientific use of a zoological animal:

- (a) the validity of the objectives and design;
- (b) the likelihood the project will fulfill the stated objectives;
- (c) the applicant's qualifications to conduct the research, including the requisite education or experience;
- (d) the adequacy of the applicant's resources to conduct the study; and
- (e) whether the scientific use is in the best interest of the zoological animal, wildlife management, education, or the advancement of science without unnecessarily duplicating previously documented scientific research.

(3) In addition to the criteria provided in Subsection (1), the division may use the following criteria for the issuance of a certificate of registration for an educational use of a zoological animal:

- (a) the objectives and structure of the educational program; and
- (b) whether the applicant has written approval from the appropriate official if the activity is conducted in a school or other educational facility.

(4) The division may deny issuing a certificate of registration to any applicant, if the applicant has:

- (a) violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and responsibilities of collecting, importing, possessing or propagating a zoological animal bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities;
- (b) previously been issued a certificate of registration and failed to submit any report or information required by this rule, the division, or the Wildlife Board; or
- (c) misrepresented or failed to disclose material information required in connection with the application.

(5) The collection or importation and subsequent possession of a zoological animal shall be granted only upon a clear demonstration that the criteria established in this section have been met by the applicant.

(6) The division, in making a determination under this section, may use any information available that is relevant to the issuance of the certificate of registration, including independent inquiry or investigation to verify information or substantiate the qualifications asserted by the applicant.

(7) If an application is denied, the division shall provide the applicant with written notice of the reasons for denial.

(8) An appeal of the denial of an application may be made as provided in Section R657-3-40.

#### **R657-3-15. Amendment to Certificate of Registration.**

(1)(a) If material circumstances have changed requiring a modification of the terms of the certificate of registration, the holder may request an amendment by submitting written justification and supporting information.

(b) The division may amend the certificate of registration or deny the request based on the criteria for initial applications provided in Section R657-3-14, and, if the request for an amendment is denied, shall provide the applicant with written notice of the reasons for denial.

(c) The division may charge a fee for amending the certificate of registration.

(d) An appeal of a request for an amendment may be made as provided in Section R657-3-40.

(2) The division reserves the right to amend any certificate of registration for good cause upon notification to the holder and written findings of necessity.

(3)(a) Each holder of a certificate of registration shall notify the division within 30 days of any change in mailing address.

(b) Zoological animals or activities authorized by a certificate of registration may not be held at any location not specified on the certificate of registration without prior written permission from the division.

#### **R657-3-16. Records and Reports.**

(1)(a) From the date of the issuance of the certificate of registration, the holder shall maintain complete and accurate records of any taking, possession, transportation, propagation, sale, purchase, barter, or importation pursuant to the certificate of registration.

(b) Records must be kept current and shall include the names, phone numbers, and addresses of persons with whom any zoological animal has been sold, bartered, or otherwise transferred or received, and the dates of the transactions.

(c) The records required under this section must be maintained for two years from the expiration date of the certificate of registration.

(2) Reports of activity must be submitted to the Wildlife Registration Office as specified on the certificate of registration.

(3) Failure to submit the appropriate records and reports may result in revocation or denial of a certificate of registration.

#### **R657-3-17. Collection, Importation or Possession for Personal Use.**

(1) A person may collect, import or possess live or dead zoological animals or their parts for a personal use only as follows:

(a) Certificates of registration are not issued for the collection, importation or possession of any live or dead zoological animals or their parts classified as prohibited.

(b) A certificate of registration is required for collecting, importing or possessing any live or dead zoological animals or their parts classified as controlled, except as otherwise provided by the Wildlife Board.

(c) A certificate of registration is not required for collecting, importing or possessing live or dead zoological animals or their parts classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a).

(2) Notwithstanding Subsection (1), a person may import or possess any dead zoological animal or its parts, except as provided in Section R657-3-8, for a personal use without obtaining a certificate of registration, provided the animal was legally taken, is held in legal possession, and a valid license, permit, tag, certificate of registration, bill of sale, or invoice is available for inspection upon request.

#### **R657-3-18. Collection, Importation or Possession of a Live Zoological Animal for a Commercial Use.**

(1)(a) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect or possess a live zoological animal for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, a certificate of registration or a memorandum of understanding with the division.

(b) Use of brine shrimp for culturing ornamental fish is not a commercial use if the brine shrimp eggs are not sold, bartered, or traded and no more than 200 pounds are collected annually.

(2) A person may import or possess a live zoological animal classified as non-controlled for a commercial use or a commercial venture, except native or naturalized species of zoological animals may not be sold or traded unless they originate from a captive-bred population.

(a) Complete and accurate records for native or naturalized species must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the zoological animal has been obtained.

(3)(a) A person may not import or possess a live zoological animal classified as controlled for a commercial use or commercial venture, without first obtaining a certificate of registration.

(b) A certificate of registration will not be issued to sell or trade a native or naturalized species of zoological animal unless it originates from a captive-bred population.

(c) It is unlawful to transfer a live zoological animal classified as controlled to a person who does not have a certificate of registration to possess the zoological animal.

(d) Complete and accurate records must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the zoological animal has been obtained.

(e) Complete and accurate records must be maintained and available for inspection for two years from the date of transfer, documenting the date, name, address and certificate of registration number of the person receiving the zoological animal.

(4)(a) A certificate of registration will not be issued for importing or possessing a live zoological animal classified as prohibited for a commercial use or commercial venture, except as provided in Subsection (b).

(b) The division may issue a certificate of registration to a zoo, circus, amusement park, aviary, or film company to import or possess live species of zoological animals classified as prohibited if, in the opinion of the division, the importation for a commercial use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(c) The division's authority to issue a certificate of registration to a zoo, circus, amusement park, or aviary under this Subsection is restricted to those facilities that keep the prohibited species of zoological animals in a park, building, cage, enclosure or other structure for the primary purpose of public exhibition or viewing.

(5) It is unlawful to sell or trade any turtle, including tortoises, less than 4" in carapace length.

(6) An entry permit, and a certificate of veterinary inspection are required by the Department of Agriculture to import a live zoological animal classified as noncontrolled, controlled or prohibited.

#### **R657-3-19. Collection, Importation or Possession of Dead Zoological Animals or Their Parts for a Commercial Use.**

(1) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect, import or possess any dead zoological animal or its parts for a commercial use or commercial venture for pecuniary gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

(2) The restrictions in Subsection (1) do not apply to the following:

(a) the commercial use of a dead coyote, jackrabbit, muskrat, raccoon, or its parts;

(b) a business entity that has obtained a certificate of registration from the division to conduct nuisance wildlife control or carcass removal is allowed; and

(c) dead zoological animals sold or traded for educational use.

**R657-3-20. Collection, Importation or Possession for Scientific or Educational Use.**

A person may collect, import or possess live or dead zoological animals or their parts for a scientific or educational use only as follows:

(1)(a) Certificates of registration are not issued for collecting, importing or possessing live or dead zoological animals classified as prohibited, except as provided in Subsection (b).

(b) The division may issue a certificate of registration to a university, college, governmental agency, bona fide nonprofit institution, or a person involved in wildlife research to collect, import or possess live or dead zoological animals classified as prohibited if, in the opinion of the division, the scientific or educational use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(2) A person shall obtain a certificate of registration before collecting, importing or possessing live or dead zoological animals or their parts classified as controlled.

(3) A certificate of registration is not required to collect, import or possess live or dead zoological animals classified as noncontrolled, except as provided in Subsections R657-3-21(3) and R657-3-26(5)(a).

**R657-3-21. Classification and Specific Rules for Amphibians.**

(1) Amphibians are classified as follows:

(a) Bullfrog, Ranidae Family (Rana catesbeiana) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(b) Clawed frog, Pipidae Family (Xenopus) (All species) is prohibited for collection, importation and possession;

(c) Columbia spotted frog, Ranidae Family (Rana luteiventris) is prohibited for collection, importation and possession;

(d) Green frog, Ranidae Family (Rana clamitans) is prohibited for collection, importation and possession, except as provided in Subsection (5);

(e) Northern leopard frog, Ranidae Family (Rana pipiens) is controlled for collection, importation and possession;

(f) Pacific chorus frog, Ranidae Family (Pseudacris regilla) is controlled for collection, importation and possession;

(g) Relict leopard frog, Ranidae Family (Rana onca) is prohibited for collection, importation and possession;

(h) Yavapai leopard frog, Ranidae Family (Rana yavapaiensis) is prohibited for collection, importation and possession;

(i) Tiger salamander, Ambystomatidae Family (Ambystoma tigrinum) is controlled for importation, and noncontrolled for collection and possession as provided in Subsection (4);

(j) Giant (Marine) toad, Bufonidae Family (Bufo marinus) is prohibited for collection, importation and possession;

(k) Southwestern toad, Bufonidae Family (Bufo microscaphus) is controlled for collection, importation and possession; and

(l) Western toad, Bufonidae Family (Bufo boreas) is prohibited for collection, importation and possession.

(2) All species and subspecies of amphibians not listed in Subsection (1) are classified as noncontrolled for collection, importation and possession, except as provided in Subsection (3).

(3) A person must obtain a certificate of registration to collect or possess four or more amphibians of each species classified as noncontrolled within a calendar year, except as provided in Subsection (4) and (5).

(4) A person may collect or possess for personal use up to 50 Tiger salamanders (Ambystoma tigrinum) without a certificate of registration.

(5) A person may collect or possess any number of Bullfrogs (Rana catesbeiana) or Green frogs (Rana clamitans) without a certificate of registration provided they are either killed or released immediately upon removing them from the water. A person may not transport a live bullfrog or green frog from the water from which it was collected without first obtaining a certificate of registration.

**R657-3-22. Classification and Specific Rules for Birds.**

(1) The following birds are classified as noncontrolled for collection, importation and possession:

(a) Penguins, Spheniscidae Family, (All species);

(b) Megapodes (Mound-builders), Megapodiidae Family (All species);

(c) Coturnix quail, Phasianidae Family (Coturnix spp.);

(d) Buttonquails, Turnicidae Family (All species);

(e) Turacos (including Plantain eaters and Go-away-birds), Musophagidae Family (All species);

(f) Pigeons and Doves, Columbidae Family (All species not native to North America);

(g) Parrots, Psittacidae Family (All species not native to North America);

(h) Rollers, Coraciidae Family (All species);

(i) Motmots, Momotidae Family (All species);

(j) Hornbills, Bucerotidae Family (All species);

(k) Barbets, Capitonidae and Rhamphastidae Families (Capitoninae) (All species not native to North America);

(l) Toucans, Ramphastidae and Rhamphastidae Families (Ramphastinae) (All species not native to North America);

(m) Broadbills, Eurylaimidae Family (All species);

(n) Cotingas, Cotingidae Family (All species);

(o) Honeyeaters, Meliphagidae Family (All species);

(p) Leafbirds and Fairy-bluebirds, Irenidae Family (Irena spp., Chloropsis spp., and Aegithina spp.);

(q) Starlings, Sturnidae Family (All species, except European Starling);

(r) Babblers, Timaliidae Family (All species);

(s) White-eyes, Zosteropidae Family (All species);

(t) Sunbirds, Nectariniidae Family (All species);

(u) Sugarbirds, Promeropidae Family (All species);

(v) Weaver finches, Ploceidae Family (All species);

(w) Estrildid finches (Waxbills, Mannikins, and Munias) Estrildidae Family, (Estrildidae) (Estrildinae) (All species); and

(x) Vidua finches (Indigobirds and Whydahs) Viduidae Family, Estrildidae (Viduinae) (All species);

(y) Finches and Canaries, Fringillidae Family (All species not native to North America);

(z) Tanagers (including Swallow-tanager), Thraupidae Family (All species not native to North America); and

(aa) Icterids (Troupials, Blackbirds, Orioles, etc.), Icteridae Family (All species not native to North America, except Central and South American Cowbirds).

(2) The following birds are classified as noncontrolled for collection and possession, and controlled for importation:

(a) European Starling, Sturnidae Family (*Sturnus vulgaris*); and

(b) House (English) Sparrow, Passeridae Family (*Passer domesticus*).

(3) The following birds are classified as prohibited for collection and importation, and controlled for possession:

(a) Icteridae (*Molothrus* spp. and *Scaphidura oryzivora*).

(4) The following birds are classified as prohibited for collection, importation and possession:

(a) Ocellated turkey, Phasianidae Family, (*Meleagris ocellata*).

(5) All species and subspecies of birds and their parts, including feathers, not listed in Subsection (1) through Subsection (4):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

**R657-3-23. Classification and Specific Rules for Invertebrates.**

(1) Crustaceans are classified as follows:

(a) Asiatic (Mitten) Crab, Grapsidae Family (*Eriocheir*, All species) are prohibited for collection, importation and possession;

(b) Brine shrimp, Mysidae Family (All species) are classified as controlled for collection, and noncontrolled for importation and possession;

(c) Red-claw crayfish, Astacidae Family (*Cherax quadricarinatus*) is prohibited for collection, and controlled for importation and possession;

(d) Crayfish, Astacidae, Cambaridae and Parastacidae Families (All species except *Cherax quadricarinatus*) are prohibited for collection, importation and possession;

(e) Daphnia, Daphnidae Family (*Daphnia lumholtzi*) is prohibited for collection, importation and possession;

(f) Fishhook water flea, Cercopagidae Family (*Cercopagis pengoi*) is prohibited for collection, importation and possession; and

(g) Spiny water flea, Cercopagidae Family (*Bythotrephes cederstroemii*) is prohibited for collection, importation and possession.

(2) Mollusks are classified as follows:

(a) African giant snail, Achatinidae Family (*Achatina fulica*) is prohibited for collection, importation and possession;

(b) Brian head mountainsnail, Oreohelicidae Family (*Oreohelix parawanensis*) is controlled for collection, importation and possession;

(c) California floater, Anodontidae Family (*Anodonta californiensis*) is controlled for collection, importation and possession;

(d) Corrugated mountainsnail, Oreohelicidae Family (*Oreohelix haydeni corrugata*) is controlled for collection, importation and possession;

(e) Cummings' mountainsnail, Oreohelicidae Family (*Oreohelix yavapai cummingsi*) is controlled for collection, importation and possession;

(f) Deseret mountainsnail, Oreohelicidae Family (*Oreohelix peripherica*) is controlled for collection, importation and possession;

(g) Desert springsnail, Hydrobiidae Family (*Pyrgulopsis deserta*) is controlled for collection, importation and possession;

(h) Desert valvata, Valvatidae Family (*Valvata utahensis*) is prohibited for collection, importation and possession;

(i) Eureka mountainsnail, Oreohelicidae Family (*Oreohelix eurekaensis*) is controlled for collection, importation and possession;

(j) Fat-whorled pondsnail, Lymnaeidae Family (*Stagnicola bonnevillensis*) is controlled for collection, importation and possession;

(k) Fish lake physa, Physidae Family (*Physella microstriata*) is controlled for collection, importation and possession;

(l) Fish springs marshsnail, Lymnaeidae Family (*Stagnicola pilsbryi*) is prohibited for collection, importation and possession;

(m) Glossy valvata, Valvatidae Family (*Valvata humeralis*) is controlled for collection, importation and possession;

(n) Kanab ambersnail, Succineidae Family (*Oxyloma kanabense*) is prohibited for collection, importation and possession;

(o) Lyrate mountainsnail, Oreohelicidae Family (*Oreohelix haydeni*) is controlled for collection, importation and possession;

(p) New Zealand mudsnail, Hydrobiidae Family (*Potamopyrgus antipodarum*) is prohibited for collection, importation and possession;

(q) Quagga mussel, Dreissenidae Family (*Dreissena bugenses*) is prohibited for collection, importation and possession;

(r) Spruce snail, Thysanophoridae Family (*Microphysula ingersolli*) is controlled for collection, importation and possession;

(s) Thickshell pondsnail, Lymnaeidae Family (*Stagnicola utahensis*) is prohibited for collection, importation and possession;

(t) Utah physa, Physidae Family (*Physella utahensis*) is controlled for collection, importation and possession;

(u) Wet-rock physa, Physidae Family (*Physella zionis*) is controlled for collection, importation and possession;

(v) Yavapai mountainsnail, Oreohelicidae Family (*Oreohelix yavapai*) is controlled for collection, importation and possession; and

(w) Zebra mussel, Dreissenidae Family (*Dreissena polymorpha*) is prohibited for collection, importation and possession.

(3) All species and subspecies of invertebrates not listed in Subsection (1) and (2) are classified as noncontrolled for collection, importation and possession.

**R657-3-24. Classification and Specific Rules for Fish.**

(1) All species of fish listed in Subsections (2) through (30) are classified as prohibited for collection, importation and possession, except:

(a) Koi, Cyprinidae Family (*Cyprinus carpio*) is prohibited for collection, and noncontrolled for importation and possession;

(b) all species and subspecies or ornamental fish not listed in Subsections (2) through (30) are classified as prohibited for collection, and noncontrolled for importation and possession; and

(c) all species and subspecies of non-ornamental fish not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

(2) Carp, including hybrids, Cyprinidae Family, (All species, except Koi).

(3) Catfish:

(a) Flathead catfish, Ictaluridae Family (*Pylodictus olivaris*);

(b) Giant walking catfish (airsac), Heteropneustidae Family (All species);

(c) Labyrinth catfish (walking), Clariidae Family (All species); and

(d) Parasitic catfish (candiru, carnero) Trichomycteridae Family (All species).

(4) Herring:

(a) Alewife, Clupeidae Family (Alosa pseudoharengus); and

(b) Gizzard shad, Clupeidae Family (Dorosoma cepedianum).

(5) Killifish, Fundulidae Family (All species).

(6) Pike killifish, Poeciliidae Family (Belonesox belizanus).

(7) Minnows:

(a) Bonytail, Cyprinidae Family (Gila elegans);

(b) Colorado pikeminnow, Cyprinidae Family (Ptychocheilus lucius);

(c) Creek chub, Cyprinidae Family (Semotilus atromaculatus);

(d) Humpback chub, Cyprinidae Family (Gila cypha);

(e) Least chub, Cyprinidae Family (Iotichthys phlegethontis);

(f) Leatherside chub, Cyprinidae Family (Gila copei);

(g) Red shiner, Cyprinidae Family (Cyprinella lutrensis);

(h) Redside shiner, Cyprinidae Family (Richardsonius balteatus);

(i) Roundtail chub, Cyprinidae Family (Gila robusta);

(j) Sand shiner, Cyprinidae Family (Notropis stramineus);

(k) Utah chub, Cyprinidae Family (Gila atraria);

(l) Virgin River chub, Cyprinidae (Gila seminuda); and

(m) Virgin spinedace, Cyprinidae Family (Lepidomeda mollispinis).

(8) Woundfin, Cyprinidae Family (Plagopterus argentissimus).

(9) Suckers:

(a) Bluehead sucker, Catostomatidae Family (Catostomus discobolus);

(b) Desert sucker, Catostomatidae Family (Catostomus clarki);

(c) Flannelmouth sucker, Catostomatidae Family (Catostomus latipinnis);

(d) June sucker, Catostomatidae Family (Chasmistes liorus);

(e) Razorback sucker, Catostomatidae Family (Xyrauchen texanus);

(f) Utah sucker, Catostomatidae Family (Catostomus ardens);

and

(g) White sucker, Catostomatidae Family (Catostomus commersoni).

(10) White perch, Moronidae Family (Morone americana).

(11) Cutthroat trout, Salmonidae Family (Oncorhynchus clarki)(All subspecies).

(12) Bowfin, Amiidae Family (All species).

(13) Bull shark, Carcharhinidae Family (Carcharhinus leucas).

(14) Drum (freshwater forms), Sciaenidae Family (All species).

(15) Gar, Lepidosteidae Family (All species).

(16) Jaguar guapote, Cichlidae Family (Cichlasoma managuense).

(17) Lamprey, Petromyzontidae Family (All species).

(18) Mexican tetra, Characidae Family (Astyanax mexicanus, except blind form).

(19) Mooneye, Hiodontidae Family (All species).

(20) Nile perch, Centropomidae Family (Lates, lucioides) (All species).

(21) Northern pike, Esocidae Family (Esox lucius).

(22) Pirhana, Characidae Family (Serrasalmus, All species).

(23) Round goby, Gobiidae Family (Neogobius melanostomus).

(24) Ruffe, Percidae Family (Gymnocephalus cernuus).

(25) Snakehead, Channidae Family (All species).

(26) Stickleback, Gasterosteidae Family (All species).

(27) Stingray (freshwater), Dasyatidae Family (All species).

(28) Swamp eel, Synbranchidae Family (All species).

(29) Tiger fish, guavinus, Erythrinidae Family (Hoplias malabaricus).

(30) Tilapia, Cichlidae Family (Tilapia and Sarotherodon) (All species).

#### **R657-3-25. Classification and Specific Rules for Mammals.**

(1) Mammals are classified as follows:

(a) Monotremes (Platypus and Spiny anteaters), Ornithorhynchidae and Tachyglossidae Families (All species) are prohibited for collection, and controlled for importation and possession;

(b) Marsupials are classified as follows:

(i) Opossum, Didelphidae Family (Didelphis virginiana) is noncontrolled for collection, prohibited for importation and controlled for possession;

(ii) Sugar glider, Petauridae Family (Petaurus breviceps) is noncontrolled for collection, importation or possession;

(iii) Wallabies, Macropodidae Family (All species) are prohibited for collection, importation and possession;

(c) Bats and flying foxes (Chiroptera), All families (All species) are prohibited for collection, importation and possession;

(d) Insectivores (Insectivora) are controlled for collection, importation and possession;

(e) Hedgehogs and Tenrecs, Erinaceidae and Tenrecidae Families, except white bellied hedgehogs are controlled for collection, importation and possession;

(f) Shrews, Soricidae Family (Sorex spp. and Notisorex spp.) are controlled for collection, importation and possession;

(g) Anteaters, Sloths and Armadillos (Xenartha), All families (All species) are prohibited for collection, and controlled for importation and possession;

(h) Aardvark (Tublidentata), Orycteropodidae Family (Orycteropus afer) is prohibited for collection, and controlled for importation and possession;

(i) Pangolins or Scaly Anteaters (Philodota), Manis spp., are prohibited for collection and importation, and controlled for possession;

(j) Tree shrews (Scandentia), Tupalidae Family (All species) are prohibited for collection, and controlled for importation and possession;

(k) Lagomorphs (Rabbits, Hares and Pikas) are classified as follows:

(i) Jackrabbits, Leporidae Family (Lepus spp.) are noncontrolled for collection, and controlled for importation and possession;

(ii) Cottontails, Leporidae Family (Syvilagus spp.) are prohibited for collection, and controlled for importation and possession;

(iii) Pygmy rabbit, Leporidae Family (Brachylagus idahoensis) is prohibited for collection, and controlled for importation and possession;

(iv) Snowshoe hare, Leporidae Family (Lepus americanus) is prohibited for collection, and controlled for importation and possession;

(v) Pika, Ochotonidae Family (Ochotona princeps) is controlled for collection, importation and possession;

(l) Elephant shrews (Macroscelidea), Macroscelididae Family (All species) are prohibited for collection, and controlled for importation and possession;

(m) Rodents (Rodentia) are classified as follows:

(i) Beaver, Castoridae Family (Castor canadensis) is controlled for collection, importation and possession;

(ii) Muskrat, Cricetidae Family (Ondatra zibethicus) are noncontrolled for collection, and controlled for importation and possession;

(iii) Deer mice and related species, Cricetidae Family (Peromyscus spp.) are controlled for collection, importation and possession;

(iv) Grasshopper mice, Cricetidae Family (Onychomys spp.) are controlled for collection, importation and possession;

(v) Heather vole, Cricetidae Family (Phenacomys intermedius) is controlled for collection, importation and possession;

(vi) Meadow vole, Cricetidae Family (Microtus pennsylvanicus) is noncontrolled for collection, and controlled for importation and possession;

(vii) Red-backed vole, Cricetidae Family (Clethrionomys gapperi) is controlled for collection, importation and possession;

(viii) Sagebrush vole, Cricetidae Family (Lemmiscus curtatus) is controlled for collection, importation and possession;

(ix) Other voles, Cricetidae Family (Microtus spp.) are controlled for collection, importation and possession;

(x) Western harvest mouse, Cricetidae Family (Reithrodontomys megalotis) is controlled for collection, importation and possession;

(xi) Woodrats, Cricetidae Family (Neotoma spp.) are controlled for collection, importation and possession;

(xii) Nutria, Myocastoridae Family (Myocastor coypus) is noncontrolled for collection, prohibited for importation and controlled for possession;

(xiii) Pocket gophers (all species), Geomyidae Family (Thomomys spp.) are noncontrolled for collection, and controlled for importation and possession;

(xiv) Pocket mice, Heteromyidae Family (Perognathus spp. and Chaetodipus intermedius) are controlled for collection, importation and possession;

(xv) Dark kangaroo mouse, Heteromyidae Family (Microdipodops pallidus) is controlled for collection, importation and possession;

(xvi) Kangaroo rats, Heteromyidae Family (Dipodomys spp.) are controlled for collection, importation and possession;

(xvii) Desert kangaroo rat, Heteromyidae Family (Dipodomys deserti) is controlled for collection, importation and possession;

(xviii) Merriam's kangaroo rat, Heteromyidae Family (Dipodomys merriami) is controlled for collection, importation and possession;

(xix) Ord's kangaroo rat, Heteromyidae Family (Dipodomys ordii) is controlled for collection, importation and possession;

(xx) Abert's squirrel, Sciuridae Family, (Sciurus aberti navajo) is prohibited for collection, importation and possession;

(xxi) Black-tailed prairie dog, Sciuridae Family (Cynomys ludovicianus) is controlled for collection, and prohibited for importation and possession;

(xxii) Gunnison's prairie dog, Sciuridae Family (Cynomys gunnisoni) is controlled for collection, importation and possession;

(xxiii) Utah prairie dog, Sciuridae Family (Cynomys parvidens) is prohibited for collection, importation and possession;

(xxiv) White-tailed prairie dog, Sciuridae Family (Cynomys leucurus) is controlled for collection, importation and possession;

(xxv) Chipmunks, except Yellow-pine chipmunk, Sciuridae Family (Tamias and Eutamias) are noncontrolled for collection, and controlled for importation and possession;

(xxvi) Yellow-pine chipmunk, Sciuridae Family, (Tamias amoenus) is controlled for collection, importation and possession;

(xxvii) Northern flying squirrel, Sciuridae Family (Glaucomys sabrinus) is controlled for collection, importation and possession;

(xxviii) Southern flying squirrel, Sciuridae Family (Glaucomys volans) is prohibited for collection, importation and possession;

(xxix) Ground squirrel and rock squirrel, except nuisance squirrels, which are noncontrolled for collection, Sciuridae Family (Spermophilus spp. and Ammospermophilus leucurus) are controlled for collection, importation and possession;

(xxx) Red squirrel or chickaree, except for nuisance animals, which are noncontrolled for collection, Sciuridae Family (Tamiasciurus hudsonicus) are controlled for collection, importation and possession;

(xxxi) Yellow-bellied marmot, Sciuridae Family, (Marmota flaviventris) is controlled for collection, importation and possession;

(xxxii) Western jumping mouse, Zapodidae Family (Zapus princeps) is controlled for collection, importation and possession;

(xxxiii) Porcupine, Erethizontidae Family (Erethizon dorsatum) is controlled for collection, importation and possession;

(xxxiv) Other South American rodents, Degus and Octodontidae Families (All species) are prohibited for collection, importation and possession;

(xxxv) Dormice, Gliridae and Selevinidae Families (All species) are prohibited for collection, importation and possession;

(xxxvi) African pouched rats, Muridae Family (All species) are prohibited for collection, importation and possession;

(xxxvii) Jirds, Muridae Family (Meriones spp.) are prohibited for collection, importation and possession;

(xxxviii) Pygmy mice, Muridae Family (Mus triton) are prohibited for collection, importation and possession;

(xxxix) Spiny mice, Muridae Family (Acomys spp.) are prohibited for collection, importation and possession;

(xl) Hyraxes (Hyracoidea), Procaviidae Family (All species) are prohibited for collection, and controlled for importation and possession;

(n) Hoofed mammals (Artiodactyla and Perissodactyla) are classified as follows:

(i) Bison or Buffalo (Wild and free ranging), Bovidae Family (Bison bison) is prohibited for collection, importation and possession;

(ii) Collared peccary or javelina, Tayassuidae Family (Pecari tajacu) is prohibited for collection, importation and possession;

(iii) Axis deer, Cervidae Family (Cervus axis) is prohibited for collection, importation and possession;

(iv) Caribou, wild and free ranging, Cervidae Family (Rangifer tarandus) is prohibited for collection, importation and possession;

(v) Caribou, captive-bred, Cervidae Family (Rangifer tarandus) is prohibited for collection, and controlled for importation and possession;

(vi) Elk, wild and free ranging, Cervidae Family (Cervus elaphus) is prohibited for collection, importation and possession;

(vii) Fallow deer, wild and free ranging, Cervidae Family (Cervus dama) is prohibited for collection, importation and possession;

(viii) Fallow deer, captive-bred, Cervidae Family (Cervus dama) is prohibited for collection, and controlled for importation and possession;

(ix) Moose, Cervidae Family (Alces alces) is prohibited for collection, importation and possession;

(x) Mule deer, Cervidae Family (Odocoileus hemionus) is prohibited for collection, importation and possession;

(xi) Red deer, Cervidae Family (Cervus elaphus) is prohibited for collection, importation and possession;

(xii) Rusa deer, Cervidae Family (Cervus timorensis) is prohibited for collection, importation and possession;

(xiii) Sambar deer, Cervidae Family (Cervus unicolor) is prohibited for collection, importation and possession;

(xiv) Sika deer, Cervidae Family (Cervus nippon) is prohibited for collection, importation and possession;

(xv) White-tailed deer, Cervidae Family (Odocoileus virginianus) is prohibited for collection, importation and possession;

(xvi) Muskox, wild and free ranging, Bovidae Family (Ovibos moschatus) is prohibited for collection, importation and possession;

(xvii) Muskox, captive-bred, Bovidae Family (Ovibos moschatus) is prohibited for collection, and controlled for importation and possession;

(xviii) Pronghorn, Antilocapridae Family (Antilocapra americana) is prohibited for collection, importation and possession;

(xix) Barbary sheep or Aoudad, Bovidae Family (Ammotragus lervia) is prohibited for collection, importation and possession;

(xx) Bighorn sheep (including hybrids) Bovidae Family (Ovis canadensis) are prohibited for collection, importation and possession;

(xxi) Dall's and Stone's sheep (including hybrids) Bovidae Family (Ovis dalli) are prohibited for collection, importation and possession;

(xxii) Exotic wild sheep (including hybrids), Bovidae Family (Including Mouflon, Ovis musimon; Asiatic or red sheep, Ovis orientalis; Urial, Ovis vignei; Argali, Ovis ammon; and Snow Sheep, Ovis nivicola) are prohibited for collection, importation and possession;

(xxiii) Rocky Mountain goat, Bovidae Family (Oreamnos americanus) is prohibited for collection, importation and possession;

(xxiv) Ibex, Bovidae Family (Capra ibex) is prohibited for collection, importation and possession;

(o) Carnivores (Carnivora) are classified as follows:

(i) Bears, Ursidae Family (Ursus, all species) are prohibited for collection, importation and possession;

(ii) Coyote, Canidae Family (Canis latrans) is prohibited for importation, and is controlled by the Utah Department of Agriculture for collection and possession;

(iii) Fennec fox, Canidae Family (Vulpes zerda) is prohibited for collection, importation and possession;

(iv) Gray fox, Canidae Family (Urocyon cinereoargenteus) is prohibited for collection, importation and possession;

(v) Kit fox, Canidae Family (Vulpes macrotis) is prohibited for collection, importation and possession;

(vi) Red fox, Canidae Family (Vulpes vulpes) is noncontrolled for collection, and prohibited for importation and possession;

(vii) Gray wolf, except hybrids with domestic dogs, Canidae Family (Canis lupus) is prohibited for collection, importation and possession;

(viii) Wild Cats (including hybrids) Felidae Family (All species) are prohibited for collection, importation, and possession;

(ix) Bobcat, wild and free ranging, Felidae Family (Felis rufus) is prohibited for collection, importation and possession;

(x) Bobcat, captive-bred, Felidae Family (Felis rufus) is prohibited for collection, and controlled for importation and possession;

(xi) Cougar, Felidae Family (Felis (Puma) concolor) is prohibited for collection, importation and possession;

(xii) Lynx, wild and free ranging, Felidae Family (Felis lynx) is prohibited for collection, importation and possession;

(xiii) Lynx, captive-bred, Felidae Family (Felis lynx) is prohibited for collection, and controlled for importation and possession;

(xiv) Badger, Mustelidae Family (Taxidea taxus) is prohibited for collection, importation and possession;

(xv) Black-footed ferret, Mustelidae Family (Mustela nigripes) is prohibited for collection, importation or possession;

(xvi) Ermine or short-tailed weasel, Mustelidae Family (Mustela erminea) is prohibited for collection, importation and possession;

(xvii) Long-tailed weasel, Mustelidae Family (Mustela frenata) is prohibited for collection, importation and possession;

(xviii) Marten, wild and free ranging, Mustelidae Family (Martes americana) is prohibited for collection, importation and possession;

(xix) Marten, captive-bred, Mustelidae Family (Martes americana) is prohibited for collection, controlled for importation and possession;

(xx) Mink, except domestic forms, Mustelidae Family (Mustela vison) is prohibited for collection, importation and possession;

(xxi) Northern River Otter, Mustelidae Family (Lutra canadensis) is prohibited for collection, importation and possession;

(xxii) Striped skunk, except nuisance skunks, which are noncontrolled for collection, Mustelidae Family (Mephitis mephitis) is prohibited for collection, importation, and possession;

(xxiii) Western spotted skunk, Mustelidae Family (Spilogale gracilis) is prohibited for collection, importation, and possession;

(xxiv) Wolverine, Mustelidae Family (Gulo gulo) is prohibited for collection, importation and possession;

(xxv) Coatis, Procyonidae Family (Nasua spp. and Nasuella spp.) is prohibited for collection, importation and possession;

(xxvi) Kinkajou, Procyonidae Family (Potos flavus) is prohibited for collection, importation and possession;

(xxvii) Raccoon, Procyonidae Family (Procyon lotor) is prohibited for importation, and controlled by the Department of Agriculture for collection and possession;

(xxviii) Ringtail, Procyonidae Family (Bassariscus astutus) is prohibited for collection, importation and possession;

(xxix) Civets, Genets and related forms, Viverridae Family (All species) are prohibited for collection, importation and possession;

(p) Primates (Prosimians) (Lower Primates) are classified as follows:

(i) Lemurs, Lemuridae Family (All species) are prohibited for collection, importation and possession;

(ii) Dwarf and mouse lemurs, Cheirogaleidae Family (All species) are prohibited for collection, importation and possession;

(iii) Indri and sifakas, Indriidae Family (All species) are prohibited for collection, importation and possession;

(iv) Aye aye, Daubentonidae Family (Daubentonia madagasciense) is prohibited for collection, importation and possession;

(v) Bush babies, pottos and lorises, Lorisidae Family (All species) are prohibited for collection, importation and possession;

(vi) Tarsiers, Tarsiidae Family (All species) are prohibited for collection, importation and possession;

(vii) Capuchin-like monkeys, Cebidae Family (All species) are prohibited for collection, importation and possession;

(viii) Marmosets and tamarins, Callitrichidae Family (All species) are prohibited for collection, importation and possession;

(ix) Old-world monkeys, which includes baboons and macaques, Cercopithecidae Family (All species) are prohibited for collection, importation and possession;

(x) Great apes (Gorilla, chimpanzee and orangutan), Pongidae Family (All species) are prohibited for collection, importation and possession;

(xi) Lesser apes (Siamang and gibbons), Hylobatidae Family (All species) are prohibited for collection, importation and possession;

(2) All species and subspecies of mammals and their parts, not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

#### **R657-3-26. Classification and Specific Rules for Reptiles.**

(1) Reptiles are classified as follows:

(a) Crocodiles are classified as follows:

(i) Alligators and caimans, Alligatoridae Family (All species) are prohibited for collection, importation and possession;

(ii) Crocodiles, Crocodylidae Family (All species) are prohibited for collection, importation and possession;

(iii) Garial, Gavialidae Family (Vavialis gangeticus) is prohibited for collection, importation and possession;

(b) Lizards are classified as follows:

(i) Chuckwalla, Iguanidae Family (Sauromalus) (All species) are prohibited for collection, and controlled for importation and possession;

(ii) Desert iguana, Iguanidae Family (Dipsosaurus dorsalis) is prohibited for collection, and controlled for importation and possession;

(iii) Gila monster, Helodermatidae Family (Heloderma suspectum) is prohibited for collection, importation and possession;

(iv) Many-lined skink, Scincidae Family (Eumeces multivirgatus gaigeae) is controlled for collection, importation and possession;

(v) Night lizard, Xantusiidae Family (Xantusia vigilis) is controlled for collection, importation and possession;

(vi) Plateau striped whiptail, Teiidae Family (Cnemidophorus velox) is controlled for collection, importation and possession;

(vii) Side-blotched lizard, Phrynosomatidae Family (Uta stansburiana) is noncontrolled collection, importation and possession, except as provided in Section R657-3-26(5);

(viii) Utah banded Gecko, Gekkonidae Family (Coleonyx variegatus utahensis) is controlled for collection, importation and possession;

(ix) Mojave zebra-tailed lizard, Phrynosomatidae Family (Callisaurus draconoides rhodostictus) is controlled for collection, importation and possession;

(c) Snakes are classified as follows:

(i) Bird Snake, Colubridae Family (Thelotornis) (All species) are prohibited for collection, importation and possession;

(ii) Boomsnake, Colubridae Family (Dispholidus typus) is prohibited for collection, importation and possession;

(iii) Burrowing asps, Atractaspidae Family (All species) are prohibited for collection, importation and possession;

(iv) California kingsnake (black and white banded-form), Colubridae Family (Lampropeltis getula californiae) is controlled for collection, importation and possession;

(v) Desert glossy snake, Colubridae Family (Arizona elegans eburnata) is controlled for collection, importation and possession;

(vi) Great Plains rat snake, Colubridae Family (Elaphe guttata emoryi) is controlled for collection, importation and possession;

(vii) Keelback, Colubridae Family (Rhabdophis) (All species) are prohibited for collection, importation and possession;

(viii) Mojave patch-nosed snake, Colubridae Family (Salvadora hexalepis mojavensis) is controlled for collection, importation and possession;

(ix) Painted desert glossy snake, Colubridae Family (Arizona elegans philipi) is controlled for collection, importation and possession;

(x) Pit vipers, Viperidae Family (All species, except Crotalus viridis) are prohibited for collection, importation and possession;

(xi) Proteroglyphous snakes, Australian spp., cobras, coral snakes, kraits, and their allies, Elapidae Family (All species) are prohibited for collection, importation and possession;

(xii) Sonoran lyre snake, Colubridae Family (Trimorphodon biscutatus lambda) are prohibited for collection, importation and possession;

(xiii) Southwestern black-headed snake, Colubridae Family (Tantilla hobartsmithi) is controlled for collection, importation and possession;

(xiv) Utah blind snake, Leptotyphlopidae Family (Leptotyphlops humilis utahensis) is controlled for collection, importation and possession;

(xv) Utah milk snake, Colubridae Family (Lampropeltis triangulum taylori) is prohibited for collection, importation and possession;

(xvi) Utah mountain kingsnake, Colubridae Family (Lampropeltis pyromelana infralabialis) is prohibited for collection, importation and possession;

(xvii) Western rattlesnake, Viperidae Family (Crotalus viridis) is controlled for collection, prohibited for importation, and controlled for possession;

(xviii) Western smooth green snake, Colubridae Family (Liochlorophis vernalis blanchardi) is controlled for collection, importation and possession;

(xix) Western terrestrial garter snake, Colubridae Family (Thamnophis elegans) is noncontrolled for collection, importation and possession, except as provided in Section R657-3-26(5);

(d) Turtles are classified as follows:

(i) Desert tortoise, Testudinidae Family (Gopherus agassizii) is prohibited for collection and importation, and controlled for possession;



(ii) Snapping turtle, Chelydridae Family (Chelydra serpentina) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6);

(iii) Spiny softshell, Trionychidae Family (Apalone spinifera) is prohibited for collection, importation and possession, except as provided in Section R657-3-26(6).

(2) All species and subspecies of reptiles not listed in Subsection (1) are classified as noncontrolled for collection, importation and possession, except as provided in Subsection (5).

(3) A person may not:

(a) disturb the den of any reptile or kill, capture, or harass any reptile within 100 yards of a reptile den without first obtaining a certificate of registration from the division; or

(b) indiscriminately kill any reptile.

(4)(a) Western rattlesnakes, Crotalus viridis, may be killed without a certificate of registration only for reasons of human safety.

(b) The carcass of a Western rattlesnake killed pursuant to Subsection (a) may be retained for personal use only.

(5)(a) A person must obtain a certificate of registration to collect, import, or possess four or more reptiles of each species classified as noncontrolled within a calendar year, except as provided in Subsection (5)(b) and Subsection (6).

(b) A person may collect and possess any number of side-blotched lizards, Uta stansburiana, and western terrestrial garter, Thamnophis elegans, snakes without obtaining a certificate of registration.

(6) A person may collect or possess any number of snapping turtles, Chelydra serpentina, or spiny softshell, Apalone spinifera, turtles without a certificate of registration provide they are either killed or released immediately upon removing them from the water. A person may not transport a live snapping turtle or spiny softshell turtle from the water from which it was collected without first obtaining a certificate of registration.

(7) For purposes of this section, "white" means white and other non-yellow shades of white.

#### **R657-3-27. Importation of Zoological Animals into Utah.**

(1) As provided in Rule R58-1, the Department of Agriculture and Food requires a valid certificate of veterinary inspection and an entry permit number before any zoological animal may be imported into Utah.

(2)(a) All live fish imported into Utah and not destined for an aquaculture facility or fee fishing facility must be accompanied by the following documentation:

(i) common or scientific names of fish;

(ii) name and address of the consignor and consignee;

(iii) origin of shipment;

(iv) final destination; and

(v) number of fish shipped.

(b) A person may import live fish destined for an aquaculture facility or fee fishing facility only as provided by Title 4, Chapter 37, Aquaculture Act and the rules promulgated thereunder.

(3) Subsection (2)(a) does not apply to fish or crayfish caught in Lake Powell, Bear Lake, or Flaming Gorge reservoirs under the authority of a valid fishing license and in accordance with Rule R657-13 and the proclamation of the Wildlife Board for taking fish and crayfish.

#### **R657-3-28. Transporting Live Zoological Animals Through Utah.**

(1) Any controlled or prohibited zoological animal may be transported through Utah without a certificate of registration if:

(a) the zoological animal remains in Utah no more than 72 hours; and

(b) the zoological animal is not sold, transferred, exhibited, displayed, or used for a commercial venture while in Utah.

(2) A certificate of veterinary inspection is required from the state of origin as provided in Rule R58-1 and proof of legal possession must accompany the zoological animal.

(3) If delays in transportation arise, an extension of the 72 hours may be requested by contacting the Wildlife Registration Office in Salt Lake City.

#### **R657-3-29. Importing Zoological Animals into Utah for Processing.**

(1) A person shipping zoological animals directly to a state or federally regulated establishment for processing is not required to obtain a certificate of registration or certificate of veterinary inspection provided the animals or their parts are accompanied by a waybill or other proof of legal ownership describing the animals, their source, and indicating the destination.

(2) Any water used to hold or transport fish may not be emptied into a stream, lake, or other natural body of water.

#### **R657-3-30. Transfer of Possession.**

(1) A person may possess a zoological animal classified as prohibited or controlled only after applying for and obtaining a certificate of registration from the division as provided in this rule.

(2) Any person who possesses a zoological animal classified as prohibited or controlled may transfer possession of that zoological animal only to a person who has first applied for and obtained a certificate of registration for that zoological animal from the division.

(3) The division may issue a certificate of registration granting the transfer and possession of that zoological animal only if the applicant meets the issuance criteria provided in Section R657-3-14.

#### **R657-3-31. Propagation.**

(1) A person may propagate zoological animals classified as noncontrolled for possession.

(2) A person may propagate zoological animals classified as controlled for possession only after obtaining a certificate of registration from the division, or as otherwise authorized in Sections R657-3-32, R657-3-33, R657-3-34 and R657-3-35.

(3) A person may not propagate zoological animals classified as prohibited for possession, except as authorized in Sections R657-3-32, R657-3-33 and R657-3-34 and R657-3-35.

#### **R657-3-32. Propagation of Raptors.**

(1) A person may propagate raptors only as provided in this section and Section 50 CFR 21.30, 2000, ed., which is incorporated by reference. All applicants for captive breeding permits must become familiar with this rule and the applicable federal regulations.

(2) A person must apply for a federal raptor propagation permit and a certificate of registration from the division to propagate raptors.

(3) If the applicant requests authority to use raptors taken from the wild, the regional director of the U.S. Fish and Wildlife Service in consultation with the avian program coordinator must determine the following:

(a) whether issuance of the permit would have significant effect on any wild population of raptors;

(b) whether suitable captive stock is available; and

(c) whether wild stock is needed to enhance the genetic variability of captive stock.

(4) Raptors may not be taken from the wild for captive breeding, except as provided in Subsection (3).

(5) A person must obtain authorization from the division before importing raptor semen into Utah or importing captive-raised raptors for sale. The authorization shall be noted on the certificate of registration.

(6) A person may sell a captive-bred raptor properly marked with a band approved by the U.S. Fish and Wildlife Service or issued by the U.S. Fish and Wildlife Service to a raptor breeder who has a valid federal and state license or to state and federally licensed general or master class falconer.

(7) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(8) Each captive bred raptor brought into Utah must be accompanied by a valid certificate of veterinary inspection issued by an accredited veterinarian from the state of origin.

(9) A permittee may use raptors held in possession for propagation in the sport of falconry only if such use is designated on both the propagation permit and the permittee's falconry permit.

(10) Raptors used for falconry on temporary loan to a breeding project, with the division's authorization and accompanied by a Form 3-186A, Migratory Bird Acquisition and Disposition Report, provided by the U.S. Fish and Wildlife Service, must be included in the loaning falconer's bird number limitation as permitted in the license class designation.

(11)(a) Hybridization with the female of a species which is endangered or threatened is prohibited.

(b) Interspecific hybridization between species is authorized only if each raptor produced is either imprinted on humans or surgically sterilized.

(i) "Imprinted on humans" means hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered.

(c) Documentation of imprinting on humans required under Subsection (b) must be provided by the propagator.

(12) Raptors considered unsuitable for release to the wild from rehabilitation projects, and certified as not releasable by a licensed veterinarian, may be placed in a captive breeding project upon written request from an authorized breeder and with concurrence of the U.S. Fish and Wildlife Service and the division.

(13) A copy of the propagator's annual report of activities required by the U.S. Fish and Wildlife Service must be sent to the division as specified on the certificate of registration.

#### **R657-3-33. Propagation of Bobcat, Lynx, and Marten.**

(1)(a) A person may propagate captive-bred bobcat, lynx, or marten only after obtaining a certificate of registration from the division.

(b) The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating:

(i) the number of progeny produced;

(ii) the animal's disposition; and

(iii) a certificate of inspection by a licensed veterinarian verifying that the animals are being maintained under healthy and nutritionally adequate conditions.

(2)(a) Any person engaged in propagation must keep at least one male and one female in possession.

(b) Live bobcat, lynx, and marten may not be obtained from the wild.

(c) Bobcat, lynx, and marten held for propagation shall not be maintained as pets and shall not be declawed or defanged.

(3) The progeny and descendants of any bobcat, lynx, or marten may not be pelted or sold.

(4)(a) If any bobcat, lynx, or marten is sold live to a person residing in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live bobcat, lynx, or marten to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(5)(a) Each pelt must have attached to it a permanent possession tag before being sold, bartered, traded, or transferred to another person.

(b) Permanent possession tags may be obtained at any regional division office and shall be affixed to the pelt by a division employee.

(6) The progeny of bobcat, lynx, or marten may not be released to the wild.

(7) Nothing in this section shall be construed to allow a person holding a certificate of registration for propagation to use or possess a bobcat, lynx, or marten for any purpose other than propagation without express authorization on the certificate of registration.

#### **R657-3-34. Propagation of Reptiles.**

(1) A person may propagate the following species of snakes only after obtaining a certificate of registration:

(a) California kingsnake (*Lampropeltis getula californiae*) (banded form);

(b) Great Plains rat snake (*Elaphe guttata emorvi*); and

(c) Mojave patch-nosed snake (*Salvadora hexalepis mojavenis*).

(2)(a) The division may issue a total of six certificates of registration for captive breeding.

(b) Certificates of registration for the propagation of reptiles are issued on a one per household basis annually.

(c) Application forms are available from the Wildlife Registration Office and must be submitted during the month of January.

(d) If more applications are received than the number of available certificates of registration, a public drawing will be held on the second Friday in February to determine successful applicants.

(3) Certificates of registration may be issued to an applicant who:

(a) is a resident of Utah;

(b) presents written documentation showing at least five years of experience in reptile husbandry and at least three years of experience in the captive propagation of reptiles;

(c) is able to demonstrate the ability to provide and maintain suitable, disease-free facilities to humanely hold and maintain reptiles in good condition;

(d) is able to demonstrate the ability to prevent commingling with other reptiles not collected under the authority of a certificate of registration;

(e) has not been convicted of any wildlife violation involving reptiles within the past five years; and

(f) presents documentation to the division showing that captive breeding is allowed in the county or other political subdivision in which the applicant resides.

(4) The disposition of any reptile held in possession under the authority of a certificate of registration and its progeny and descendants born in captivity remain property of the state of Utah and shall be determined by the division in accordance with the needs for public health, welfare, and safety, and impacts on wildlife.

**R657-3-35. Propagation of Caribou, Fallow Deer, Musk-ox, and Reindeer.**

(1)(a) A person may propagate captive-bred caribou, fallow deer, musk-ox, or reindeer only after obtaining a certificate of registration from the division.

(b) Any person engaged in the propagation of caribou, fallow deer, musk-ox, or reindeer must submit an annual report identifying the disposition of each animal held in possession during the year.

(2)(a) If any live caribou, fallow deer, musk-ox, or reindeer is sold, traded, or given to another person as a gift in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live caribou, fallow deer, musk-ox, or reindeer to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(3) If, at any time, the division determines that the possession or propagation of caribou, fallow deer, musk-ox, or reindeer has a significantly detrimental effect to the health of any population of wildlife, the division may:

(a) terminate the authorization for propagation; and

(b) require the removal or destruction of the animals at the owner's expense.

**R657-3-36. Violations.**

(1) Any violation of this rule is a class C misdemeanor, as provided in Section 23-13-11.

(2) Nothing in this rule shall be construed to supersede any provision of Title 23, Wildlife Resources Code of Utah which establishes a penalty greater than a class C misdemeanor. Any provision of this rule which overlaps a provision of that title is intended only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

**R657-3-37. Certification Review Committee.**

(1) The division shall establish a Certification Review Committee which shall be responsible for:

(a) reviewing:

(i) petitions to reclassify species and subspecies of zoological animals;

(ii) appeals of certificates of registration; and

(iii) requests for variances to this rule;

(b) making recommendations to the Wildlife Board.

(2) The committee shall consist of the following individuals:

(a) the director or the director's designee who shall represent the director's office and shall act as chair of the committee;

(b) the chief of the Aquatic Section;

(c) the chief of the Wildlife Section;

(d) the chief of the Public Services Section;

(e) the state veterinarian or his designee; and

(f) a person designated by the Department of Health.

(3) The division shall require a fee for the submission of a request provided in Section R657-3-38 and R657-3-39.

**R657-3-38. Request for Species Reclassification.**

(1) A person may make a request to change the classification of a species or subspecies of zoological animal provided in this rule.

(2) A request for reclassification must be made to the Certification Review Committee by submitting an application for reclassification.

(3)(a) The application shall include:

(i) the petitioner's name, address, and phone number;

(ii) the species or subspecies for which the application is made;

(iii) the name of all interested parties known by the petitioner;

(iv) the current classification of the species or subspecies;

(v) a statement of the facts and reasons forming the basis for the reclassification; and

(vi) copies of scientific literature or other evidence supporting the change in classification.

(b) In addition to the information required under Subsection (a), the petitioner must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3)(a) The committee shall, within a reasonable time, consider the request for reclassification and shall submit its recommendation to the Wildlife Board.

(b) The committee shall send a copy of its recommendation to the petitioner and other interested parties specified on the application.

(4)(a) At the next available Wildlife Board meeting the Wildlife Board shall:

(i) consider the committee recommendation; and

(ii) any information provided by the petitioner or other interested parties.

(b) The Wildlife Board shall approve or deny the request for reclassification based on the issuance criteria provided in Section R657-3-14.

(5) A change in species classification shall be made in accordance with Title 63, Chapter 46a, Administrative Rulemaking Act.

(6) A request for species reclassification shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

**R657-3-39. Request for Variance.**

(1) A person may make a request for a variance to this rule for the collection, importation, propagation, or possession of a zoological animal classified as prohibited under this rule by submitting a request for variance to the Certification Review Committee.

(2)(a) A request for variance shall include the following:

(i) the name, address, and phone number of the person making the request;

(ii) the species or subspecies of zoological animal and associated activities for which the request is made; and

(iii) a statement of the facts and reasons forming the basis for the variance.

(b) In addition to the information required under Subsection (a), the person making the request must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3) The committee shall, within a reasonable time, consider the request and shall submit its recommendation to the Wildlife Board.

(4) At the next available Wildlife Board meeting the Wildlife Board shall:

(a) consider the committee recommendation; and

(b) any information provided by the person making the request.

(5)(a) The Wildlife Board shall approve or deny the request based on the issuance criteria provided in Section R657-3-14.

(b) If the request applies to a broad class of persons and not to unique circumstances of the applicant, the Wildlife Board shall consider changing the species classification before issuing a variance to this rule.

(6)(a) If the request is approved, the Wildlife Board may impose any restrictions on the person making the request considered necessary for that person to maintain the standards upon which the variance is made.

(b) Any restrictions imposed on the person making the request shall be included in writing on the certificate of registration which shall be signed by the person making the request before its issuance.

(7) A request for variance shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

#### **R657-3-40. Appeal of Certificate of Registration Denial.**

(1) A person may appeal the denial of a certificate of registration by submitting an appeal request to the Certification Review Committee.

(2) The request must be made within 30 days after the date of the denial.

(3) The request shall include:

(a) the name, address, and phone number of the petitioner;

(b) the date the request was mailed;

(c) the species or subspecies of zoological animals and the activity for which the application was made; and

(d) supporting facts and other evidence applicable to resolving the issue.

(4) The committee shall review the request within a reasonable time after it is received.

(5) Upon reviewing the application and the reasons for its denial, the committee may:

(a) overturn the denial and approve the application; or

(b) uphold the denial.

(6) The committee may overturn a denial if the denial was:

(a) based on insufficient information;

(b) inconsistent with prior action of the division or the Wildlife Board;

(c) arbitrary or capricious; or

(d) contrary to law.

(7)(a) Within a reasonable time after making its decision, the committee shall mail a notice to the petitioner specifying the reasons for its decision.

(b) The notice shall include information that a person may seek Wildlife Board review of that decision.

(8)(a) If the committee upholds the denial, the petitioner may seek Wildlife Board review of the decision by submitting a request for Wildlife Board review within 30 days after its issuance.

(b) The request must include the information provided in Subsection (3).

(9)(a) Upon receiving a request for Wildlife Board review, the Wildlife Board shall, within a reasonable time, hold a hearing to consider the request.

(b) The Wildlife Board may:

(i) overturn the denial and approve the application; or

(ii) uphold the denial.

(c) The Wildlife Board shall provide the petitioner with a written decision within a reasonable time after making its decision.

(10) An appeal contesting initial division determination of eligibility for a certificate of registration shall be considered a request for agency action as provided in Subsection 63-46b-3(3) and Rule R657-2.

**KEY: wildlife, animal protection, import restrictions, zoological animals\***

~~August 1, 1997~~ **2002**

**Notice of Continuation April 16, 2001**

**23-14-18**

**23-14-19**

**23-20-3**

**23-13-14**

**63-30-1 et seq.**



## Natural Resources, Wildlife Resources

### **R657-5**

#### Taking Big Game

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

(Amendment)

DAR FILE NO.: 24382

FILED: 01/11/2002, 16:16

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

SUMMARY OF THE RULE OR CHANGE: Subsections R657-5-9(3), R657-5-13(3)(b), R657-5-14(4)(b), and R657-5-17(2) are being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that these amendments do not create a cost or savings impact to the division's budget or the state budget.

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

❖OTHER PERSONS: These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. 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: None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

### **R657-5. Taking Big Game.**

#### **R657-5-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation and the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.
  - (b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.
  - (c) "Antlerless moose" means a moose with antlers shorter than its ears.
  - (d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.
  - (e) "Buck deer" means a deer with antlers longer than five inches.
  - (f) "Buck pronghorn" means a pronghorn with horns longer than five inches.
  - (g) "Bull elk" means an elk with antlers longer than five inches.
  - (h) "Bull moose" means a moose with antlers longer than its ears.
  - (i) "Cow bison" means a female bison.
  - (j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.
  - (k) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.
  - (l) "Hunter's choice" means either sex may be taken.
  - (m) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.
  - (n)(i) "Resident" for purposes of this rule means a person who:
    - (A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and
    - (B) does not claim residency for hunting, fishing, or trapping in any other state or country.
  - (ii) A Utah resident retains Utah residency if that person leaves this state:
    - (A) to serve in the armed forces of the United States or for religious or educational purposes; and
    - (B) complies with Subsection (m)(i)(B).
  - (iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:
    - (I) is not on temporary duty in this state; and
    - (II) complies with Subsection (m)(i)(B).
  - (iv) A copy of the assignment orders must be presented to a wildlife division office to verify the member's qualification as a resident.
  - (v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:
    - (A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and
    - (B) complies with Subsection (m)(i)(B).
  - (vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.
  - (vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

(o) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

**R657-5-3. License, Permit, and Tag Requirements.**

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or their parts in accordance with Section 23-19-1 and the rules or proclamations of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

**R657-5-4. Age Requirements and Restrictions.**

(1)(a) A person 14 years of age or older may purchase a permit and tag to hunt big game. A person 13 years of age may purchase a permit and tag to hunt big game if that person's 14th birthday falls within the calendar year for which the permit and tag are issued.

(2)(a) A person at least 14 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

**R657-5-5. Duplicate License and Permit.**

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office, for five dollars or half of the price of the original license, or permit, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or Certificate of Registration provided the person did not receive the original license, permit, tag or certificate of registration.

**R657-5-6. Companion Hunting.**

(1) A person may take a deer or elk for a person who is legally blind or quadriplegic provided the blind or quadriplegic person:

- (a) meets hunter education requirements as provided in Section 23-19-11 and Rule R657-23;
- (b) purchases the appropriate permit and tag;
- (c) obtains a certificate of registration from the division; and
- (d) is accompanied by a companion hunter who has completed a division approved hunter education course as provided in Section 23-19-11 and Rule R657-23.

(2) A person who is legally blind may obtain a certificate of registration from the division by submitting a signed statement by a licensed ophthalmologist, optometrist, or physician verifying that the applicant:

- (a) has no more than 20/200 visual acuity in the better eye when corrected; or
- (b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision 20 degrees or less.

(3) A person who is quadriplegic may obtain a certificate of registration from the division by submitting a signed statement by a licensed physician verifying that the applicant is quadriplegic.

(4) The blind or quadriplegic person must be accompanied by the companion hunter at the time of kill and while transporting the deer or elk.

**R657-5-7. Special Season Extension for Disabled Persons.**

(1) A certificate of registration may be obtained from a division office requesting an extension of 30 days for any limited entry hunt, provided the person requesting the extension:

- (a) is quadriplegic or permanently confined to a wheelchair;
- (b) meets hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and
- (c) obtains the appropriate permit and tag.

**R657-5-8. Hunting Hours.**

Big game may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

**R657-5-9. Temporary Game Preserves.**

(1)(a) A person who does not have a valid permit to hunt on a temporary game preserve may not carry a firearm or archery equipment on any temporary game preserve while the respective hunts are in progress.

(b) "Carry" means having a firearm on your person while hunting in the field.

(2) As used in this section, "temporary game preserve" means all bull elk, buck pronghorn, moose, bison, bighorn sheep, Rocky Mountain goat, limited entry buck deer areas and cooperative wildlife management units, excluding incorporated areas, cities, towns and municipalities.

(3) Weapon restrictions on temporary game preserves do not apply to:

(a) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game and waterfowl;

(b) livestock owners protecting their livestock; ~~or~~

(c) peace officers in the performance of their duties; or

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

**R657-5-10. Prohibited Weapons.**

(1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.

(2) 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.

**R657-5-11. Rifles and Shotguns.**

(1) The following rifles and shotguns may be used to take big game:

- (a) any rifle firing centerfire cartridges and expanding bullets; and
- (b) a shotgun, 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

**R657-5-12. Handguns.**

(1) A handgun may be used to take deer and pronghorn, provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at the muzzle.

(2) A handgun may be used to take elk, moose, bison, bighorn sheep, and Rocky Mountain goat provided the handgun is a minimum of .24 caliber, fires a centerfire cartridge with an expanding bullet and develops 500 foot-pounds of energy at 100 yards.

**R657-5-13. Muzzleloaders.**

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

- (a) can be loaded only from the muzzle;
- (b) has open sights, peep sights, or a fixed non-magnifying 1x scope;
- (c) has a single barrel;
- (d) has a minimum barrel length of 18 inches;
- (e) is capable of being fired only once without reloading;
- (f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;
- (g) is loaded with black powder or black powder substitute, which must not contain nitrocellulose based smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A 170 grain or heavier bullet, including sabots must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit may not possess or be in control of any firearm other than a muzzleloading rifle or have a firearm other than a muzzleloading rifle in his camp or motor vehicle during a muzzleloader hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt; ~~or~~

(iii) livestock owners protecting their livestock; or

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

**R657-5-14. Archery Equipment.**

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow; except as provided in Section R657-5-15.

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw;

(d) a release aid that is not hand held or that supports the draw weight of the bow; or

(e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt; ~~or~~

(iii) livestock owners protecting their livestock; or

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

**R657-5-15. Crossbows.**

(1)(a) A disabled person who has a permanent, physical disability may use a crossbow to hunt deer, elk or pronghorn during the respective archery hunt dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, provided that person:

(i) applies for and obtains a certificate of registration authorizing the use of a crossbow; and

(ii) provides a physician's statement confirming the disability as defined in Subsection (b).

(b) "Disabled person" means a person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment.

(2)(a) Any crossbow used to hunt deer, elk or pronghorn must have:

(i) a stock that is at least 18 inches long;

(ii) a minimum draw weight of 125 pounds;

(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and

(iv) a positive safety mechanism.

(b) Arrows or bolts used must be at least 18 inches long and must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring.

(3) The following equipment or devices may not be used to take big game:

(a) arrows with chemically treated or explosive arrowheads; or

(b) a bow with an attached electronic range finding device or a magnifying aiming device.

(4) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(5) A cocked crossbow may not be carried in or on a vehicle.

**R657-5-16. Areas With Special Restrictions.**

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-603-5.

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

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks and monuments unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

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

(5) In Salt Lake County, a person may not:

(a) hunt big game or discharge a shotgun or archery equipment within 600 feet of a road, house, or any other building; or

(b) discharge a rifle, handgun, shotgun firing slug ammunition, or muzzleloader within one mile of a cabin, house, or other building regularly occupied by people, except west of I-15 a muzzleloader may not be discharged within one-half mile of a cabin, house, or other building regularly occupied by people.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the proclamation of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Matheson Wetlands.

**R657-5-17. 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:

(a) the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

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

**R657-5-18. Use of Vehicle or Aircraft.**

(1)(a) A person may not use an airplane or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle,

including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by an aircraft or any other vehicle or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

(2)(a) A person may not use any type of aircraft from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends to:

(i) transport a hunter or hunting equipment into a hunting area;

(ii) transport a big game carcass; or

(iii) locate, or attempt to observe or locate any protected wildlife.

(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).

(3) The provisions of this section do not apply to the operation of an aircraft in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

**R657-5-19. Party Hunting and Use of Dogs.**

(1) A person may not take big game for another person, except as provided in Section R657-5-6.

(2) A person may not use the aid of a dog to take, chase, harm or harass big game.

**R657-5-20. Big Game Contests.**

A person may not enter or hold a big game contest that:

(1) is based on big game or their parts; and

(2) offers cash or prizes totaling more than \$500.

**R657-5-21. Tagging.**

(1) The carcass of any species of big game must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue big game after any of the notches have been removed from the tag or the tag has been detached from the permit.

(3) The tag must remain with the largest portion of the meat until the animal is entirely consumed.

**R657-5-22. Transporting Big Game Within Utah.**

(1) A person may transport big game within Utah only as follows:

(a) the head or sex organs must remain attached to the largest portion of the carcass;

(b) the antlers attached to the skull plate must be transported with the carcass of an elk taken in a spike bull unit; and

(c) the person who harvested the big game animal must accompany the carcass and must possess a valid permit corresponding to the tag attached to the carcass, except as provided in Subsection (2).

(2) A person who did not take the big game animal may transport it only after obtaining a shipping permit or disposal receipt from the division or a donation slip as provided in Section 23-20-9.



**R657-5-23. Exporting Big Game From Utah.**

(1) A person may export big game or their parts from Utah only if:

(a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or

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

**R657-5-24. Purchasing or Selling Big Game or Their Parts.**

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only between February 15 through August 9;

(b) Untanned hides of legally taken big game may be purchased or sold only between August 20 through February 15;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(3) Subsection (2) does not apply to scouting programs or other charitable organizations using untanned hides.

**R657-5-25. Possession of Antlers and Horns.**

(1) A person may possess antlers or horns or parts of antlers or horns only from:

(a) lawfully harvested big game;

(b) antlers or horns lawfully purchased as provided in Section R657-5-24; or

(c) shed antlers or horns.

(2) "Shed antler" means an antler which:

(a) has been dropped naturally from a big game animal as part of its annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(3) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

**R657-5-26. Poaching-Reported Reward Permits.**

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-a-lifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (2).

(2)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or

once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

(3)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar year.

(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 big game 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.

**R657-5-27. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and Application Process for General Buck Deer and General Muzzleloader Elk Permits.**

(1)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

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

(2) Applications are available from license agents, division offices, and through the division's Internet address.

(3) A resident may apply in the big game drawing for the following permits:

(a) only one of the following:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry and cooperative wildlife management unit; or

(iii) special limited entry archery elk; or

(iv) buck pronghorn - limited entry and cooperative wildlife management unit; and

(b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-66(2)(b).

(4) A nonresident may apply in the big game drawing for the following permits:

(a) only one of the following:

- (i) buck deer - premium limited entry and limited entry; or
- (ii) bull elk - limited entry; or
- (iii) special limited entry archery elk; or
- (iv) buck pronghorn - limited entry; and

(b) only one once-in-a-lifetime permit.

(5) A resident or nonresident may apply in the big game drawing for:

(a) a general buck deer permit - statewide general archery, or by region for general season or general muzzleloader; and

(b) a general muzzleloader elk permit.

(6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.

(7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.

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

(8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, 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) re-evaluation of division or third-party errors.

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

(c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.

(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-30(4) and R657-5-32(1).

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

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

**R657-5-28. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer and General Muzzleloader Elk Permits.**

(1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:

(a) the highest permit fee of any permits applied for;

(b) a \$5 nonrefundable handling fee for one of the following permits:

(i) buck deer;

(ii) bull elk; or

(iii) buck pronghorn; and

(c) a \$5 nonrefundable handling fee for a once-in-a-lifetime permit; and

(d) the \$5 nonrefundable handling fee, if applying only for a bonus point.

(2) Each general buck deer and general muzzleloader elk application must include:

(a) the permit fee, which includes the \$5 nonrefundable handling fee for each species applied for; or

(b) the \$5 nonrefundable handling fee per species, if applying only for a preference point.

**R657-5-29. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime Permits, and for General Buck Deer and General Muzzleloader Elk Permits.**

(1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.

(b) Up to four people may apply together for general elk permits in the big game drawing.

(c) Up to ten people may apply together for general deer permits in the big game drawing.

(2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.

(b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.

(3) Group applicants must submit their applications together in the same envelope.

(4) Residents and nonresidents may apply together.

(5)(a) Group applications shall be processed as one single application.

(b) Any bonus points used for a group application, shall be averaged and rounded down.

(6) When applying as a group:

(a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;

(b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;

(c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or

(d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.

(i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.

(ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

**R657-5-30. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime and General Buck Deer and General Muzzleloader Elk Drawings.**

(1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits for the big game drawing shall be drawn in the following order:

(a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(b) limited entry, special limited entry and cooperative wildlife management unit bull elk;

(c) limited entry and cooperative wildlife management unit buck pronghorn;

(d) once-in-a-lifetime;

(e) general buck deer; and

(f) general muzzleloader elk.

(3) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(a) a premium limited entry, limited entry or cooperative wildlife management unit buck deer;

(b) a limited entry, special limited entry, or cooperative wildlife management unit bull elk; or

(c) a limited entry or cooperative wildlife management unit buck pronghorn.

(4) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

**R657-5-31. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit and Once-In-A-Lifetime, and General Buck Deer and General Muzzleloader Elk Application Refunds.**

(1)(a) Unsuccessful applicants who applied in the initial big game drawing and who applied with a check or money order will receive a refund in May.

(b) Unsuccessful applicants, who applied for remaining permits in the big game drawing and who applied with a check or money order, will receive a refund in July.

(2)(a) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.

(c) If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.

(3) The handling fees are nonrefundable.

**R657-5-32. Permits Remaining After the Drawing.**

(1) Permits remaining after the big game drawing are sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents, except nonresidents may not purchase resident cooperative wildlife management unit permits.

(2) Applications are available from division offices, through the division's Internet address, and license agents.

(3) The same application form used for premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime permits, and for general buck deer and general muzzleloader elk permits in the big game drawing must be used when applying for remaining permits by mail. The handling fees are nonrefundable.

**R657-5-33. Waiting Periods for Deer.**

(1) A person who obtained a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process during the preceding two years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry buck, limited entry buck or cooperative wildlife management unit buck deer permit through the big game drawing process, may not apply for any of these permits again for a period of two years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, antlerless deer, conservation, sportsman and poaching-reported reward deer permits; or

(b) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.

**R657-5-34. Waiting Periods for Elk.**

(1) A person who obtained a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.

(3) A waiting period does not apply to:

(a) general archery, general season, general muzzleloader, special limited entry archery, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman and poaching-reported reward elk permits; or

(b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

**R657-5-35. Waiting Periods for Pronghorn.**

(1) A person who obtained a buck pronghorn permit through the big game drawing process in the preceding four years, may not apply in the big game drawing for a buck pronghorn permit during the current year.

(2) A person who obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing, may not apply for any of these permits for a period of five years.

(3) A waiting period does not apply to:

(a) doe pronghorn, pronghorn conservation, sportsman and poaching-reported reward permits; or

(b) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

**R657-5-36. Waiting Periods for Antlerless Moose.**

(1) A person who obtained an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process during the preceding four years, may not apply for an antlerless moose permit during the current year.

(2) A person who obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process in the current year, may not apply for an antlerless moose permit for a period of five years.

(3) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

**R657-5-37. Waiting Periods for Once-In-A-Lifetime Species.**

(1) Any person who has obtained a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep, or Rocky Mountain goat may not apply for a once-in-a-lifetime permit for the same species in the big game drawing or sportsman permit drawing.

(2) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

**R657-5-38. Waiting Periods for Permits Obtained After the Drawing.**

(1) Waiting periods provided in Sections R657-5-33 through R657-5-36 do not apply to the purchase of the remaining permits sold over the counter.

(2) However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. 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.

**R657-5-39. Cooperative Wildlife Management Unit Permits and Landowner Permits.**

(1)(a) A waiting period or once-in-a-lifetime status does not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (b).

(b) Waiting periods are incurred for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.

**R657-5-40. Bonus Point System and Preference Point System.**

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for permits in the big game drawing; or

(ii) each valid application when applying for bonus points in the big game drawing.

(b) Bonus points are awarded by species.

(c) Bonus points are awarded for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) limited entry and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn; and

(iv) all once-in-a-lifetime species.

(d) Bonus points shall not be awarded for special limited entry archery bull elk or cooperative wildlife management unit spike bull elk.

(3) A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and Cooperative Wildlife Management unit;

(ii) bull elk - limited entry and Cooperative Wildlife Management unit; or

(iii) buck pronghorn - limited entry and Cooperative Wildlife Management unit; and

(b) only one once-in-a-lifetime, including once-in-a-lifetime Cooperative Wildlife Management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(d) A person may only apply for bonus points in the initial big game drawing.

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

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

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

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that species remain.

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

(6)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

- (8) Bonus points are not forfeited if:
- (a) a person is successful in obtaining a conservation permit or sportsman permit;
  - (b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner;
  - (c) a person obtains a poaching-reported reward permit; or
  - (d) a person obtains a special limited entry archery elk permit.
- (9) Bonus points are not transferable.
- (10) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.
- (11) Bonus points are tracked using social security numbers or division-issued hunter identification numbers.
- (12) Preference points are used in the big game drawing for general buck deer and general muzzleloader elk permits to ensure that applicants who are unsuccessful in the drawing for general buck deer permits and general muzzleloader elk permits, will have first preference in the next year's drawing for the respective species.
- (13) A preference point is awarded for:
- (a) each valid unsuccessful application when applying for:
    - (i) a general buck deer permit;
    - (ii) a general muzzleloader elk permit; or
    - (iii) each valid application when applying only for preference points in the initial drawing.
  - (b) Preference points are awarded by species.
- (14)(a) A person may not apply in the drawing for both a general buck deer preference point and a general buck deer permit.
- (b) A person may not apply in the drawing for both a general muzzleloader elk preference point and a general muzzleloader elk permit.
- (c) A person may not apply for a preference point if that person is ineligible to apply for a permit for the respective species.
- (d) Preference points shall not be used when applying for or obtaining remaining permits after the initial drawing.
- (15) Preference points are forfeited if:
- (a) a person obtains a general buck deer permit through the drawing; or
  - (b) a person obtains a general muzzleloader elk permit through the drawing.
- (16)(a) Preference points are not transferable.
- (b) Preference points shall only be applied to the initial drawing.
- (17) Preference points are averaged and rounded down when two or more applicants apply together on a group application.
- (18) Preference points are tracked using social security numbers or division-issued hunter identification numbers.

#### **R657-5-41. General Archery Buck Deer Hunt.**

- (1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.
- (2) A person who has obtained a general archery buck deer permit may use archery equipment to take:
  - (a) one buck deer statewide within a general hunt area, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or
  - (b) a deer of hunter's choice within the Wasatch Front extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(c) a deer of hunter's choice within the Uintah Basin extended archery area.

(3) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front and Uintah Basin extended archery areas.

(4) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may take a deer of hunter's choice within the Northern Region general hunt area.

(5) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(6)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-10 through R657-5-15, respectively, for each respective season, provided that person obtains a general season or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(7) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-42. General Season Buck Deer Hunt.**

(1) The dates for the general season buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general season buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general season buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-10 through R657-5-15, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

#### **R657-5-43. General Muzzleloader Buck Deer Hunt.**

(1) The dates for the general muzzleloader buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general muzzleloader buck permit may use a muzzleloader to take one buck deer within the general hunt area specified on the permit, except premium limited entry deer, limited entry deer and cooperative wildlife management

unit deer areas and specific hunt areas published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the general archery, general season and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-10 through R657-5-15, respectively, for each respective season.

(i) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season.

(4) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-44. Limited Entry Buck Deer Hunts.**

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general season buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

#### **R657-5-45. Antlerless Deer Hunts.**

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit;

(iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

(ii) general muzzleloader deer;

(iii) limited entry archery deer; or

(iv) limited entry muzzleloader deer.

#### **R657-5-46. General Archery Elk Hunt.**

(1)(a) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The San Juan unit east of U.S. 191 is closed to general archery and general season bull elk hunting.

(2)(a) A general archery elk permit allows a person using archery equipment to take one elk of hunter's choice in a general season elk unit, except on elk cooperative wildlife management units.

(b) On a spike bull elk unit, archers may take an antlerless elk or a spike bull elk.

(c) In Salt Lake County south of I-80 and east of I-15, archers may take an antlerless elk or any bull elk.

(3) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(3).

(4) Hunter orange fluorescent material must be worn if a centerfire rifle hunt is also in progress in the same area. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

#### **R657-5-47. General Season Bull Elk Hunt.**

(1) The dates for the general season bull elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within general season elk units, except in the following areas:

(a) Salt Lake County south of I-80 and east of I-15;

(b) elk cooperative wildlife management units; and

(c) the San Juan unit east of US-191.

(2)(a) General season elk hunters may purchase either a spike bull permit or an any bull permit.

(b) A person who has obtained a general season spike bull elk permit may take a spike bull elk on a general season spike bull elk unit. Any bull units are closed to spike bull permittees.

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk on a general season any bull elk unit. Spike bull units are closed to any bull permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull or any bull elk as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(3).

#### **R657-5-48. General Muzzleloader Elk Hunt.**

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

(a) Salt Lake County south of I-80 and east of I-15;

(b) elk cooperative wildlife management units; and

(c) the San Juan unit east of US-191.

(2)(a) A person who has obtained a general muzzleloader elk permit may take one elk of hunter's choice, except a hunter may take only a spike bull or an antlerless elk in a spike bull unit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may hunt only on a spike bull elk unit and may take only a spike bull elk. Any bull units are closed to spike bull permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(3).

**R657-5-49. Limited Entry Bull Elk Hunt and Special Limited Entry Archery Bull Elk Hunt.**

(1) To hunt in a limited entry bull elk area, a hunter must obtain a limited entry elk permit.

(2) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-50(3).

(4)(a) A hunter who obtains a limited entry bull elk permit for one of the hunt units listed in Subsection (b), may also purchase an auxiliary permit to hunt within the area specified on the permit using archery equipment during the established general archery elk season, or using muzzleloader equipment during the established general muzzleloader deer season.

- (b)(i) Book Cliffs, Little Creek;
- (ii) Book Cliffs, Bitter Creek-South;
- (iii) Box Elder, Grouse Creek;
- (iv) Cache, Meadowville;
- (v) Cache, North;
- (vi) Cache, South;
- (vii) LaSal, LaSal Mountains;
- (viii) Manti, Manti;
- (ix) Manti, Nebo;
- (x) Nine-Mile, Anthro;
- (xi) Oquirrh-Stansbury, North;
- (xii) Oquirrh-Stansbury, South Oquirrh;
- (xiii) South Slope, Diamond Mountain;
- (xiv) Wasatch Mountain;
- (xv) West Desert, Deep Creek.

(c) If an elk is not taken during this period, any legal weapon may be used during the dates specified on the limited entry bull elk permit.

(5) To hunt in a special limited entry archery elk area, a hunter must obtain a special limited entry archery elk permit.

(6)(a) A special limited entry archery bull elk permit allows a person, using archery equipment, to take one hunter's choice elk, during the season specified on the permit and within the following units:

- (i) Beaver;
- (ii) Cache, North;
- (iii) Chalk Creek;
- (iv) East Canyon;
- (v) Kamas;
- (vi) LaSal, LaSal Mountains;
- (vii) Morgan-South Rich;
- (viii) Mt. Dutton;

- (ix) Nine-Mile, Range Creek;
- (x) North Slope, Summit-West Daggett;
- (xi) North Slope, Three Corners;
- (xii) Ogden;
- (xiii) Paunsaugunt;
- (xiv) Plateau, Boulder;
- (xv) San Rafael, North;
- (xvi) San Rafael, South;
- (xvii) South Slope, Yellowstone-Vernal; and
- (xviii) Zion.

(b) A person may not hunt in any elk Cooperative Wildlife Management unit located within the units as provided in Subsection (6)(a). Spike bull elk restrictions do not apply to special limited entry archery elk permittees.

(7) A person who has obtained a special limited entry archery bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-50(3).

(8) Bonus points shall not be awarded or utilized when applying for, or in obtaining, special limited entry archery elk permits.

**R657-5-50. Antlerless Elk Hunts.**

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit or an antlerless elk control permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit, except an antlerless elk control permit as provided in Subsection (5), and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the permits listed in Subsection (b) provided:

- (i) the permits are both valid for the same area;
- (ii) the appropriate archery equipment is used if hunting with an archery permit;
- (iii) the appropriate muzzleloader equipment is used if hunting with a muzzleloader permit.

- (b)(i) General archery deer;
- (ii) general archery elk;
- (iii) general muzzleloader deer;
- (iv) general muzzleloader elk;
- (v) limited entry archery deer;
- (vi) limited entry archery elk;
- (vii) limited entry muzzleloader deer; or
- (viii) limited entry muzzleloader elk.

(5)(a) Antlerless elk control permits have been established to provide harvest of sufficient antlerless elk to maintain populations at management objective levels on units where this has proven difficult.

(b) Any person who obtains a general elk permit may purchase an antlerless elk control permit provided no other antlerless elk permit has been obtained.

(i) Antlerless elk control permits are available at Division offices beginning on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(c) A person who obtains an antlerless elk control permit may use the antlerless elk control permit only during the established general season for which they have a general elk permit provided:

(i) the appropriate archery equipment is used if hunting with a general elk archery permit;

(ii) the appropriate muzzleloader equipment is used if hunting with a general elk muzzleloader permit (includes ML300 and general muzzleloader spike bull permits); or

(iii) a legal weapon is used if hunting with a general season elk permit; and

(iv) the person has both the general elk permit and antlerless elk control permit in their possession.

(d) Antlerless elk control permits are valid only on the following general elk units:

(i) Chalk Creek;

(ii) East Canyon;

(iii) Nine Mile, Range Creek;

(iv) Plateau; and

(v) South Slope, Yellowstone.

#### **R657-5-51. Buck Pronghorn Hunts.**

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt, only archery equipment may be used.

#### **R657-5-52. Doe Pronghorn Hunts.**

(1) To hunt a doe pronghorn, a hunter must obtain a doe pronghorn permit.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless moose permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained a doe pronghorn permit may not hunt during any other pronghorn hunt or obtain any other pronghorn permit.

#### **R657-5-53. Antlerless Moose Hunts.**

(1) To hunt an antlerless moose, a hunter must obtain an antlerless moose permit.

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the

Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management unit unless that person obtains an antlerless moose cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt during any other moose hunt or obtain any other moose permit.

#### **R657-5-54. Bull Moose Hunts.**

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

#### **R657-5-55. Bison Hunts.**

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation. Hunt fees include the handling fee, permit, and transportation on the island. Permittees are required to use these contract services. Permittees are required to furnish their own living quarters and food during their stay.

(c) Individuals accompanying the permittee must pay an additional fee and provide their own reliable four-wheel drive vehicle. Prior arrangements need to be made through the Division of Parks and Recreation.

(5) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

#### **R657-5-56. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.**

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.



(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

**R657-5-57. Rocky Mountain Goat Hunts.**

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) Any goat may be legally taken, however, permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

**R657-5-58. Depredation Hunter Pool Permits.**

(1) When deer, elk or pronghorn are causing damage, antlerless control hunts not listed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be held. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) Hunters are called from a list of unsuccessful permittees or other resident hunters who have applied for depredation hunts.

(3)(a) Application does not affect eligibility for antlerless or other type hunts. However, hunters who participate in any deer, elk, or pronghorn depredation hunt may not possess an additional antlerless permit for that species during the same year except as provided in Subsection R657-5-50(3).

(b) Hunters with depredation permits for doe pronghorn, antlerless deer or antlerless elk may not possess any other permit for those species, except as provided in Subsections R657-5-27(1)(a) and R657-5-50(3), or the proclamation of the Wildlife Board for taking big game.

(4) The division may contact hunters to participate in a depredation hunt prior to the general hunt for a given species of big game. Hunters who do not possess an antlerless deer, elk, or pronghorn permit may purchase an appropriate permit.

(5) Applications must be sent to the appropriate regional division office for the area requested.

(6) Applications must be received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

**R657-5-59. Antlerless Application - Deadlines.**

(1) Applications are available from license agents, division offices, and through the division's Internet address.

(2) Residents may apply for, and draw the following permits, except as provided in Subsection (4):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.

(3) Nonresidents may apply in the drawing for, and draw the following permits, except as provided in Subsection (4):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose, if permits are available during the current year.

(4) Any person who has obtained any elk permit, a pronghorn permit, or a moose permit may not apply for an antlerless elk permit, doe pronghorn permit, or antlerless moose permit, respectively, except as provided in Section R657-5-63.

(5) A person may not submit more than one application in the initial drawing per each species as provided in Subsections (2) and (3).

(6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-61(3) and R657-5-63(4).

(7)(a) Applications must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.

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

(8)(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 data base 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 \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

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

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

**R657-5-60. Fees for Antlerless Applications.**

Each application must include the permit fee and a nonrefundable handling fee for each species applied for, except

when applying with a credit card, the permit fees and handling fees must be paid pursuant to Rule R657-42-8(5)(d).

**R657-5-61. Antlerless Big Game Drawing.**

(1) The antlerless drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

**R657-5-62. Antlerless Application Refunds.**

(1)(a) Unsuccessful applicants, who applied in the initial drawing and who applied with a check or money order will receive a refund in September.

(b) Unsuccessful applicants, who applied for remaining permits and who applied with a check or money order will receive a refund in October.

(2)(a) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(b) Unsuccessful applicants, who applied as a group, will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for in accordance with Section R657-5-29(6).

(3) The handling fees are nonrefundable.

**R657-5-63. Drawing for Remaining Antlerless Permits and Over-the-counter Permit Sales After the Antlerless Drawings.**

(1) The list of remaining permits will be available by the date provided in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Residents and nonresidents may apply for, and draw any of the following remaining permits, except as provided in Subsection (3):

- (a) antlerless deer;
- (b) antlerless elk;
- (c) doe pronghorn; and
- (d) antlerless moose.

(3) Any person who has obtained:

(a) an antlerless deer permit may not apply for an antlerless deer permit;

(b) two elk permits may not apply for an antlerless elk permit;

(c) a pronghorn permit may not apply for a doe pronghorn permit; or

(d) a moose permit may not apply for an antlerless moose permit.

(4) Residents and nonresidents may apply for any remaining permits.

(5) The same application form used for the antlerless drawing must be used when applying for remaining permits. The handling fees are nonrefundable.

(6) Applications for remaining permits must be mailed by the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking

big game. Applications filled out incorrectly or received later than the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected.

(7) Applicants who apply for remaining permits will not be provided an opportunity to correct a rejected or invalid application on the drawing for remaining antlerless permits.

(8) The drawing results for remaining antlerless permits will be posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(9) Permits remaining after both drawings will be sold over-the-counter, in person, or through the mail, on a first-come, first-served basis only at the Salt Lake Division office beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

**R657-5-64. Application Withdrawal.**

(1) A person may withdraw their application for premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing by requesting such in writing by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(3) A person may not amend a withdrawn application, nor reapply after the application has been withdrawn.

(4) Handling fees will not be refunded.

**R657-5-65. Special Hunts.**

(1)(a) In the event that wildlife management objectives are not being met for once-in-a-lifetime, premium limited entry, or limited entry species, the division may recommend that the Wildlife Board authorize a special hunt for a specific species.

(b) The division will only utilize Subsection (1)(a) if the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game has been published and the Bucks, Bulls and Once-In-A-Lifetime and Antlerless drawings have been completed.

(2) The special hunt season dates, areas, number of permits, methods of take, requirements and other administrative details shall be provided in an addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Wildlife Board for taking big game.

(3) Permits will be allocated through a special drawing for the pertinent species.

**R657-5-66. Special Hunt Application - Deadlines.**

(1) Applications are available from license agents and division offices.

(2)(a) Residents and nonresidents may apply.

(b) Any person who was unsuccessful in the Bucks, Bulls and Once-In-A-Lifetime or Antlerless drawing may apply. However,

any person who has obtained a permit may not apply, unless otherwise provided in this rule and the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) Applications must be mailed by the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum of the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game may be rejected. Late applications will be returned unopened.

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

(4) Bonus points will be used in the special hunt drawings to improve odds for drawing permits as provided in Section R657-5-40. However, bonus points will not be awarded for unsuccessful applications in the special hunt drawings.

(5) Any person who obtains a special hunt permit is subject to all rules and regulations provided in this rule, the Bucks, Bulls and Once-In-A-Lifetime Proclamation and Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game, unless otherwise provided in Sections R657-5-65 through R657-5-70.

#### **R657-5-67. Fees for Special Hunt Applications.**

(1) Each application must include:

- (a) the permit fee for the species applied for; and
- (b) a \$5 nonrefundable handling fee.

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

(b) Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

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

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit card.

(c) Handling fees are charged to the credit card when the application is processed. Permit fees are charged after the drawing, if successful.

(d) Payments to correct an invalid or refused credit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.

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

#### **R657-5-68. Special Hunt Drawing.**

(1) The special hunt drawing results are posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

#### **R657-5-69. Special Hunt Application Refunds.**

(1) Unsuccessful applicants, who applied on the initial drawing and who applied with a check or money order will receive a refund within six weeks after posting of the drawing results.

(2) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(3) The handling fees are nonrefundable.

#### **R657-5-70. Permits Remaining After the Special Hunt Drawing.**

Permits remaining after the special hunt drawing may be sold by mail or on a first-come, first-served basis as provided in the addendum to the Bucks, Bulls and Once-In-A-Lifetime or Antlerless Addendum of the Wildlife Board for taking big game. These permits may be purchased by either residents or nonresidents.

**KEY: wildlife, game laws, big game seasons\***

~~[November 15, 2001]~~2002

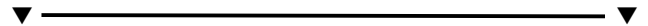
Notice of Continuation November 30, 2000

23-14-18

23-14-19

23-16-5

23-16-6



## Natural Resources, Wildlife Resources

### R657-6

#### Taking Upland Game

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24383

FILED: 01/11/2002, 16:17

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Subsections R657-6-11, R657-6-12(3), and R657-6-34(2) are being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

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

#### ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that these amendments do not create a cost or savings impact to the division's budget or the state budget.

❖**LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because

they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖OTHER PERSONS: These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. 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: None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant 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, 2000 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) a migratory bird preservation facility; or

(iv) a post office or common carrier facility.

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

(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.

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

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

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

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

(o) "Cooperative Wildlife Management Unit" means a generally contiguous area of private land open for hunting small

game, waterfowl, or big game by permit that is registered in accordance with Rules R657-21 and R657-37.

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

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

(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 may call 1-800-WETLAND (1-800-938-5263) or register online at [www.wildlife.utah.gov](http://www.wildlife.utah.gov) 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
- (g) information about the previous year's migratory game bird hunts.

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

(5) Any person hunting migratory game birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

#### **R657-6-4. Permits for Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse and White-tailed Ptarmigan.**

(1) A person may not take or possess:

(a) Band-tailed Pigeon without first obtaining a Band-tailed Pigeon permit;

(b) Sage-grouse without first obtaining a Sage-grouse permit;

(c) Sharp-tailed Grouse without first obtaining a Sharp-tailed Grouse permit; or

(d) White-tailed Ptarmigan without first obtaining a White-tailed Ptarmigan 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) Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse, and White-tailed Ptarmigan 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 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.

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

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

(i) future 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 fees submitted with the application will be refunded.

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

(4) Group applications for Sandhill Crane will not be accepted.

(5)(a) A person may obtain only one Sandhill Crane permit each year.

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

(6) Each application must include:

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

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

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

(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.

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

(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.

(13)(a) A person may withdraw their application for the Sandhill Crane Drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking upland game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(c) A person may not amend a withdrawn application, nor reapply after the application has been withdrawn.

(d) Handling fees will not be refunded.

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

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

(b) Residents and nonresidents may apply.

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

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

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

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

(i) future preprinted applications;

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

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

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

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

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

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

(7) Each application must include:

(a) the nonrefundable handling fee;

(b) the limited entry turkey permit fee; and

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

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

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

(b) Requests for remaining permits must include:

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

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

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

(iv) the permit fee.

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

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

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

(12) Any person who obtained a Rio Grande turkey permit during the preceding two years may not apply for or obtain a Rio Grande turkey permit for the current year. 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 the following two years.

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

(13)(a) A bonus point is awarded for:

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

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

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

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

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

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

(i) the current valid turkey application; and

(ii) each wild turkey bonus point accrued.

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

(e) Bonus points are forfeited if a person obtains a wild turkey permit, except as provided in Subsection (13)(e).

(f) Bonus points are not forfeited if:

(i) a person is successful in obtaining a Conservation Permit or Landowner Permit; or

(ii) a person obtains a Poaching-Reported Reward Permit.

(g) Bonus points are not transferable.

(h) Bonus points are tracked using social security numbers or Division-issued hunter identification numbers.

(14)(a) An applicant may withdraw their application for the wild turkey permit drawing by requesting such in writing by the date published in the Turkey Addendum to the Proclamation of the Wildlife Board for taking upland game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake division office.

(c) An applicant may reapply in the wild turkey permit drawing provided:

(i) the original application is withdrawn;

(ii) the new application is submitted with the request to withdraw the original application;

(iii) both the new application and request to withdraw the original application are received by the initial application deadline; and

(iv) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.

(d) Handling fees will not be refunded.

(15)(a) An applicant may amend their application for the wild turkey permit drawing by requesting such in writing by the initial application deadline.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) Handling fees will not be refunded.

#### **R657-6-7. Landowner Permits.**

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

(b) Landowners interested in obtaining landowner permits must contact the regional Division office in their area November 15 through December 15 to be eligible for the landowner permit drawing and to obtain an application.

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

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

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

(b) Land qualifying as essential habitat and owned by more than one landowner may qualify for a landowner permit. However, the landowners who own the qualifying land must determine the landowner who will be participating in the drawing.

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

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

(i) be issued the permit; or

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

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

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

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

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

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

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

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

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

(2) A person may obtain a Band-tailed Pigeon, Sage-grouse, Sharp-tailed Grouse, or White-tailed Ptarmigan permit by mail by sending the following information to any Division office: full name, complete mailing address, phone number, and hunting license number.

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

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

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

#### **R657-6-9. Firearms and Archery Tackle.**

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

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

(i) migratory game birds may not be taken with a 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 and no. 6;

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

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

(3) A person may not use:

- (a) a firearm capable of being fired fully automatic; or
- (b) any light enhancement device or aiming device that casts a beam of light.

**R657-6-10. 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.

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

(1) A person may not possess a firearm or archery tackle, except during the specified hunting seasons or as authorized by the Division on the following wildlife management areas: Bear River 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.

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

**R657-6-12. 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.

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

**R657-6-13. 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.

**R657-6-14. 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 R651-614-4.

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

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

**R657-6-15. Falconry.**

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

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

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

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

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

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

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

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

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

**R657-6-17. Baiting.**

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

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

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

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



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

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

(b) The taking of any migratory 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.

**R657-6-18. Turkeys.**

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

**R657-6-19. 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.

**R657-6-20. 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.

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

(1) The carcass of a Sandhill Crane, Sharp-tailed Grouse, or turkey must be tagged in accordance with Section 23-20-30.

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

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

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

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

**R657-6-23. Waste of Upland Game.**

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

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

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

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

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

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

**R657-6-25. 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 R657-6-11 and R657-6-12.

**R657-6-26. 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 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.

**R657-6-27. 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.

**R657-6-28. 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.

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

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

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

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

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

**R657-6-31. Shipping.**

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

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

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

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

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

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

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

**R657-6-34. Spotlighting.**

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

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

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

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

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

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

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

(1) Any person who provides information leading to another person's arrest and successful prosecution for wanton destruction of a wild turkey under Section 23-20-4, within any limited entry area may receive a permit from the Division to hunt wild turkey in the

following year on the same limited entry area where the violation occurred, except as provided in Subsection (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

**R657-6-37. 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**

~~November 15, 2001~~ 2002

Notice of Continuation June 16, 1997

23-14-18

23-14-19



Natural Resources, Wildlife Resources  
**R657-9**  
 Taking Waterfowl, Wilson's Snipe and  
 Coot

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 24384  
 FILED: 01/11/2002, 16:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

SUMMARY OF THE RULE OR CHANGE: Section R657-9-11 is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that this amendment does not create a cost or savings impact to the division's budget or the state budget.

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

❖OTHER PERSONS: This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

**R657. Natural Resources, Wildlife Resources.  
 R657-9. Taking Waterfowl, Wilson's Snipe and Coot.  
 R657-9-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 2000 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-2. Definitions.**

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

(2) In addition:

(a) "Aggregate daily bag limit" means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area and/or for more than one species for which a combined daily bag limit is prescribed.

(b) "Aggregate possession limit" means the maximum number of migratory game birds of a single species or combination of species taken in the United States permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the species or specified geographic areas in which taking and possession occurs.

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

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

following the complete removal of all such shelled, shucked or unshucked corn, wheat or other grain, salt or other feed.

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

(f) "CFR" means the Code of Federal Regulations.

(g) "Closed season" means, for purposes of this rule, the days on which migratory game birds shall not be taken.

(h) "Daily bag limit" means the maximum number of migratory game birds of a single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(i) "Live decoys" means tame or captive ducks, geese or other live birds.

(j) "Migratory game birds" means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed in this part and belong to the following families:

- (i) Anatidae (ducks, geese, including brant, and swans);
- (ii) Columbidae (doves and pigeons);
- (iii) Gruidae (cranes);
- (iv) Rallidae (rails, coots, and gallinules); and
- (v) Scolopocidae (woodcock and snipe).

(k) "Nontoxic shot" means soft iron, steel, copper-plated steel, nickel-plated steel, zinc-plated steel, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tin 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.

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

(m) "Open season" means, for purposes of this rule, the days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

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

(o) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling, such as a hunting club, or any 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.

(p) "Possession limit" means the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(q) "Sinkbox" means any type of low floating device, having a depression, affording the hunter a means of concealment beneath the surface of the water.

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

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

(t) "Waterfowl blind" means any manufactured place of concealment, including boats, rafts, tents, excavated pits, or similar

structures, which have been designed to partially or completely conceal a person while hunting waterfowl.

(u) "Youth" means a person 12 to 15 years of age.

### **R657-9-3. Stamp Requirements.**

(1) Any person 16 years of age or older may not hunt waterfowl without first obtaining a federal migratory bird stamp, and having the stamp in possession.

(2) The stamp must be validated by the hunter's signature in ink across the face of the stamp.

(3) A federal migratory bird stamp is not required for any person 12 through 15 years of age.

### **R657-9-4. Permit Applications for Swan.**

(1) Applications for swan permits are available from license agents and division offices. Residents and nonresidents may apply.

(2)(a) Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

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

(c) The division reserves the right to correct applications.

(3)(a) Late applications received by the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot 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 fees submitted with the application shall be refunded.

(c) Late applications received after the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot will not be processed and will be returned.

(4) A person may obtain only one swan permit each year

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

(6) Group applications are not accepted.

(7) A small game or combination license may be purchased before applying, or the small game or combination license will be issued to the applicant upon successfully drawing a permit.

(8) Each application must include:

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

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

### **R657-9-5. Drawing.**

(1)(a) Drawing results are posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot.

(b) Any remaining permits are available by mail-in request or over the counter at the Salt Lake division office beginning on the date specified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(2)(a) The Division shall issue no more than the number of swan permits authorized by the U.S. Fish and Wildlife Service each year.

(b) The Division may withhold up to 1% of the authorized number of swan permits each year to correct division errors, which may occur during the drawing process.

(c) Division errors may be corrected using the withheld swan permits in accordance with the Division Error Policy.

(d) Withheld swan permits shall be used to correct Division errors reported to or discovered by the Division on or before the fifth day preceding the opening day of the swan hunt.

(e) Withheld swan permits remaining after correcting any division errors shall be issued prior to the opening day of the swan hunt to the next person on the alternate drawing list.

(3) Licenses and permits are mailed to successful applicants.

(4)(a) An applicant may withdraw their application for the swan permit drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(c) An applicant may reapply in the swan drawing provided:

(d) the original application is withdrawn;

(e) the new application is submitted with the request to withdraw the original application;

(f) both the new application and request to withdraw the original application are received by the initial application deadline; and

(g) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.

(h) Handling fees will not be refunded.

(5)(a) An applicant may amend their application for the swan permit drawing by requesting such in writing by the initial application deadline.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

#### **R657-9-6. Tagging Swans.**

(1) The carcass of a swan must be tagged before the carcass is moved from or the hunter leaves the site of kill as provided in Section 23-20-30.

(2) A person may not hunt or pursue a swan after the notches have been removed from the tag or the tag has been detached from the permit.

#### **R657-9-7. Return of Swan Harvest and Hunt Information.**

(1) Swan permit holders who do not hunt or are unsuccessful in taking a swan must complete the swan questionnaire included with the permit and return it to the division within ten days of the conclusion of the prescribed swan hunting season.

(2) Within three days of harvest, swan permit holders successful in taking a swan must personally present the swan or its head for measurement to the Division or the Bear River Migratory Bird Refuge and further provide all harvest information requested by the Division or Refuge.

(3) Hunters who fail to comply with the requirements of Subsections (1) or (2) shall be ineligible to:

(a) obtain a swan permit the following season; and

(b) obtain a swan permit after the first season of ineligibility until the swan orientation course is retaken.

#### **R657-9-8. Purchase of License and Wildlife Habitat Authorization by Mail.**

(1) A person may purchase a license by mail by sending the following information to the Salt Lake 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) Personal checks, money orders and cashier's checks are accepted.

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

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

#### **R657-9-9. Firearms.**

(1) Migratory game birds may be taken with a shotgun or archery tackle.

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

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

#### **R657-9-10. Nontoxic Shot.**

(1) Only nontoxic shot may be in possession or used while hunting waterfowl and coot.

(2) A person may not possess or use lead shot:

(a) while hunting waterfowl or coot in any area of the state;

(b) on federal refuges;

(c) on the following waterfowl management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadow, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, Timpie Springs; or

(d) on the Scott M. Matheson wetland preserve.

#### **R657-9-11. Use of Firearms on State Waterfowl Management Areas.**

(1) A person may not possess a firearm or archery tackle on the following waterfowl management areas any time of the year except during the specified waterfowl hunting seasons or as authorized by the division:

(a) Box Elder County - Harold S. Crane, Locomotive Springs, Public Shooting Grounds, and Salt Creek;

(b) Daggett County - Brown's Park;

(c) Davis County - Farmington Bay, Howard Slough, and Ogden Bay;

(d) Emery County - Desert Lake;

(e) Millard County - Clear Lake;

(f) Tooele County - Timpie Springs;

(g) Uintah County - Stewart Lake;

(h) Utah County - Powell Slough;

(i) Wayne County - Bicknell Bottoms; and

(j) Weber County - Ogden Bay and Harold S. Crane.

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

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

**R657-9-12. Airborne, Terrestrial, and Aquatic Vehicles.**

Migratory game birds may not be taken:

(1) from or by means of any motorboat or other craft having a motor attached, or sailboat unless the motor has been completely shut off or sails furlled and its progress has ceased: provided, that a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power; or

(2) by means or aid of any motor driven land, water or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying or stirring up of any migratory bird.

**R657-9-13. Airboats.**

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

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

(b) Daggett County: Brown's Park

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

(d) Emery County: Desert Lake

(e) Millard County: Clear Lake

(f) Tooele County: Timpie Springs

(g) Uintah County: Stewart Lake

(h) Utah County: Powell Slough

(i) Wayne County: Bicknell Bottoms

(j) Weber County: Ogden Bay within diked units or as posted and all of Harold S. Crane Waterfowl Management Area.

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

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

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

**R657-9-14. Motorized Vehicle Access.**

(1) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

(2) Off-highway vehicles are confined to those areas open to the use of airboats, and as marked and posted.

(3) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

(4) Motorized boat use is restricted on waterfowl management areas as specified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-15. Sinkbox.**

A person may not take migratory game birds from or by means, aid, or use of any type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.

**R657-9-16. Live Decoys.**

A person may not take migratory game birds with the use of live birds as decoys or from an area where tame or captive live ducks or geese are present unless such birds are and have been, for a period of ten consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl.

**R657-9-17. Amplified Bird Calls.**

A person may not use recorded or electrically amplified bird calls or sounds or recorded or electronically amplified imitations of bird calls or sounds.

**R657-9-18. Baiting.**

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

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

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

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

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

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

(b) The taking of any migratory 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.

**R657-9-19. Possession During Closed Season.**

No person shall possess any freshly killed migratory game birds during the closed season.

**R657-9-20. Live Birds.**

(1) Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become part of the daily bag limit.

(2) No person shall at any time, or by any means possess or transport live migratory game birds.

**R657-9-21. Waste of Migratory Game Birds.**

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or any part of them.

(2) No person shall kill or cripple any migratory game bird pursuant to this rule without making a reasonable effort to immediately retrieve the bird and include it in that person's daily bag limit.

**R657-9-22. Termination of Possession.**

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when the birds have been delivered by the hunter to another person as a gift; to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or common carrier to some person other than the hunter.

**R657-9-23. Tagging Requirement.**

(1) No person shall put or leave any migratory game bird at any place other than at that person's 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 the hunter's address, the total number and species of birds, the date such birds were killed and the Utah hunting license number under which they were taken.

(2) Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

**R657-9-24. Donation or Gift.**

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

**R657-9-25. Custody of Birds of Another.**

No person may receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by Section R657-9-23.

**R657-9-26. Species Identification Requirement.**

No person shall transport within the United States any migratory game birds unless the head or one fully feathered wing remains attached to each bird while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

**R657-9-27. Marking Package or Container.**

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

(2) A Utah shipping permit obtained from the division must accompany each package shipped within or from Utah.

**R657-9-28. Migratory Bird Preservation Facilities.**

(1) No migratory bird preservation facility shall:

(a) receive or have in custody any migratory game bird unless accurate records are maintained that can identify each bird received by, or in the custody of, the facility by the name of the person from whom the bird was obtained, and show:

(i) the number of each species;

(ii) the location where taken;

(iii) the date such birds were received;

(iv) the name and address of the person from whom such birds were received;

(v) the date such birds were disposed of; and

(vi) the name and address of the person to whom such birds were delivered; or

(b) destroy any records required to be maintained under this section for a period of one year following the last entry on record.

(2) Record keeping as required by this section will not be necessary at hunting clubs that do not fully process migratory birds by removal of the head and wings.

(3) No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried out.

**R657-9-29. Importation.**

A person may not:

(1) import migratory game birds belonging to another person; or

(2) import migratory game birds in excess of the following importation limits:

(a) From any country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species;

(b) From Canada, not to exceed the maximum number to be exported by Canadian authorities;

(c) From Mexico, not to exceed the maximum number permitted by Mexican authorities in any one day: provided that if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

**R657-9-30. Use of Dogs.**

(1) Dogs may be used to locate and retrieve migratory game birds 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.

**R657-9-31. Season Dates and Bag and Possession Limits.**

(1) Season dates and bag and possession limits are specified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(2) A youth duck hunting day may be allowed for any person 15 years of age or younger as provided in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-32. Closed Areas.**

(1) A person may not trespass on state waterfowl management areas except during prescribed seasons, or for other activities as posted without prior permission from the division.

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

(3) A person may not trespass, take, hunt, shoot at, or rally any waterfowl, snipe, or coot in the following specified areas:

(a) Brown's Park - That part adjacent to headquarters.

(b) Clear Lake - Spring Lake.

(c) Desert Lake - That part known as "Desert Lake."

(d) Farmington Bay - Headquarters area, within 600 feet of dikes and roads accessible by motorized vehicles and the waterfowl rest area in the northwest quarter of unit one as posted.

(e) Ogden Bay - Headquarters area.

(f) Public Shooting Grounds - That part as posted lying above and adjacent to the Hull Lake Diversion Dike known as "Duck Lake."

(g) Salt Creek - That part as posted known as "Rest Lake."

(h) Bear River Migratory Bird Refuge - For information contact the refuge manager, U.S. Fish and Wildlife Service, at (435) 723-5887. The entire refuge is closed to the hunting of snipe.

(i) Fish Springs and Ouray National Wildlife Refuges - Waterfowl hunters must register at Fish Springs refuge headquarters prior to hunting. Both refuges are closed to the hunting of swans, and Fish Springs is closed to the hunting of geese.

(j) State Parks

Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated open by appropriate signing as provided in Rule R651-614-4.

(k) Great Salt Lake Marina and adjacent areas as posted.

(l) Millard County

Gunnison Bend Reservoir and the inflow upstream to the Southerland Bridge.

(m) Salt Lake International Airport - Hunting and shooting prohibited as posted.

**R657-9-33. Shooting Hours.**

(1) A person may not hunt, pursue, or take wildlife, or discharge any firearm or archery tackle on state-owned lands adjacent to the Great Salt Lake, on division-controlled waterfowl management areas, or on federal refuges between official sunset and one-half hour before official sunrise.

(2) Legal shooting hours for taking or attempting to take waterfowl, Wilson's snipe, and coot are provided in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-34. Falconry.**

(1) Falconers must obtain a valid small game or combination license, a federal migratory bird stamp and a falconry certificate of registration to hunt waterfowl.

(2) Areas open and bag and possession limits for falconry are specified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-35. Migratory Game Bird Harvest Information Program (HIP).**

(1) A person must obtain an annual Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds.

(2)(a) A person must call 1-800-WETLAND (1-800-938-5263) or register online at the address published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot 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

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

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

(5) Any person hunting migratory birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

**R657-9-36. Waterfowl Blinds on Waterfowl Management Areas.**

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

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

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

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

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

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

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

(a) Farmington Bay Waterfowl Management Area - West and North of Unit 1, Turpin Unit and Crystal Unit.

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

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

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

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

(4) Any unoccupied, permanent waterfowl blind located on state land open to public access for hunting may be used by any person without priority to the person that constructed the blind. It



being the intent of this rule to make such blinds available to any person on a first-come, first-serve basis.

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

**KEY: wildlife, birds, migratory birds, waterfowl\***

~~October 17, 2001~~ 2002

Notice of Continuation August 30, 2001

23-14-18

23-14-19

50 CFR part 20



## Natural Resources, Wildlife Resources

# R657-10

### Taking Cougar

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 24385

FILED: 01/11/2002, 16:20

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Sections R657-10-11(2) and R657-10-26(2)(c) are being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that these amendments do not create a cost or savings impact to the division's budget or the state budget.

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

❖ **OTHER PERSONS:** These amendments add requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. 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:** None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

##### **R657-10. Taking Cougar.**

##### **R657-10-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking and pursuing cougar.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking cougar.

##### **R657-10-2. Definitions.**

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

(2) In addition:

(a) "Canned hunt" means that a cougar is treed, cornered, held at bay or its ability to escape is otherwise restricted for the purpose of allowing a person who was not a member of the initial hunting party to arrive and take the cougar.

(b) "Cougar" means Puma concolor, commonly known as mountain lion, lion, puma, panther or catamount.

(c) "Cougar pursuit permit" means a permit that authorizes a person to pursue cougar during designated seasons.

(d) "Evidence of sex" means the sex organs of a cougar, including a penis, scrotum or vulva.

- (e) "Green pelt" means the untanned hide or skin of any cougar.
- (f) "Kitten" means a cougar less than one year of age.
- (g) "Pursue" means to chase, tree, corner or hold a cougar at bay.
- (h) "Waiting period" means a specified period of time that a person who has obtained a cougar permit must wait before applying for any other cougar permit.

**R657-10-3. Permits for Taking Cougar.**

- (1)(a) To harvest a cougar, a person must first obtain a valid limited entry cougar permit or a harvest objective cougar permit for the specified management units as provided in the proclamation of the Wildlife Board for taking cougar.
- (b) Any person who obtains a limited entry cougar permit or a harvest objective cougar permit may pursue cougar on the unit for which the permit is valid.
- (2) To pursue cougar, a person must first obtain a valid cougar pursuit permit from a division office. A cougar pursuit permit does not allow a person to kill a cougar.
- (3) A person may not apply for or obtain more than one cougar permit for the same season, except:
  - (a) as provided in Subsection R657-10-26(3); or
  - (b) if the person is unsuccessful in the limited entry drawing, the person may purchase a harvest objective permit.
- (4) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

**R657-10-4. Permit Exchanges.**

- (1)(a) Any person who has obtained a harvest objective cougar permit may exchange that permit for any other harvest objective units provided the unit objectives have not been met and the units are still open.
- (b) Limited entry cougar permits may not be exchanged.
- (2)(a) A \$5 handling fee will be charged for the exchange of a harvest objective permit.
- (b) Any person who exchanges a harvest objective permit must complete a questionnaire at the time the exchange is made.
- (3)(a) Any harvest objective permit exchanged is not valid until the day after the exchange is made.
- (b) Harvest objective permits may be exchanged only at division offices.

**R657-10-5. Purchase of Permit by Mail.**

- (1) A person may obtain a wildlife habitat authorization, cougar pursuit permit or cougar harvest objective permit by mail by sending the following information to the Salt Lake division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, driver's license number (if available), proof of hunter education certification, and fee.
- (2)(a) Personal checks, cashier's checks, or money orders are accepted.
- (b) Personal checks drawn on an out-of-state account are not accepted.
- (c) Checks must be made payable to the Utah Division of Wildlife Resources.

**R657-10-6. Hunting Hours.**

Cougar may be taken or pursued only between one-half hour before official sunrise through one-half hour after official sunset.

**R657-10-7. Firearms and Archery Tackle.**

- A person may use the following to take cougar:
- (1) any firearm not capable of being fired fully automatic; and
  - (2) a bow and arrows, except a crossbow may not be used.

**R657-10-8. Traps and Trapping Devices.**

- (1) Cougar may not be taken with a trap, snare or any other trapping device, except as authorized by the Division of Wildlife.
- (2) Cougar accidentally caught in any trapping device must be released unharmed, and must not be pursued or taken.
- (3)(a) Written permission must be obtained from a division representative to remove the carcass of a cougar from any trapping device.
- (b) The carcass shall remain the property of the state of Utah and must be surrendered to the division.

**R657-10-9. State Parks.**

- (1) Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated by the Division of Parks and Recreation in Section R651-614-4.
- (2) Hunting with a rifle, handgun or muzzleloader 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 and archery tackle is prohibited within one quarter mile of the above stated areas.

**R657-10-10. Prohibited Methods.**

- (1) Cougar may be taken or pursued only during open seasons and using methods prescribed in this rule and the proclamation of the Wildlife Board for taking cougar. Otherwise, under the Wildlife Resources Code, it is unlawful for any person to possess, capture, kill, injure, drug, rope, trap, snare or in any way harm or transport cougar.
- (2) After a cougar has been pursued, chased, treed, cornered or held at bay, a person may not, in any manner, restrict or hinder the animal's ability to escape.
- (3) A person may not engage in a canned hunt.
- (4) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.
- (5) Electronic locating equipment may not be used to locate cougars wearing electronic radio devices.

**R657-10-11. Spotlighting.**

- (1) Except as provided in Section 23-13-17:
  - (a) a person may not use or cast the rays of any spotlight, headlight or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and
  - (b) the use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.
- (2) The provisions of this section do not apply to:
  - (a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or
  - (b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code.

provided the person is not utilizing the concealed weapon to hunt or take wildlife.

**R657-10-12. Party Hunting.**

A person may not take a cougar for another person.

**R657-10-13. Use of Dogs.**

(1) Dogs may be used to take or pursue cougar only during open seasons as provided in the proclamation of the Wildlife Board for taking cougar.

(2) The owner and handler of dogs used to take or pursue cougar must have a valid cougar permit or cougar pursuit permit in possession while engaged in taking or pursuing cougar.

(3) When dogs are used in the pursuit of a cougar, the licensed hunter intending to take the cougar must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

(4) When dogs are used to take cougar and there is not an open pursuit season, the owner and handler of the dogs must have a valid pursuit permit and be accompanied by a licensed hunter as provided in Subsection (3), or have a valid pursuit permit and a cougar permit.

**R657-10-14. Tagging Requirements.**

(1) The carcass of a cougar must be tagged with a temporary possession tag before the carcass is moved from or the hunter leaves the site of kill as provided in Section 23-20-30.

(2) A person may not hunt or pursue a cougar after any of the notches have been removed from the tag or the tag has been detached from the permit.

(3) The temporary possession tag:

(a) must remain attached to the pelt or unskinned carcass until the permanent possession tag is attached; and

(b) is only valid for 48 hours after the date of kill.

(4) A person may not possess a cougar pelt or unskinned carcass without a valid permanent possession tag affixed to the pelt or unskinned carcass. This provision does not apply to a person in possession of a properly tagged carcass or pelt within 48 hours after the kill, provided the person was issued and is in possession of a valid permit.

**R657-10-15. Evidence of Sex and Age.**

(1) Evidence of sex must remain attached to the carcass or pelt of each cougar until a permanent tag has been attached by the division.

(2) The pelt and skull must be presented to the division in an unfrozen condition to allow the division to gather management data.

(3) It is mandatory that a tooth (PM1) be removed by the division at the time of permanent tagging to be used for aging purposes.

(4) The division may seize any pelt not accompanied by its skull or not having sufficient evidence of biological sex designation attached.

**R657-10-16. Permanent Tag.**

(1)(a) Each cougar must be taken by the permit holder to a conservation officer or division office within 48 hours after the date of kill to have a permanent possession tag affixed to the pelt or unskinned carcass and for the removal of a tooth.

(b) After regular business hours, on weekends, or on holidays, a conservation officer may be reached by contacting the local police dispatch office.

(2) A person may not possess a green pelt after the 48-hour check-in period, or ship a green pelt out of Utah, or present a green pelt to a taxidermist if the green pelt does not have a permanent possession tag attached.

**R657-10-17. Transporting Cougar.**

Cougar that have been legally taken may be transported by the permit holder provided the cougar is properly tagged and the permittee possesses the appropriate permit.

**R657-10-18. Exporting Cougar from Utah.**

(1) A person may export a legally taken cougar or its parts if that person has a valid permit and the cougar is properly tagged with a permanent possession tag.

(2) A person may not ship or cause to be shipped from Utah, a cougar pelt without first obtaining a shipping permit issued by an authorized division representative.

**R657-10-19. Donating.**

(1) A person may donate protected wildlife or their parts to another person as provided in Section 23-20-9.

(2) A green pelt of any cougar donated to another person must have a permanent possession tag affixed.

(3) The written statement of donation must be retained with the pelt.

**R657-10-20. Purchasing or Selling.**

(1) Legally obtained, tanned cougar hides may be purchased or sold.

(2) A person may not purchase, sell, offer for sale, or barter a tooth, claw, paw, or skull of any cougar.

**R657-10-21. Waste of Wildlife.**

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts.

(2) The skinned carcass of a cougar may be left in the field and does not constitute waste of wildlife.

**R657-10-22. Livestock Depredation and Human Health and Safety.**

(1) If a cougar is harassing, chasing, disturbing, harming, attacking or killing livestock, or has committed such an act within the past 72 hours:

(a) in depredation cases, the livestock owner, an immediate family member or an employee of the owner on a regular payroll, and not hired specifically to take cougar, may kill the cougar;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, who shall authorize a local hunter to take the offending cougar or notify a USDA, Wildlife Services specialist; or

(c) the livestock owner may notify a USDA, Wildlife Services specialist of the depredation who may take the depredating cougar.

(2) Depredating cougar may be taken at any time by a USDA, Wildlife Services specialist, supervised by the Wildlife Services program, while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3) A depredating cougar may be taken with any weapon authorized for taking cougar.

(4)(a) Any cougar taken pursuant to this section must be delivered to a division office or employee within 72 hours.

(b) In accordance with Subsection (1)(a) the cougar shall remain the property of the state, except the division may issue a cougar damage permit to a person who has killed a depredating cougar in accordance with this section, if that person wishes to maintain possession of the cougar.

(c) A person may acquire only one cougar annually.

(5)(a) Hunters interested in taking depredating cougar as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating cougar as needed.

**R657-10-23. Questionnaire.**

Each permittee who receives a questionnaire should return the questionnaire to the division regardless of success. Returning the questionnaire helps the division evaluate population trends, harvest success and other valuable information.

**R657-10-24. Taking Cougar.**

(1)(a) A person may take only one cougar during the season and from the area specified on the permit.

(b) Limited entry permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking cougar.

(c) Harvest objective permits may be purchased over-the-counter at division offices.

(2) A person may not:

(a) take or pursue a female cougar with kittens or kittens with spots; or

(b) repeatedly pursue, chase, tree, corner, or hold at bay, the same cougar during the same day after the cougar has been released.

(3) Any cougar may be taken during the prescribed seasons, except a kitten with spots, or any cougar accompanied by kittens, or any cougar accompanied by an adult.

(4) A person may not take a cougar wearing a radio collar from any areas that are published in the proclamation of the Wildlife Board for taking cougar.

(5) The division may authorize hunters who have obtained a limited entry cougar permit to take cougar in a specified area of the state in the interest of protecting wildlife from depredation.

(6) Season dates, closed areas, harvest objective permit areas and limited entry permit areas are published in the proclamation of the Wildlife Board for taking cougar.

**R657-10-25. Extended and Preseason Hunts.**

(1) An extended or preseason hunt may be authorized by the division on selected cougar management units to control depredation or nuisance problems.

(2) The director may authorize only those hunters who drew a limited entry permit or have purchased a harvest objective permit to hunt on that management unit and participate in a preseason or extended season hunt.

**R657-10-26. Cougar Pursuit.**

(1) Cougar may be pursued only by persons who have obtained an annual cougar pursuit permit. The cougar pursuit permit does not allow a person to kill a cougar.

(2) A person may not:

(a) take or pursue a female cougar with kittens or kittens with spots;

(b) repeatedly pursue, chase, tree, corner or hold at bay, the same cougar during the same day; or

(c) possess a firearm or any device that could be used to kill a cougar while pursuing cougar.

(i) The weapon restrictions set forth in the subsection do not apply to a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing or attempting to utilize the concealed weapon to injure or kill cougar.

(3) If eligible, a person who has obtained a cougar pursuit permit may also obtain a limited entry cougar permit or harvest objective cougar permit.

(4) Cougar may be pursued only on limited entry units or harvest objective units during the dates provided in the proclamation of the Wildlife Board for taking cougar.

(5) A cougar pursuit permit is valid on a calendar year basis.

**R657-10-27. General Application Information.**

(1) A person may not apply for or obtain more than one cougar permit for the same year, except as provided in Section R657-10-4.

(2) A person must be 12 years of age or older by the posting date of the drawing to apply for a limited entry cougar permit.

(3) Limited entry cougar permits are valid only for the management unit and for the specified season designated on the permit.

**R657-10-28. Waiting Period.**

(1) Any person who obtained a limited entry permit valid for the current season may not apply for a permit for a period of two years.

(2) Any person who draws a limited entry permit for the current season may not apply for a permit for a period of two years.

(3) Waiting periods are not incurred as a result of purchasing harvest objective permits.

**R657-10-29. Application Procedure.**

(1) Applications are available from license agents and division offices.

(2)(a) Group applications are not accepted. A person may not apply more than once annually.

(b) Applicants may select up to three management unit choices when applying for limited entry cougar permits. Management unit choices must be listed in order of preference.

(3)(a) Applications must be mailed by the date published in the proclamation of the Wildlife Board for taking and pursuing cougar.

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

(c) The division reserves the right to correct applications.

(4)(a) Late applications received by the date published in the proclamation of the Wildlife Board for taking and pursuing cougar 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 \$5 handling fee will be used to process the late application. Any permit fees submitted with the application will be refunded.

(c) Late applications received after the date published in the proclamation of the Wildlife Board for taking and pursuing cougar will not be processed and will be returned.

(5) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(6) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Section R657-10-31.

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

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

**R657-10-30. Fees.**

(1) Each application must include:

- (a) the permit fee; and
- (b) the nonrefundable handling fee.

(2) Permits are mailed to successful applicants.

(3)(a) Unsuccessful applicants, who applied in the drawing and who applied with a check or money order, will receive a refund in December.

(b) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(c) The handling fees are nonrefundable.

**R657-10-31. Drawing and Remaining Permits.**

(1) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation shall be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(2) Drawing results will be posted on the date published in the proclamation of the Wildlife Board for taking cougar at division offices, Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center and on the division Internet address.

(3) Beginning on the date published in the proclamation of the Wildlife Board for taking cougar, residents or nonresidents may purchase any of the remaining permits by mail-in application from the Salt Lake division office.

(4) Any limited entry cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

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

(6)(a) An applicant may withdraw their application for the limited entry cougar permit drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking cougar.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(c) An applicant may reapply in the limited entry cougar drawing provided:

(d) the original application is withdrawn;

(e) the new application is submitted with the request to withdraw the original application;

(f) both the new application and request to withdraw the original application are received by the initial application deadline; and

(g) both the new application and request to withdraw the original application are submitted to the Salt Lake Division office.

(h) Handling fees will not be refunded.

(7)(a) An applicant may amend their application for the limited entry cougar permit drawing by requesting such in writing by the initial application deadline.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the Salt Lake Division office.

(c) The applicant must identify in their statement the requested amendment to their application.

**R657-10-32. Bonus Points.**

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

(2) Bonus points are forfeited if the person obtains a permit, including any limited entry permit obtained after the drawing.

(3) The purchase of a harvest objective permit will not affect bonus points.

(4) Bonus points are not transferable.

(5) Bonus points are tracked by using the applicant's social security number or division-issued hunter identification number.

**R657-10-33. Harvest Objective General Information.**

(1) Harvest objective permits are valid only for the management units designated on the permit and for the specified seasons published in the proclamation of the Wildlife Board for taking cougar.

(2) Residents may select up to two harvest objective management units and nonresidents may select up to three harvest objective management units, wherein the permit will be valid.

(3) Harvest objective permits are not valid in a specified management unit after the harvest objective has been met for that specified management unit.

**R657-10-34. Harvest Objective Permit Sales.**

(1) Harvest objective permits are available to residents and nonresidents over-the-counter beginning on the date published in the proclamation of the Wildlife Board for taking cougar from division offices.

(2) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(3) Any harvest objective permit exchanged is not valid until the day after the exchange is made.

**R657-10-35. Harvest Objective Unit Closures.**

(1) To hunt in a harvest objective unit, a hunter must call 1-888-668-LION to verify that the cougar management unit is still open. The phone line will be updated each day by 8 p.m.

(2) Harvest objective units are open to hunting until:

(a) the female cougar sub-objective for that unit is met;

(b) the cougar harvest objective for that unit is met; or

(c) the end of the hunting season as provided in the proclamation of the Wildlife Board for taking cougar.

(3) Upon closure of a harvest objective unit, a hunter may not take or pursue cougar except as provided in Section R657-10-26.

(4) Any person who obtains a harvest objective cougar permit may exchange that permit as provided in Section R657-10-3.

**R657-10-36. Harvest Objective Unit Reporting.**

(1) Any person taking a cougar with a harvest objective permit shall report to the Division, when the permanent tag is affixed pursuant to Section R657-10-16, where the cougar was killed.

(2) Failure to accurately report the correct harvest objective management unit where the cougar was killed is unlawful.

(3) Any conviction for failure to accurately report, or aiding or assisting in the failure to accurately report as required in Subsection (1) shall be considered prima facie evidence of a knowing and flagrant violation for purposes of permit revocation.

**KEY: wildlife, cougar\*, game laws**

~~[October 17, 2001]~~**2002**

**Notice of Continuation August 30, 2001**

**23-14-18**

**23-14-19**

▼ ————— ▼

## Natural Resources, Wildlife Resources

# R657-11

## Taking Furbearers

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24386

FILED: 01/11/2002, 16:20

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Subsection R657-11-13(2) is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that this amendment does not create a cost or savings impact to the division's budget or the state budget.

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

❖**OTHER PERSONS:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with

Utah Code Ann. Section 53-5-7. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

**R657-11. Taking Furbearers.**

**R657-11-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking furbearers.

(2) Specific dates, areas, number of permits, limits, and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking furbearers.

**R657-11-2. Definitions.**

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

(2) In addition:

(a) "Bait" means any lure containing animal parts larger than one cubic inch, with the exception of white-bleached bones with no hide or flesh attached.

(b) "Exposed bait" means bait which is visible from any angle.

(c) "Fur dealer" means any individual engaged in, wholly or in part, the business of buying, selling, or trading skins or pelts of furbearers within Utah.

(d) "Fur dealer's agent" means any person who is employed by a resident or nonresident fur dealer as a buyer.

(e) "Green pelt" means the untanned hide or skin of any furbearer.

(f) "Pursue" means to chase, tree, corner, or hold a furbearer at bay.

(g) "Scent" means any lure composed of material of less than one cubic inch.

**R657-11-3. Temporary Possession Tags for Bobcat.**

(1) Any person who has purchased a furbearer license for the current year may apply for up to eight temporary possession tags.

(2) Applications will be available on the date published in the proclamation of the Wildlife Board for taking furbearers from any division office or will be mailed upon request.

(3) Applications must be received through the mail no later than 5 p.m., on the date published in the proclamation of the Wildlife Board for taking furbearers. Applications completed incorrectly or received after the date published in the proclamation of the Wildlife Board for taking furbearers will be rejected.

(4)(a) Applicants must provide a Wildlife Habitat Authorization and furbearer license number on the application.

(b) The application must include \$5 for each tag requested. Applications must be sent to: Bobcat Application, P.O. Box 168888, Salt Lake City, Utah 84116-8888.

(5)(a) Temporary possession tags are valid for the entire season.

(b) Duplicate temporary possession tags are not issued.

**R657-11-4. Tagging Bobcats.**

(1) Before any bobcat pelt or unskinned carcass may be transported from the place of taking, a temporary possession tag must be filled out completely and the sex, date, and method of kill appropriately notched and attached to the pelt or unskinned carcass.

(2) Possession of an untagged green pelt or unskinned carcass is prima facie evidence of unlawful taking and possession.

(3) The lower jaw of each bobcat taken must be removed and tagged with the numbered jaw tag corresponding to the number of the temporary possession tag affixed to the hide.

**R657-11-5. Marten Permits.**

(1) A person may not trap marten or have marten in possession without having a valid current year furbearer license and a marten trapping permit in possession.

(2) Marten trapping permits are available free of charge from any division office.

(3)(a) Applications for marten permits must contain the applicant's full name, mailing address, phone number, and valid current year furbearer license number.

(b) Permit applications are accepted by mail or in person at any regional division office.

**R657-11-6. Permanent Possession Tags for Bobcat and Marten.**

(1) A person may not:

(a) possess a green pelt from a bobcat or marten that does not have a permanent tag affixed after the Saturday following the close of the bobcat and marten seasons; or

(b) buy, sell, trade, or barter a green pelt from a bobcat or marten that does not have a permanent tag affixed.

(2) Bobcat and marten pelts must be delivered to a division representative to have a permanent tag affixed and to surrender the lower jaw.

(3) Bobcat and marten pelts may be delivered to the following division offices, by appointment only, during the dates published in the proclamation of the Wildlife Board for taking furbearers:

(a) Cedar City - Regional Office;

(b) Glenwood Hatchery;

(c) Logan Hatchery;

(d) Ogden - Regional Office;

(e) Price - Regional Office;

(f) Salt Lake City - Salt Lake Office;

(g) Springville - Regional Office; and

(h) Vernal - Regional Office.

(4) There is no fee for permanent tags.

(5) Bobcat and marten which have been legally taken may be transported by an individual other than the fur harvester to have the permanent tag affixed; bobcats must be tagged with a temporary possession tag and accompanied by a valid furbearer license belonging to the fur harvester.

(6) Any individual transporting a bobcat or marten for another person must have written authorization stating the following:

(a) date of kill;

(b) location of kill;

(c) species and sex of animal being transported;

(d) origin and destination of such transportation;

(e) the signature and furbearer license number of the fur harvester;

(f) the name of the individual transporting the bobcat or marten; and

(g) the fur harvester's marten permit number if marten is being transported.

(7) Green pelts of bobcats and marten legally taken from outside the state may not be possessed, bought, sold, traded, or bartered in Utah unless a permanent tag has been affixed or the pelts are accompanied by a shipping permit issued by the wildlife agency of the state where the animal was taken.

(8)(a) Fur harvesters taking marten are requested to give the entire carcass intact and the lower jaw to the division in good condition when the pelt is presented for tagging.

(b) "Good condition" means the carcass is fresh or frozen and securely wrapped to prevent decomposition so that the tissue remains suitable for lab analysis.

**R657-11-7. Purchase of License by Mail.**

(1) A person may purchase a Wildlife Habitat Authorization and license by mail by sending the following information to the Salt Lake 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 furharvester education certification, and fees.

(2)(a) Personal checks, cashier's checks or money orders will be accepted.

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

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

**R657-11-8. Identification Numbers.**

(1) Each trap used to take furbearers must be permanently marked or tagged with the registered number of the trapper using them.

(2) Identification numbers must be legible and at least 1/4 inch in height.

(3) Registration numbers are permanent and may be obtained by mail or in person from the Salt Lake division office.

(4) Applications must include the full name, including initial, and complete home address.

(5) A registration fee of \$5 must accompany the request. This fee is payable only once.

(6) Each individual is issued only one registration number.

(7) Any person who has obtained a registration number must notify the division within 30 days of any change in address or the theft of traps.

**R657-11-9. Traps.**

(1) All long spring, jump, or coil spring traps, except rubber-padded jaw traps, that are not completely submerged under water when set must have spacers on the jaws which leave an opening of at least 3/16 of an inch when the jaws are closed.

(2) Trapping within 100 yards of either side of the Green River, or any of its tributaries up to one-half mile from their confluence with the Green River, between Flaming Gorge Dam and the Utah-Colorado state line; and trapping within 100 yards of either side of the Colorado River, or any of its tributaries upstream to one-half mile from their confluence with the Colorado River, between Highway US-191 and the Utah-Colorado state line, is restricted to the following traps and trapping devices:

(a) nonlethal-set leg hold traps with a jaw spread less than 5-1/8 inches, and nonlethal-set padded leg hold traps. Drowning sets with these traps are prohibited;

(b) body-gripping, killing-type traps with body-gripping area less than 30 square inches (i.e., 110 Conibear); and

(c) nonlethal dry land snares equipped with a stop-lock device that prevents it from closing to less than a six-inch diameter.

(3) A person may not disturb, remove, or possess another person's trap or trapping device or remove any wildlife from another person's trapping device, except peace officers in the performance of their duties or a person possessing a valid furbearer license and bobcat temporary possession tags, where required, who has written permission from the owner of the trap or trapping device.

(4)(a) A person may not set any trap or trapping device on posted private property without the landowner's permission.

(b) Any trap or trapping device set on posted property without the owner's permission may be sprung by the landowner.

(c) Wildlife officers should be informed as soon as possible of any illegally set traps or trapping devices.

(5) Peace officers in the performance of their duties may seize all traps, trapping devices, and wildlife used or held in violation of this rule.

(6) A person may not possess any unmarked trap or trapping device while engaged in taking wildlife.

(7) All traps and trapping devices must be visited and checked at least once every 48 hours, except killing traps striking dorso-ventrally and drowning sets which must be visited every 96 hours.

(8) A person may not transport or possess live protected wildlife. Any animal found in a trap or trapping device must be killed or released immediately by the trapper.

**R657-11-10. Use of Bait.**

(1) A person may not use any protected wildlife or their parts, except for white-bleached bones with no hide or flesh attached, as bait or scent; however, parts of legally taken furbearers and nonprotected wildlife may be used as bait.

(2) Traps or trapping devices may not be set within 30 feet of any exposed bait.

(3) A person using bait is responsible if it becomes exposed for any reason.

(4) White-bleached bones with no hide or flesh attached may be set within 30 feet of traps.

**R657-11-11. Accidental Trapping.**

(1)(a) Any bear, bobcat, cougar, fisher, marten, otter, wolverine, any furbearer trapped out of season, or other protected wildlife accidentally caught in a trap must be released unharmed.

(b) Written permission must be obtained from a division representative to remove the carcass of any of these species from a trap.

(c) The carcass remains the property of the state and must be turned over to the division.

(2) All incidents of accidental trapping of any of these animals must be reported to a division representative.

(3) Black-footed ferret, lynx and wolf are protected species under the Endangered Species Act. Accidental trapping or capture of these species must be reported to the division.

**R657-11-12. Methods of Take and Shooting Hours.**

(1) Furbearers, except bobcats, may be taken by any means, excluding explosives, poisons, and crossbows, or as otherwise provided in Section 23-13-17.

(2) Bobcats may be taken only by shooting, trapping, or with the aid of dogs.

(3) Marten may be taken only with an elevated, covered set in which the maximum trap size shall not exceed 1 1/2 foothold or 160 Conibear.

(4) Taking furbearers by shooting or with the aid of dogs is restricted to one-half hour before sunrise to one-half hour after sunset, except as provided in Section 23-13-17.

(5) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

**R657-11-13. Spotlighting.**

(1) Except as provided in Subsection (3):

(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:

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

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

(3) Spotlighting may be used to hunt coyote, red fox, striped skunk, or raccoon where allowed by a county ordinance enacted pursuant to Section 23-13-17.

(4) The ordinance shall provide that:

(a) any artificial light used to spotlight coyote, red fox, striped skunk, or raccoon must be carried by the hunter;



(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used to spotlight the animal; and  
 (c) while hunting with the use of an artificial light, the hunter may not occupy or operate any motor vehicle.

(5) For purposes of the county ordinance, "motor vehicle" shall have the meaning as defined in Section 41-6-1.

(6) The ordinance may specify:

(a) the time of day and seasons when spotlighting is permitted;  
 (b) areas closed or open to spotlighting within the unincorporated area of the county;

(c) safety zones within which spotlighting is prohibited;

(d) the weapons permitted; and

(e) penalties for violation of the ordinance.

(7)(a) A county may restrict the number of hunters engaging in spotlighting by requiring a permit to spotlight and issuing a limited number of permits.

(b) A fee may be charged for a spotlighting permit.

(8) A county may require hunters to notify the county sheriff of the time and place they will be engaged in spotlighting.

(9) The requirement that a county ordinance must be enacted before a person may use spotlighting to hunt coyote, red fox, striped skunk, or raccoon does not apply to:

(a) a person or his agent who is lawfully acting to protect his crops or domestic animals from predation by those animals; or

(b) an animal damage control agent acting in his official capacity under a memorandum of agreement with the division.

#### **R657-11-14. Use of Dogs.**

(1) Dogs may be used to take furbearers only during the prescribed open seasons.

(2) The owner and handler of dogs used to take or pursue a furbearer must have a valid furbearer license in possession while engaged in taking furbearers.

(3) When dogs are used in the pursuit of furbearers, the licensed hunter intending to take the furbearer must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

#### **R657-11-15. State Parks.**

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

(2) Hunting with a rifle, handgun, or muzzleloader on 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 and archery equipment is prohibited within one quarter mile of the above stated areas.

#### **R657-11-16. Transporting Furbearers.**

(1)(a) A person who has obtained the appropriate license and permit may transport green pelts of furbearers. Additional restrictions apply for taking bobcat and marten as provided in Section R657-11-6.

(b) A registered Utah fur dealer or that person's agent may transport or ship green pelts of furbearers within Utah.

(2) A furbearer license is not required to transport red fox or striped skunk.

#### **R657-11-17. Exporting Furbearers from Utah.**

(1) A person may not export or ship the green pelt of any furbearer from Utah without first obtaining a valid shipping permit from a division representative.

(2) A furbearer license is not required to export red fox or striped skunk from Utah.

#### **R657-11-18. Sales.**

(1) A person with a valid furbearer license may sell, offer for sale, barter, or exchange only those species that person is licensed to take, and which were legally taken.

(2) Any person who has obtained a valid fur dealer or fur dealer's agent certificate of registration may engage in, wholly or in part, the business of buying, selling, or trading green pelts or parts of furbearers within Utah.

(3) Fur dealers or their agents and taxidermists must keep records of all transactions dealing with green pelts of furbearers.

(4) Records must state the following:

(a) the transaction date; and

(b) the name, address, license number, and tag number of each seller.

(5) A receipt containing the information specified in Subsection (4) must be issued whenever the ownership of a pelt changes.

(6)(a) A person may possess furbearers and tanned hides legally acquired without possessing a license, provided proof of legal ownership or possession can be furnished.

(b) A furbearer license is not required to sell or possess red fox or striped skunk or their parts.

#### **R657-11-19. Wasting Wildlife.**

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts as provided in Section 23-20-8.

(2) The skinned carcass of a furbearer may be left in the field and does not constitute waste of wildlife.

#### **R657-11-20. Depredation by Badger, Weasel, and Spotted Skunk.**

(1) Badger, weasel, and spotted skunk may be taken anytime without a license when creating a nuisance or causing damage, provided the animal or its parts are not sold or traded.

(2) Red fox and striped skunk may be taken any time without a license.

#### **R657-11-21. Depredation by Bobcat.**

(1) Depredating bobcats may be taken at any time by duly appointed animal damage control agents, supervised by the animal damage control program, while acting in the performance of their assigned duties and in accordance with procedures approved by the division.

(2) A livestock owner or his employee, on a regular payroll and not hired specifically to take furbearers, may take bobcats that are molesting livestock.

(3) Any bobcat taken by a livestock owner or his employee must be surrendered to the division within 72 hours.

#### **R657-11-22. Depredation by Beaver.**

(1) Beaver doing damage may be taken or removed during closed seasons.

(2) A permit to remove damaging beaver must first be obtained from a division office or conservation officer.

**R657-11-23. Questionnaire.**

Each permittee who receives a questionnaire should return the questionnaire to the division regardless of success. Returning the questionnaire helps the division evaluate population trends, harvest success, and other valuable information.

**R657-11-24. Prohibited Species.**

(1) A person may not take black-footed ferret, fisher, lynx, otter, wolf, or wolverine.

(2) Accidental trapping of any of these species must be reported to a division representative.

(3) Accidental trapping or capture of black-footed ferret, lynx and wolf must be reported to the division.

**R657-11-25. Season Dates and Bag Limits.**

Season dates, bag limits, and areas with special restrictions are published annually in the proclamation of the Wildlife Board for taking furbearers.

**R657-11-26. Applications for Trapping on State Waterfowl Management Areas.**

(1) Applications for trapping on state waterfowl management areas are available from the division offices, and from waterfowl management superintendents.

(2) Applications must be received in the mail no later than 5 p.m. on the date published in the proclamation of the Wildlife Board for taking furbearers. Applications completed incorrectly or received after the date published in the proclamation of the Wildlife Board for taking furbearers will be rejected.

(3) Application must be sent to the Wildlife Management section in the Salt Lake division office.

(4)(a) Trappers may apply for only one permit on only one management area in any 12 month period.

(b) Up to three trappers may apply as a group for a single permit.

(c) None of the group applicants may apply for any other area.

(5)(a) Only the trapper or trappers specified on the application may trap on the waterfowl management area.

(b) Violation of this section is cause for forfeiture of all trapping privileges on management areas for that trapping year.

(6) Areas open to trapping, trapping fees, and number of permits for individual areas are available at division offices or by contacting the waterfowl management area superintendents during the application period.

(7)(a) If the number of applications received exceeds the number of permits available, a drawing will be held. Applicants shall be notified by mail of drawing results.

(b) This drawing will determine successful applicants and alternates.

(8) Trapping dates and species that may be trapped shall be determined by the waterfowl management area superintendent.

(9) All trappers must trap under the supervision of the waterfowl management area superintendent.

**R657-11-27. Fees.**

(1) Upon payment of trapping fees, successful applicants are granted trapping rights for management areas.

(2) If a successful applicant fails to make full payment within ten days after the drawing, an alternate trapper will be selected.

(3) Permits are not valid until signed by the superintendent in charge of the area to be trapped.

**R657-11-28. Vehicle Travel.**

Vehicle travel is restricted to developed roads. However, written permission for other travel may be obtained from the waterfowl management area superintendent.

**R657-11-29. Trapping Hours.**

Traps may be tended only between one-half hour before official sunrise to one-half hour after official sunset.

**R657-11-30. Responsibility of Trappers.**

(1) All trappers are directly responsible to the waterfowl management area superintendent.

(2) Violation of management or trapping rules, including failure to return a trapping permit within five days of cessation of trapping activities, or failure to properly trap an area, as determined and recommended by the superintendent, may be cause for cancellation of trapping privileges, existing and future, on all waterfowl management areas.

**R657-11-31. Closed Area.**

Davis County - Trapping is allowed only on the dates published in the proclamation of the Wildlife Board for taking furbearers, on those lands administered by the state lying along the eastern shore of the Great Salt Lake, commonly known as the Layton-Kaysville marshes. In addition, there may be a portion of the above stated area that is closed to trapping. This area will be posted and marked.

**KEY: wildlife, furbearers\*, game laws, wildlife law**  
**[~~October 17, 2000~~2002]**

**Notice of Continuation August 30, 2000**

**23-14-18**

**23-14-19**

**23-13-17**



**Natural Resources, Wildlife Resources**

**R657-12**

**Authorization to Hunt from a Vehicle  
and Fishing License for the Disabled**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 24387

FILED: 01/11/2002, 16:20

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Subsection R657-12-4(3)(c)(i) is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-20-12 and 63-46a-3

**ANTICIPATED COST OR SAVINGS TO:**

❖**THE STATE BUDGET:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that this amendment does not create a cost or savings impact to the division's budget or the state budget.

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

❖**OTHER PERSONS:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.**

**THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002**

**AUTHORIZED BY:** Kevin Conway, Assistant Director

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

**R657-12. Authorization to Hunt from a Vehicle and Fishing License for the Disabled.**

**R657-12-1. Purpose and Authority.**

Under authority of Section 23-20-12 and Subsection 63-46a-3, this rule provides the standards and procedures for:

- (1) obtaining a certificate of registration for taking wildlife from a vehicle; and
- (2) obtaining a fishing license as authorized under Section 23-19-36(1).

**R657-12-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Blind" means the person:
    - (i) has no more than 20/200 visual acuity in the better eye when corrected; or
    - (ii) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of the field of vision no greater than 20 degrees.
  - (b) "Crutch" means any mobility aid or assistive technology device, including a cane, crutch, walker, long or short braces, or other prosthetic or orthotic device which aids in mobility.
  - (c) "Lower extremity" means the loss of one or both legs or a part of either or both legs which materially impedes a person's mobility.

**R657-12-3. Providing Proof of Disability for Obtaining a Fishing License.**

- (1) A person may receive a fishing license under Section 23-19-36(1) by providing proof the person is blind, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities.
  - (2) A person may purchase this license at any division office.
  - (3) The division shall accept the following as proof of disability:
    - (a) obvious physical impediment;
    - (b) use of any mobility device described in Section R657-12-2(b);
    - (c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(a); or
    - (d) a signed statement by a licensed physician verifying the person is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

**R657-12-4. Obtaining Authorization to Hunt from a Vehicle.**

- (1) A person may receive a certificate of registration to take wildlife from a vehicle who is paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities.
  - (2)(a) Applicants for the certificate of registration must appear in person at a division office and provide proof of disability as provided in Subsections R657-12-3(3)(a), (b), or (d).

- (b) Certificates of registration may be renewed annually.
- (3) Wildlife may be taken from a vehicle under the following conditions:
  - (a) Only those persons with a certificate of registration in possession allowing them to hunt from a vehicle may discharge a firearm or bow from, within, or upon any motorized terrestrial vehicle;
  - (b) Shooting from a vehicle on or across any established roadway is prohibited;
  - (c)(i) Firearms must be carried in an unloaded condition, and a round may not be placed in the firearm until the act of firing begins, except as authorized in Title 53, Chapter 5, Part 7 of the Utah Code; and
    - (ii) Arrows must remain in the quiver until the act of shooting begins; and
  - (d) Certificate of registration holders must be accompanied by, and hunt with, a licensed hunter who is physically capable of assisting the certificate of registration holder in recovering wildlife.
- (4) Certificate holders must comply with all other laws and rules pertaining to hunting wildlife.

**KEY: wildlife, wildlife law, disabled persons\***  
~~1993~~2002  
 Notice of Continuation September 26, 1997  
 23-20-12  
 63-46a-3



## Natural Resources, Wildlife Resources

# R657-20

## Falconry

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 24395  
 FILED: 01/15/2002, 14:27

#### 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 falconry program, updating federal requirements, and as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-20-39 is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife. Definitions of "Bird Banding Laboratory band," "Form 3-186A," "Quarry," and "State Forms," are being added. Provisions of the rule associated with federal requirements are being updated. Clarification is being made to provisions for apprentice class falconers, general class falconers, and master class falconers. Season dates are being amended for eyes and passage bird take. Names of birds are being capitalized consistent with the American Ornithologist Union.

Provisions are being added to provide application and drawing procedures for the capture of Peregrine Falcons, sensitive raptors, and nonresident legal birds. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-17-7

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 21, 2000 ed.

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** This amendment clarifies existing requirements, and adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources (DWR) has determined that these amendments do not create a cost or savings impact to DWR's budget or the state budget.
- ❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.
- ❖ **OTHER PERSONS:** The amendments are for clarification and adds requirements pursuant to federal regulations and concealed weapons. 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:** None--The amendments clarify existing requirements and add requirements pursuant to federal regulations and concealed weapons. There are not any additional compliance costs associated with these amendments.

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

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/22/2002 at 6:30 PM, John Wesley Powell Museum, 885 E. Main St., Green River, UT; 1/23/2002 at 7:00

PM, Beaver High School, 195 E. Center St., Beaver, UT; 1/28/2002 at 7:00 PM, Vernal City Offices, 447 E. Main St., Vernal, UT; 1/29/2002 at 6:30 PM, Springville Junior High School, 165 S. 700 E., Springville, UT; 1/30/2002 at 6:00 PM, Bridgerland Applied Technology Center, 325 W. 1100 S., Brigham City, UT; and 2/21/2002 at 9:00 AM, Wildlife Board Meeting, Dixie Conference Center, Ballroom C, St. George, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

### **R657-20. Falconry.**

#### **R657-20-1. Purpose and Authority.**

Under authority of Section 23-17-7 and in accordance with 50 CFR 21, 2000 ed., which is incorporated by reference, this rule provides the requirements and procedures for possessing and using raptors for falconry.

#### **R657-20-2. Possession of Raptors.**

(1) Possession of any raptor, raptor egg, shell fragment, semen, or any raptor part without a federal falconry permit and a valid certificate of registration, and form is prima facie Falconry Certificate of Registration, license or Form 3-186A is prima facie evidence that the raptor, raptor egg, shell fragment, semen, or raptor part was illegally taken and is illegally held in possession.

(2) The only species of raptor that may be possessed, transported, or used for falconry are:

- (a) raptors of the subfamily Accipitrinae, other than the ~~[bald eagle]~~ Bald Eagle, Haliaeetus leucocephalus;
- (b) raptors of the subfamily Falconinae; and
- (c) ~~[great horned owl, Bubo virginianus;]~~ Great Horned Owl, Bubo virginianus and captive-bred Eurasian Eagle-owl, Bubo bubo of the family Strigidae.

#### **R657-20-3. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2 and Rule R657-6.

(2) In addition:

(a) ~~["Eyas" means a nestling, fledgling, or prefledging raptor.]~~ "Bird Banding Laboratory band" means a permanent, numbered, silver, aluminum band.

~~[(b)]~~ (b) "Eyas" means a young raptor not yet capable of sustained flight such as a nestling or fledgling.

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

~~\_\_\_\_\_~~ (d) "Form 3-186A" means the Migratory Bird Acquisition and Disposition Report form.

~~\_\_\_\_\_~~ (e) [(e)] "Imping" means to graft new feathers onto the wing of a bird to repair damage or to increase flying capacity.

~~[(d)]~~ (f) "Marker or band" means a numbered band issued by the Service which, when affixed to a raptor's leg, identifies an individual raptor.

~~[(e)]~~ (g) "Passage bird" means a [flighted raptor of the year.] first-year raptor capable of sustained flight.

~~[(#)]~~ (h) "Quarry" means any live animal.

~~\_\_\_\_\_~~ (i) "Raptor" means a bird of the families [~~Cathartidae,~~ Accipitridae, Falconidae, Tytonidae, ~~[and]~~ or Strigidae.

~~[(e)]~~ (j) "Service" means the U.S. Fish and Wildlife Service.

~~\_\_\_\_\_~~ (k) "State Forms" means annual reports and completed Raptor Capture permits.

#### **R657-20-4. Federal Requirements.**

(1) A federal falconry permit is required before any person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter raptors for falconry purposes.

(2) Any person engaging in falconry must complete a federal application form in accordance with 50 CFR 21.28.

(3) Applications may be obtained from, and submitted to the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 25486, Denver Federal Center (60130), Denver, CO. 80225-0486.

~~[(4)-A-]~~ (4)(a) A federal falconry permit issued or renewed under 50 CFR 21.28 expires on the date designated on the face of the permit unless amended or revoked, but the term of permit shall not exceed three years from the date of issuance or renewal.

~~\_\_\_\_\_~~ (b) Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit.

#### **R657-20-5. Resident Certificate of Registration Application.**

(1) A resident applying for or renewing a ~~[falconry certificate of registration]~~ Falconry Certificate of Registration shall:

(a) submit a completed falconry application to the division; and

(b) include the certificate of registration fee.

(2) At the time of renewal, the ~~[previous falconry certificate of registration and the federal]~~ current Falconry Certificate of Registration and a federal falconry permit number must be submitted on the falconry application.

#### **R657-20-6. Apprentice Class Falconer.**

(1) An apprentice class falconer shall be:

(a) 14 years of age or older; and

(b) sponsored by a general or master class falconer for the first two years of apprenticeship.

(2) An apprentice obtaining their first ~~[falconry certificate of registration]~~ Falconry Certificate of Registration must answer correctly at least 80 percent of the questions on a supervised examination provided and administered by the division, relating to basic biology, care and handling of raptors, literature, laws, rules, regulations, and other appropriate subject matter.

(3) If necessary, the examination may be taken again after a ~~[five]~~ 14 calendar-day waiting period.

(4) A person may not take the falconry exam earlier than two months before that person's 14th birthday.

(5) The sponsor shall provide advice for facilities and equipment construction, trapping the first season, training the raptor, and all other activities that will promote adequate care and good health for the raptor and safety for the apprentice. A sponsor may not have more than three apprentices at one time.

(6) In the event sponsorship is terminated, the holder of an apprentice ~~[falconry certificate of registration]~~ Falconry Certificate of Registration must obtain a new sponsor within 30 calendar days of termination.

(7) The division must be notified in writing concerning the change in sponsor. The sponsor's name, state ~~[certificate of~~

~~registration~~, Falconry Certificate of Registration and federal falconry permit number ~~[shall] must~~ be included in the notification.

~~(8)(a) Applications for Utah falconry certificates of registration must be submitted to a division office.~~

~~(b) Applications for the required federal permit must be made to the Service.~~

~~(9) An apprentice may not:~~

~~(a) possess more than one raptor for falconry; and~~

~~[may not](b) obtain more than one raptor for replacement during any 12-month period from the date of the first capture.~~

~~(10)(9) An apprentice may possess only an American [kestrel] Kestrel or a [red-] Red-tailed [hawk] Hawk, which must be taken from the wild as a passage bird by the apprentice.~~

~~(11)(10) Re-examination and facilities inspection will be required of any applicant who has not held a [falconry certificate of registration] Falconry Certificate of Registration or license for two consecutive years.~~

~~(12)(a) Requests for class upgrades must be submitted to the division in writing.~~

~~(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.~~

#### **R657-20-7. General Class Falconer.**

(1) A general class falconer shall:

(a) be 18 years of age or older;

(b) ~~[have] show proof of having a valid Falconry Certificate of Registration for at least 24 months; and~~

~~(c) have at least two years of sponsor-verified experience caring for, training, [and] or hunting with raptors at the apprentice level or its equivalent; and~~

~~(e) show proof of having a valid falconry certificate of registration for at least 24 months.~~ (i) For purposes of this section, "two years of experience" means at least four months caring for, training, or hunting with raptors in each of two different 12-month periods.

(2) Evidence that the applicant has had a valid raptor license or permit in another state for at least 24 consecutive months may be substituted for the apprentice ~~[certificate of registration] Falconry Certificate of Registration~~ requirement.

(3)(a) Verification of the ~~[24 month] two-year~~ experience requires a letter from the sponsor that details the applicant's progress in falconry and qualifications for upgrade; and

~~(b) the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.~~

(4) A general class falconer may not:

(a) possess more than two raptors for falconry; and

~~[may not](b) obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or~~

~~(c) take, transport, or possess a [golden eagle] Golden Eagle (Aquila chrysaetos) or any species listed as threatened or endangered in 50 CFR 17.~~

~~(5)(a) Facilities inspection will be required of any applicant who has not held a Falconry Certificate of Registration or license for two consecutive years.~~

~~(b) Re-examination will be required of any applicant who has not held a Falconry Certificate of Registration or license for five consecutive years.~~

~~(6)(a) Requests for class upgrades must be submitted to the division in writing.~~

~~(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.~~

#### **R657-20-8. Master Class Falconer.**

(1) A master class falconer shall:

(a) ~~[have at least 60 months experience in the practice of falconry at the general class level or its equivalent; and~~

~~(b) show proof of having a valid general class [certificate of registration] Falconry Certificate of Registration for at least 60 months; and[-]~~

~~(2)(b) have at least five years experience caring for, training, or hunting with raptors at the general class level or its equivalent.~~

~~(i) For purposes of this section, "five years of experience" means at least four months caring for, training, or hunting with raptors in each of five different 12-month periods.~~

~~(2) Verification of the five-year experience requires the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.~~

~~(3) A master class falconer may not:~~

(a) possess more than three raptors for falconry;

(b) obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or

(c) take from the wild:

(i) more than one raptor listed as threatened in 50 CFR 17, in any 12-month period, as part of the three bird limitation, and then only in accordance with 50 CFR 17; or

(ii) any species listed as endangered in 50 CFR 17, but may transport or possess such species in accordance with 50 CFR 17.

~~(3)(4) A master class falconer may not take from the wild, transport, or possess a [golden eagle] Golden Eagle for falconry purposes unless authorized in writing under 50 CFR 22.24.~~

~~(4) Only a (5) A master class falconer may possess one [golden eagle] Golden Eagle, Aquila chrysaetos, for falconry purposes pursuant to 50 CFR 22.24, [Migratory Bird Permits, and the following guidelines:] Eagle Permits, and as provided in Subsections (i) through (ii).~~

~~(a) A master class registrant shall be sponsored for the first 12 months to use a golden eagle for falconry;~~

~~(b) The registrant shall maintain an ongoing dialogue with the sponsor;~~

~~(c) The sponsor shall be a master class falconer who has handled a golden eagle for a minimum of 24 months;~~

~~(d) A sponsor may not, at any time, sponsor more than one registrant;~~

~~(e)(i) The registrant may not obtain or possess more than one [golden eagle] Golden Eagle during a 12-month period; and~~

~~(f) A (b) the golden eagle held by the registrant [is] shall be included in the three-bird limitation of the master class falconer in accordance with 50 CFR 17.~~

#### **R657-20-9. Facilities and Equipment.**

(1) Before a person may obtain a ~~[falconry certificate of registration] Falconry Certificate of Registration~~, the raptor housing facilities and equipment shall be inspected by a division representative and must be certified as meeting the requirements of this section.

(2)(a) The primary consideration for raptor housing facilities whether indoor mews or outdoor weathering ~~[areas] area~~ is protection from the environment, predators, and undue disturbance.

(b) A person may not possess a raptor without either an indoor facility or an outdoor facility as provided in ~~[this rule]~~Section R657-20-10 and R657-20-11.

**R657-20-10. Indoor Facilities.**

(1) An indoor facility or ~~[new]mews~~ must be large enough to allow easy access for caring for the raptor housed in the facility.

(2) If more than one raptor is to be kept in the ~~[new]mews~~, the raptors must be tethered or separated by partitions and the area for each raptor must be large enough to allow the raptor to fully extend its wings.

(3) There must be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a secure door that can be easily closed.

(4) The floor of the ~~[new]mews~~ must ~~[permit]~~allow for easy cleaning and be well drained.

(5) Adequate perches must be provided to ensure the health, safety and protection of the raptor.

**R657-20-11. Outdoor Facilities.**

(1) Outdoor facilities or weathering areas must be fenced and covered with netting or wire, or roofed to protect the raptor from disturbance and attack by predators.

(2) The enclosed area must be large enough to ensure the raptor cannot strike the fence when flying from the perch.

(3) Protection from excessive sun, wind, and inclement weather must be provided for each raptor.

(4) Adequate perches must be provided to ensure the health, safety and protection of the raptor.

**R657-20-12. Equipment.**

The following items shall be in the possession of the applicant before a federal falconry permit or ~~[certificate of registration can]~~Falconry Certificate of Registration may be obtained:

(1)(a) At least one pair of Alymeri jesses or similar type constructed of pliable, high quality leather or suitable synthetic material to be used when any raptor is flown free.

(b) Traditional one-piece jesses may be used on raptors when not being flown.

(2) At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.

(3) At least one suitable container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each raptor.

(4) At least one weathering area perch of an acceptable design for each raptor.

(5) A reliable scale or balance suitable for weighing the raptor held and graduated to increments of not more than one-half ounce.

**R657-20-13. Federal Form 3-186A.**

A falconer may not take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless the falconer completes a federal ~~[form]~~Form 3-186A and submits the blue copy to the division and the remaining copies to the Service within five calendar days of the transaction.

**R657-20-14. ~~[Transfer of Care or]~~Temporary ~~[Loan]~~Possession For Care.**

(1)(a) A raptor possessed under authority of a ~~[falconry certificate of registration]~~Falconry Certificate of Registration may be

temporarily held by a person other than the possessor of record for maintenance and care for a period not to exceed 30 calendar days.

(b) The raptor must be accompanied at all times by a copy of the properly completed federal ~~[form]~~Form 3-186A or copy designating the falconer as the possessor of record and by a signed, dated statement from the falconer authorizing temporary possession.

(c) The temporary possessor must hold a valid ~~[falconry certificate of registration]~~Falconry Certificate of Registration in the appropriate class designation and have adequate facilities.

**R657-20-15. Permanent Transfer.**

A falconer may permanently transfer a raptor to:

(1) another falconer of appropriate class designation with a valid ~~[falconry certificate of registration]~~Falconry Certificate of Registration and adequate facilities; or

(2) a raptor propagator or special purpose possession permittee who has the appropriate certificates, licenses, permits and ~~[forms]~~Form 3-186A.

**R657-20-16. Purchase or Sale of Captive-Bred Raptors.**

(1) Only general and master class falconers may purchase or sell captive-bred raptors.

(2) Before a captive-bred raptor is purchased or sold, bartered or gifted it shall be properly banded.

**R657-20-17. Importation Requirements for Residents and Nonresidents.**

(1)(a) A person is not required to obtain an importation certificate of registration to possess a raptor brought into Utah from another state when the raptor is to be used for falconry purposes.

(b) A raptor used for any purpose other than falconry is governed by Rule R657-3.

(2) A copy of a valid health certificate and band number, where applicable, must be presented to the division within five working days of the arrival of the raptor into the state.

(3) A health certificate is required from the state of origin regardless of the time period the raptor will be in the state.

(4) An entry permit is required to bring the raptor into the state and may be obtained from the Utah Department of Agriculture, Animal Health Office.

**R657-20-18. Nonresidents Establishing Residency.~~[R657-20-18. Importation Requirements for Nonresidents.]~~**

(1) A falconer may not claim residency in more than one state or possess a resident falconry license or ~~[certificate of registration]~~Falconry Certificate of Registration from more than one state.

(2) A nonresident falconer entering the state to establish residency may possess legally obtained raptors during the six-month domicile period while establishing residency.

(3) A copy of the previous state's valid falconry license, a current federal falconry permit number, a valid health certificate and the band number of the raptor held in possession must be presented to the division upon entering the state.

(4) The falconer must have the proper facilities and equipment. A facilities inspection is required.

(5) If the raptor is to be flown or exercised during the six-month domicile period, a valid falconry license from the previous state and a current federal falconry permit are required.

(6) If the raptor is to be used for falconry during the six-month domicile period, a valid falconry license from the previous state, a current federal falconry permit number and the appropriate nonresident game license are required.

(7) Upon completion of the residency requirement, a new resident applying for a Falconry Certificate of Registration must submit to the division:

- (a) a completed falconry application;
- (b) the certificate of registration fee;
- (c) a copy of a valid falconry license from the former state of residency indicating class designation; and
- (d) their valid federal falconry permit number.

#### **R657-20-19. Facilities for Raptors in Transit.**

To ensure the health, safety and protection of any raptor being transported or held, temporary facilities must be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 calendar days.

#### **R657-20-20. Change of Address.**

Any falconer who possesses a raptor and moves or changes the address of where the raptor is being held must ~~first~~ notify the division in writing of the change of address within five business days. An inspection of facilities may be required at the new location.

#### **R657-20-21. Release to the Wild.**

Prior to releasing any raptor to the wild:

- (1) the raptor band shall be removed by a division representative; and
- (2) a Bird Banding Laboratory band shall be attached to the raptor by a division representative. Banding is by appointment only.

#### **R657-20-22. Escape or Death.**

(1) The division ~~shall~~ must be notified upon escape or death of a raptor.

(2) Within five ~~working~~ business days of the escape or death of any raptor, the ~~blue copy~~ appropriate copies of the federal ~~form~~ Form 3-186A ~~shall~~ must be provided to the division and the Service.

(3) Within five ~~working~~ business days, ~~raptors~~ the band from a raptor that die shall dies must be presented to a division representative ~~[to have the band removed. The blue copy of the federal form 3-186A shall be provided to the division.]~~ with the corresponding federal Form 3-186A.

#### **R657-20-23. Feathers.**

Feathers that are molted or feathers from raptors held in captivity that die may be retained and exchanged for imping purposes by falconers with a valid ~~certificate of registration~~ Falconry Certificate of Registration.

#### **R657-20-24. Certificate of Registration Renewal ~~Form~~ and Annual Report Forms.**

(1) Resident falconers wishing to renew a valid ~~certificate of registration~~ Falconry Certificate of Registration must submit a completed ~~certificate of registration~~ Falconry Certificate of Registration renewal form to the division upon or before the expiration date specified on the ~~certificate of registration~~ Falconry Certificate of Registration.

(2) Resident falconers holding a valid ~~certificate of registration~~ Falconry Certificate of Registration must submit a completed falconry annual report form to the division ~~upon or before the date specified on the certificate of registration.~~ by December 31 of each year.

(3) Residents who do not hold a valid ~~certificate of registration~~ Falconry Certificate of Registration or do not submit a certificate of registration renewal form by the date specified on the certificate of registration and maintain raptors in possession are in violation of unlawful captivity of protected wildlife under Section 23-13-4.

(4) Any raptor not listed on the falconry annual report or ~~certificate of registration renewal form~~ federal Form 3-186A may be seized.

(5) Failure to submit the appropriate records and reports may result in revocation, suspension or denial of a ~~certificate of registration~~ Falconry Certificate of Registration or upgrade.

#### **R657-20-25. Inspection of Raptors, Facilities, Certificates of Registration, and Documents.**

As a condition of obtaining a ~~falconry certificate of registration~~ Falconry Certificate of Registration, the falconer agrees to reasonable administrative inspections of raptors, facilities equipment, appropriate permits, licenses, certificates of registration and forms.

#### **R657-20-26. Taking Raptors from the Wild.**

(1) A person may not take any raptor from the wild without first obtaining a ~~raptor capture permit~~ Raptor Capture Permit from the division.

(2)(a) A raptor may be taken by traps or nets that ~~are~~ the division deems humane in their operation and use.

(b) ~~Acceptable~~ Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, and bow net traps.

(c) Trapping devices must be constantly attended while in use.

(d) Protected wildlife may not be used to capture raptors.

#### **R657-20-27. Capture Permits.**

(1) ~~(a)~~ A person must possess a valid Falconry Certificate of Registration and federal falconry permit prior to obtaining a Raptor Capture Permit.

~~(2)(a)~~ Prior to capturing or attempting to capture any raptor a falconer must obtain a [falconry certificate of registration, raptor capture permit and corresponding federal band] Raptor Capture Permit from a division office.

(b) The ~~[raptor capture permit, falconry certificate of registration, and corresponding federal band]~~ Raptor Capture Permit, federal falconry permit and Falconry Certificate of Registration must be in possession while pursuing, capturing or attempting to capture a raptor.

~~(2) Raptor capture permits and federal bands are valid for a single raptor of a species allowed in the falconer's class.~~ (3) An apprentice class Raptor Capture Permit is valid for:

~~(3) Raptor capture permits may be obtained from division offices.~~ (a) one passage American Kestrel; or

~~(4) Raptor capture permits and corresponding federal bands~~ (b) one passage Red-tailed Hawk.

(4) A general or master class Raptor Capture Permit is valid for one eyas or one passage raptor listed in Subsection (10) or (11), respectively in accordance with the restrictions and limitations of this rule.



(5) Raptor Capture permits are non-transferable and ~~nonassignable~~ non-assignable and can only be used by the person specified on the permit. Raptor ~~capture~~ Capture permits ~~and corresponding federal bands~~ are valid only for the season specified on the permit.

~~(5)~~(6)(a) Nonresidents wishing to purchase a Raptor Capture Permit and not participating in the sport of falconry in the state are not required to purchase a Utah ~~falconry certificate of registration or license prior to the purchase of a raptor capture permit.~~ Falconry Certificate of Registration or license.

~~(6)~~(b) However, nonresidents must show proof of a valid federal falconry permit and falconry license issued by their state of residency.

(7) Falconers shall not retain and transport more than one captured raptor per capture permit.

~~(7)~~(8) Any person who does not capture a raptor must return the unused capture permit to the division within five ~~working~~ business days of the season closure.

~~(8)~~(9) Any person who captures a raptor must have it banded in accordance with Section R657-20-31.

~~(9)~~(10) Capture of eyas raptors is ~~permitted~~ allowed only for the following species:

- (a) ~~northern harrier~~ Northern Harrier, *Circus cyaneus*;
- (b) ~~sharp~~ Sharp-shinned ~~hawk~~ Hawk, *Accipiter striatus*;
- (c) Cooper's ~~hawk~~ Hawk, *Accipiter cooperi*;
- (d) ~~northern goshawk~~ Northern Goshawk, *Accipiter gentilis*;
- (e) Swainson's ~~hawk~~ Hawk, *Buteo swainsoni*;
- (f) ~~red~~ Red-tailed ~~hawk~~ Hawk, *Buteo jamaicensis*;
- (g) ~~ferruginous hawk~~ Ferruginous Hawk, *Buteo regalis*;
- (h) ~~golden eagle~~ Golden Eagle, *Aquila chrysaetos*;
- (i) American ~~kestrel~~ Kestrel, *Falco sparverius*;
- (j) ~~peregrine falcon~~ Peregrine Falcon, *Falco peregrinus*;
- (k) ~~prairie falcon~~ Prairie Falcon, *Falco mexicanus*; and
- (l) ~~great horned owl~~ Great Horned Owl, *Bubo virginianus*;

~~(40)~~(11) Capture of passage raptors is ~~permitted~~ allowed only for the following species:

- (a) ~~northern harrier~~ Northern Harrier, *Circus cyaneus*;
- (b) ~~sharp~~ Sharp-shinned ~~hawk~~ Hawk, *Accipiter striatus*;
- (c) Cooper's ~~hawk~~ Hawk, *Accipiter cooperi*;
- (d) ~~northern goshawk~~ Northern Goshawk, *Accipiter gentilis*;
- (e) Harris's ~~hawk~~ Hawk, *Parabuteo unicinctus*;
- (f) Swainson's ~~hawk~~ Hawk, *Buteo swainsoni*;
- (g) ~~red~~ Red-tailed ~~hawk~~ Hawk, *Buteo jamaicensis*;
- (h) ~~ferruginous hawk~~ Ferruginous Hawk, *Buteo regalis*;
- (i) ~~rough~~ Rough-legged ~~hawk~~ Hawk, *Buteo lagopus*;
- (j) ~~golden eagle~~ Golden Eagle, *Aquila chrysaetos*;
- (k) American ~~kestrel~~ Kestrel, *Falco sparverius*;
- (l) ~~merlin~~ Merlin, *Falco columbarius*;
- (m) ~~gyrfalcon~~ Gyrfalcon, *Falco rusticolus*;
- (n) ~~prairie falcon~~ Prairie Falcon, *Falco mexicanus*; and
- (o) ~~great horned owl~~ Great Horned Owl, *Bubo virginianus*.

#### **R657-20-28. Legal Birds.**

(1)(a) Eyasses may be taken from the wild only by general and master class falconers ~~from May 13 through July 21, unless the opening day~~ as provided in Subsections (a) through (d).

(b) Eyasses, except Great Horned Owls and Peregrine Falcons, ~~may be taken from May 13, unless May 13 is a Sunday, in which case the season~~ ~~will~~ shall begin the following day ~~through July 15 and during the third weekend in July.~~

(c) Great Horned Owl eyasses may be taken from the wild during the first two Saturdays of April and from May 13, unless May 13 is a Sunday, in which case the season shall begin the following day through July 15 and during the third weekend in July.

(d) Peregrine Falcon eyasses may be taken in accordance with R657-20-29(4).

(e) No more than two eyasses may be taken by the same falconer.

(2) Passage raptors may be taken from the wild only from:

(a) September 1 through October 31 on weekends and legal holidays; and

(b) November 1 ~~through January 31~~, unless ~~the opening day~~ November 1 is a Sunday, in which case the season ~~will~~ shall begin the following day through January 31.

(3) Only American ~~kestrels~~ Kestrels and ~~great horned owls~~ Great Horned Owls may be taken when over one year of age.

(4) An eyas may not be taken from a nest containing only a single eyas.

(5) One or more eyasses ~~shall~~ must be left in a nest from which any eyas has been removed.

(6) The date of capture, sex of raptor, and the location of the capture must be recorded precisely, to within 100 meters, on the Raptor Capture Permit. Precise nest locations will be held for use by the division and not made available to the public.

~~(7)(a)~~ The division falconry coordinator shall determine on an annual basis the number of capture permits issued for the taking of eyas raptors listed on Utah's current sensitive species list.

~~The list will be available on February 1 of each year.~~ (b) Notice of any limitations on the number of eyas capture permits for sensitive raptors shall be made by February 7 of each year.

~~(7) Locations of nests from which an eyas is removed must be recorded precisely on the Raptor Capture Permit. Such information will be held strictly for use by the division and not made available to the public.~~ (c) Application procedures for taking sensitive raptor species limited by the falconry coordinator are provided in Section R657-20-41.

#### **R657-20-29. Resident - Legal Birds by Class Designation.**

(1)(a) An apprentice class falconer may ~~take from the wild and~~ possess only one American ~~kestrel or one red-tailed hawk.~~ Kestrel or one Red-tailed Hawk in accordance with Section R657-20-6, Apprentice Class Falconer.

(b) Only first-year ~~red~~ Red-tailed ~~hawks~~ Hawks may be taken, while ~~American kestrels that are one year of age or older~~ first-year or older American Kestrels may be taken.

(c) Eyasses may not be taken.

(2) A general class falconer may not possess more than two raptors and may not obtain more than two raptors taken from the wild for replacement birds during a 12-month period.

(3) A master class falconer may not possess more than three raptors and may not obtain more than ~~three~~ two raptors taken from the wild for replacement birds during a 12-month period, except ~~golden eagles.~~ Golden Eagles.

~~(4) If necessary, a drawing will be held for taking eyas birds listed as Utah's sensitive species that have more applicants than available permits.~~

#### **R657-20-30. Nonresident - Legal Birds by Class Designation.**

~~(1) A nonresident~~ (4) A resident general or master class falconer may apply each year to take one eyas Peregrine Falcon.

Falco peregrinus, from the wild on the first two Saturdays of May and from May 13, unless May 13[-

— (a) one eyas from the wild from May 13 through July 21, unless the opening day] is a Sunday, in which case the season will begin the following day [-or] through June 15.

[(b) one passage bird](5)(a) Any resident general or master class falconer may apply each year to take one passage Peregrine Falcon from the wild from:

(i) September 1 through October 31 on weekends and legal holidays; and

(ii) November 1 [through January 31], unless [the opening day] November 1 is a Sunday, in which case the season will begin the following day through November 30.

(b) Any captured Peregrine Falcon banded with a Bird Banding Laboratory band (numbered aluminum) must be released immediately.

(c) The band number, date of trapping, and precise location, within 100 meters, of the banded falcon must be reported to the falconer coordinator as soon as possible.

(d) Passage take of Peregrine Falcons will not be allowed unless approved by the Service.

(e) Application procedures for taking eyas or passage Peregrine Falcons are provided in Section R657-20-41.

(6)(a) The number of resident permits issued annually for the taking of eyas Peregrine Falcons may not exceed 10; and

(b) take is limited to Beaver, Iron, Washington, Piute, Wayne, Garfield, Kane, and San Juan counties and the area south of Interstate 70 in Grand, Emery and Sevier counties.

(c) In addition to following the requirements provided in Section R657-20-28(4) through R657-20-28(6), a falconer taking or attempting to take an eyas Peregrine Falcon must abide by the following:

(i) an eyas may not be removed from its nests prior to 10 days of age;

(ii) nests may not be entered when young are 28 days or more of age;

(iii) recently fledged young may be trapped within 100 meters of the nest;

(iv) three plucked breast feathers from any captured eyas must be presented to the division within five business days of capture.

(7) The number of resident and nonresident permits issued annually for the take of passage Peregrine Falcons may not exceed that number set by the Service.

#### **R657-20-30. Nonresident- Legal Birds by Class Designation.**

(1)(a) A nonresident general or master class falconer may apply each year to take one eyas from the wild pursuant to R657-20-28.

(b) Any nonresident general or master class falconer may apply each year to take one passage bird from the wild pursuant to R657-20-28.

(2) Application procedures for taking an eyas are provided in Section R657-20-41.[-

— (2) Application forms are provided by the division and must include:

— (a) a copy of a valid falconry license issued by the state of residency indicating the falconry class designation; and

— (b) a cashier's check or money order for the appropriate fees.

— (3)(a) Applications for taking an eyas must be received through the mail by 5:00 p.m. on the last Friday of February.

— (b) If necessary, a drawing will be held for those species that have more applicants than available permits.

— (c) Remaining permits will be available to nonresident falconers on a first come first served basis after the drawing.]

(4) The number of nonresident permits issued annually may not exceed the following:

(a) [sharp-]Sharp-shinned [hawk]Hawk, Accipiter striatus 10;

(b) Cooper's [hawk]Hawk, Accipiter cooperi 20;

(c) [northern goshawk]Northern Goshawk, Accipiter gentilis 5;

(d) [red-]Red-tailed [hawk]Hawk, Buteo jamaicensis 20;

(e) American [kestrel]Kestrel, Falco sparverius 20;

(f) [merlin]Merlin, Falco columbarius 10, passage take only;

(g) [gyrfalcon]Gyrfalcon, Falco rusticolus 5, passage take only;

(h) [prairie falcon]Prairie Falcon, Falco mexicanus 20; and

(i) [great horned owl]Great Horned Owl, Bubo virginianus 20;

(j) Peregrine Falcon, Falco peregrinus 1, eyas only, in accordance with restrictions set forth in R657-20-29(4), R657-20-29(8)(b) and R657-20-29(8)(c).

(5) Nonresidents may not take any other species.

#### **R657-20-31. Banding Raptors.**

(1) Within five business[~~(a) Any falconer who removes a raptor from the wild for falconry purposes must, upon arriving at the falconer's facilities, attach the federal band to the raptor's leg.~~

— (b) Within five working] days of the date of capture, the captured raptor must be presented to a division representative for banding along with:

— (a) a completed Raptor Capture permit [and], with the precise location of capture within 100 meters; and

— (b) the blue copy of the federal [3-186A form must be submitted to the division.]Form 3-186A.

[(2)](2) Banding is by appointment only.

(3) A falconer may remove the rear tab on a band and may smooth any imperfect surface, provided the integrity of the band and numbering are not affected.

[(3)(a)](4)(a) A person may not remove, transfer, alter, counterfeit, or deface a raptor band, except a[-

— (b) A] band that is causing damage to a raptor may be removed only if the band is affecting the health or safety of the raptor.

[(e)](b) The raptor must be presented to a division representative and a replacement band placed on the raptor's other leg. Banding is by appointment only.

[(d)](c) The detached band must be surrendered to the division at the time of [marking]re-banding.

(4) The division must be notified of any raptor acquired or brought into the state on a permanent basis without a band. The raptor must be presented to a division representative for banding.

[-(5) A permanent Bird Banding Laboratory band shall be placed on any raptor by a division representative prior to release.]

#### **R657-20-32. Recovery of Banded Raptors.**

(1) [A banded raptor.]An escaped raptor banded with a federal falconry band may be recovered at any time.

(2) Notification of recovery must be made to a division representative followed with a written notice within five [working]business days.

(3) The division requires notification of the capture date and precise location, within 100 meters, of any raptor marked with a Bird Banding Laboratory band.

**R657-20-33. Organized Events.**

Any raptor brought into the state must be accompanied by a valid health certificate from the state of origin.

**R657-20-34. Meets or Trials.**

(1) A nonresident entering Utah to participate in the sport of falconry at an organized meet or trial must first obtain a nonresident falconry meet license.

(2)(a) A falconry meet license may be obtained by completing an application and submitting it to the division.

(b) The application must include:

- (i) a valid health certificate from the state of origin; and
- (ii) the appropriate fees.

(3) The falconry meet license is valid only for nonresidents and only for five consecutive days as designated on the license.

(4) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified five-day period in accordance with the applicable proclamations of the Wildlife Board.

(5) A nonresident participating in an organized meet for more than five consecutive days must obtain appropriate licenses, permits, tags, and stamps as provided in the proclamations of the Wildlife Board if protected wildlife is pursued.

(6)(a) An organizer of a falconry meet or trial must obtain prior approval from the Wildlife Board to conduct the falconry meet or trial.

(b) A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the division.

**R657-20-35. Use of Propagated Game Birds for Meets and Trials.**

~~(4)~~ A person may hold a meet or trial or may train a raptor using legally propagated and acquired game birds under the following provisions:

~~(1)~~ The promoter of a meet or trial or a person training a raptor must have an invoice in his possession showing lawful possession of the game birds.

~~(2)~~ Each game bird must be marked before release with a band purchased from the division. A band must remain attached to each game bird until the game bird is consumed. A person may not use the same band on more than one game bird.

~~(3)~~ Once a released game bird escapes the raptor it is considered wild and may not again be pursued, except during the open season for that species as specified in the applicable proclamations of the Wildlife Board.

~~(4)~~ A person may not possess a live game bird for more than 60 calendar days without first obtaining an ~~aviculture certificate of registration~~ Aviculture Certificate of Registration.

**R657-20-36. Certificates of Registration, Licenses, Permits, and Stamps.**

(1)(a) A person must possess a valid federal permit and a valid ~~state falconry certificate of registration~~ Falconry Certificate of Registration or license from ~~their~~ that person's state of residency while engaging in falconry.

(b) In addition, a nonresident must be in possession of a health certificate from the state of residency for any raptor brought into the state.

(2) The Falconry Certificate of Registration ~~(2) The falconry certificate of registration~~ or license allows the person to use a raptor

to take coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European ~~starling, house sparrow~~ Starling, House Sparrow, and rock dove/feral pigeon.

(3) A falconer releasing a raptor on protected wildlife, not held in private ownership, ~~shall~~ must obtain the appropriate licenses, permits, tags, certificates of registration and stamps as provided in the applicable rules and proclamations of the Wildlife Board.

(4) A federal waterfowl stamp is required of a person 16 years of age or older to hunt migratory waterfowl.

**R657-20-37. Seasons and Bag and Possession Limits.**

(1) The hunting of:

(a) upland game shall be done in accordance with the rule and proclamation of the Wildlife Board for taking upland game species.

(b) waterfowl, Wilson's snipe, and coot shall be done in accordance with the rule and proclamation of the Wildlife Board for taking those species.

(c) ~~mourning dove~~ Mourning Dove and ~~band-~~ Band-tailed Pigeon shall be done in accordance with the rules and proclamations of the Wildlife Board for those species.

(2) Bag and possession limits do not apply to coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European ~~starling, house sparrow~~ Starling, House Sparrow, and rock dove/feral pigeon.

(3) Nothing in this rule shall be construed to allow the intentional taking of protected wildlife in violation of federal or state laws, rules, regulations, or proclamations.

**R657-20-38. Training.**

Raptor training is not allowed on state waterfowl and wildlife management areas from April 1 through August 15, unless otherwise authorized.

**R657-20-39. Firearms.**

A person may not possess a firearm while pursuing any quarry with a raptor, unless the person is licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code and is not utilizing the concealed weapon to hunt or take wildlife.

**R657-20-40. Other Uses of Raptors.**

(1)(a) A person who possesses a raptor for falconry ~~purposes~~ is not required to obtain a an education certificate of registration for educational purposes in accordance with Rule R657-3.

(b) The division will provide the education certificate of registration at no cost provided money or consideration is not involved.

(2) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the division as provided in Rule R657-3 and the appropriate authorization from the Service.

**R657-20-41. Application Procedures and Drawings for Capture of Peregrine Falcons, Sensitive Raptors, and Nonresident Legal Birds.**

(1) Applications for Raptor Capture Permits must be made for:

(a) Peregrine Falcons;

(b) sensitive raptor species limited by the falconry coordinator pursuant to Section R657-20-28(7), and;

(c) nonresident legal birds.

- (2) Application forms are provided by the division.
- (3) An applicant must submit a complete and accurate application with:
- (a) a copy of their valid Falconry Certificate of Registration or valid license from their state of residency, indicating the falconry class designation;
- (b) a copy of their valid federal permit, indicating the falconry class designation; and
- (c) the application handling fee.
- (4)(a) Applications for taking an eyas raptor must be received through the mail by 5 p.m. on the last Friday of February.
- (b) Applications for taking a passage raptor must be received through the mail by 5 p.m. on the last Friday of June.
- (5)(a) If necessary, a drawing will be held for those species that have more applicants than available permits.
- (b) Remaining permits will be available to falconers of the appropriate class and residency on a first-come first-served basis after the drawing.

**KEY: wildlife, birds, falconry\***

**[November 1, 2001]2002**

**Notice of Continuation June 16, 1997**

**23-17-7**

**50 CFR 21**



## Natural Resources, Wildlife Resources

### **R657-46**

### The Use of Game Birds in Dog Field Trials and Training

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

(Amendment)

DAR FILE NO.: 24388

FILED: 01/11/2002, 16:20

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7.

**SUMMARY OF THE RULE OR CHANGE:** Section R657-46-6 is being amended to add that a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code may do so, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-14-18, 23-14-19, and 23-17-9

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The Division of Wildlife Resources has determined that this amendment does not

create a cost or savings impact to the division's budget or the state budget.

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

❖ **OTHER PERSONS:** This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. The amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--This amendment adds requirements as a result of the Administrative Rules Review Committee's discussion regarding concealed weapons in accordance with Utah Code Ann. Section 53-5-7. There are not any 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  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, 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 801-538-4745, or by Internet E-mail at dsundell.nrdwr@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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Kevin Conway, Assistant Director

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

##### **R657-46. The Use of Game Birds in Dog Field Trials and Training.**

##### **R657-46-1. Purpose and Authority.**

Under authority of Sections 23-14-18, 23-14-19 and 23-17-9 this rule provides the requirements, standards, and application procedures for the use of game birds in dog field trials and training.

##### **R657-46-2. Definitions.**

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

(a) "Field trial" means an organized event where the abilities of dog handlers and their dogs are evaluated, including the ability of the dogs to hunt or retrieve game birds.

(b) "Game bird" means:

- (i) crane;
- (ii) blue, ruffed, sage, sharp-tailed, and spruce grouse;
- (iii) chukar, red-legged, and Hungarian partridges;
- (iv) pheasant;
- (v) band-tailed pigeon;
- (vi) bobwhite, California, Gambel's, harlequin, mountain, and scaled quail;
- (vii) waterfowl;
- (viii) common ground, Inca, mourning, and white-winged dove;
- (ix) wild or pen-reared wild turkey of the following subspecies:
  - (A) Eastern;
  - (B) Florida or Osceola;
  - (C) Gould's;
  - (D) Merriam's;
  - (E) Ocellated; and
  - (F) Rio Grande; and
  - (x) ptarmigan.

(c) "Quad flyer test" means throwing pen-reared game birds by hand from four fixed stations and shooting of the pen-reared game birds one immediately after the other.

(d) "Train" or "training" means the informal handling, exercising, teaching, instructing, and disciplining of dogs in the skills and techniques of hunting and retrieving game birds characterized by absence of fees, judging, or awards.

**R657-46-3. Application for a Field Trial Certificate of Registration.**

(1)(a) A person may conduct a field trial using pen-reared game birds provided that person applies for and obtains a certificate of registration from the Division of Wildlife Resources, except as provided in Subsection (b).

(b) A person may conduct a field trial using pen-reared game birds on a commercial hunting area without obtaining a certificate of registration.

(2) Applications are available at any division office.

(3) The application must include written permission from the owner, lessee, or land management agency of the property where the field trial is to be conducted.

(4)(a) Applications must be submitted to the appropriate regional division office where the field trial is being held.

(b) Applications must be received at least 45 days prior to the date of the field trial.

(5) The division will not approve any application for an area where, in the opinion of the division, the field trial or the release of pen-reared game birds interferes with wildlife, wildlife habitat or wildlife nesting periods.

(6) Field trials may be held only during the dates and within the area specified on the field trial certificate of registration.

**R657-46-4. Use of Pen-Reared Game Birds for Field Trials.**

(1) Legally acquired pen-reared game birds may be possessed or used for field trials.

(2) Any person using pen-reared game birds must have an invoice or bill of sale in their possession showing lawful personal possession or ownership of such birds.

(3) Pen-reared game birds may not be imported into Utah without a valid veterinary health certificate as required in Rules R58-1 and R657-4.

(4)(a) Each pen reared game bird must be marked with an aluminum leg band or other permanent marking before being released in the field trial, except as provided in Subsection (d).

(b) Aluminum leg bands may be purchased at any division office.

(c) The aluminum leg band or other permanent marking must remain attached to the pen-reared game bird.

(d) Each pen-reared game bird used in a field trial that is conducted on a commercial hunting area may be released without marking each pen-reared game bird, as with an aluminum leg band.

(5) Pen-reared game birds used for a field trial may be released only on the property specified in the certificate of registration where the field trial is conducted.

(6) After release, pen-reared game birds may be taken:

(a) by the person who released the pen-reared game birds, or by any person participating in the field trial; and

(b) only during the dates of the field trial event as specified in the certificate of registration.

(7) Wild game birds may be taken only during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(8) Pen-reared game birds acquired for a field trial that are not released may be held in possession:

(a) no longer than 60 days; or

(b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.

(9) Pen-reared game birds that leave the property where the field trial is held at the end of the field trial shall become the property of the state of Utah and may not be taken, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

**R657-46-5. Use of Pen-Reared Game Birds for Dog Training.**

(1) A person may train a dog using legally acquired pen-reared game birds provided:

(a) the person using the pen-reared game birds has an invoice or bill of sale in their possession showing lawful personal possession or ownership of the pen-reared game birds;

(b) each pen-reared game bird must be marked with an aluminum leg band or other permanent marking before being released for training, except as provided in Subsection (3)(a); and

(c) any pheasant released during training must be marked with a visible streamer or tape at least 12 inches in length before being released, and any pheasant killed during training must have the streamer or tape attached when killed.

(2) Aluminum leg bands may be purchased at any division office.

(3)(a) Each pen-reared game bird used for dog training that is conducted on a commercial hunting area may be released without marking each pen-reared game bird with an aluminum leg band or other permanent marking.

(b) Any pheasant released during training on a commercial hunting area may be released without marking as provided in Subsections (1)(b) and (1)(c).

(4) The training may not consist of more than four dogs at any time, except the training may consist of more than four dogs provided:

(a) the dogs exceeding four in number are eight months of age or younger; and

(b) no live ammunition is in possession of the person or persons engaged in training the dogs.

(5) A person or group of persons may not release more than ten pen-reared game birds per day or three pen-reared game birds per dog per day, whichever is greater.

(6) A person or group of persons may not use more than three firearms at any time, except four firearms may be used when training retrievers using the American Kennel Club quad flyer test.

(7) Pen-reared game birds acquired for training that are not released may be held in possession:

(a) no longer than 60 days; or

(b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.

(8) Pen-reared game birds that are not recovered on the day of the training or pen-reared game birds that escape shall become property of the state of Utah and may not be recaptured or taken, except during legal hunting seasons as specified in the Upland Game and Waterfowl proclamations of the Wildlife Board.

(9) A person training dogs on official dog training areas, designated by the division, is not required to comply with Subsection (1)(c) or Subsections (4), (5) or (6).

**R657-46-6. Use of Wild Game Birds for Dog Training.**

(1) A person may train a dog on wild game birds provided:

(a) the dog, or the person training the dog, may not harass, catch, capture, kill, injure, or at any time, possess any wild game birds, except during legal hunting seasons as provided in the Upland Game or Waterfowl proclamations of the Wildlife Board;

(b) the dogs are not on any state wildlife management or waterfowl management areas as specified in Rule R657-6, except during open hunting seasons or as posted by the division;

(c) the person training a dog on wild game birds, except during legal hunting seasons:

(i) ~~must~~ may not possess a firearm, except a pistol firing blank cartridges;

(ii) must comply with city and county ordinances pertaining to the discharge of any firearm;

(iii) must obtain written permission from the landowner for training on properly posted private property.

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

**KEY: wildlife, birds, dogs, training**

~~April 4, 2000~~ **2002**

23-14-18

23-14-19



**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 March 4, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through June 1, 2002, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

**Insurance, Administration**  
**R590-186**  
**Bail Bond Surety Business**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 23917  
 Filed: 01/15/2002, 09:38

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this filing is to add additional changes proposed during the last comment period.

**SUMMARY OF THE RULE OR CHANGE:** In Section R590-186-7, five additional items have been added to the list of unprofessional conduct. In Section R590-186-8, the Board has been included in the investigation of complaints process. (DAR NOTE: This is the second change in proposed rule (CPR) for R590-186. The original amendment upon which the first CPR was based was published in August 1, 2001, issue of the Utah State Bulletin, on page 17. The first CPR upon which this second CPR is based was published in the November 15, 2001, issue of the Utah State Bulletin, on page 90. Due to an error at DAR, part of the first CPR text was not published and is included in an Editor's Note in this Bulletin. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the first CPR, the second CPR with the editor's note, and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 31A-35-104, 31A-35-301, 31A-35-401, and 31A-35-405

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The changes to this rule will not impact the insurance department by adding to its revenues or increasing its costs.

❖ **LOCAL GOVERNMENTS:** This rule will not affect local government. The rule is regulated by a state government agency to which all fees are paid by its licensees.

❖ **OTHER PERSONS:** Some of these changes broaden the scope of unprofessional conduct that could increase the number of administrative actions conducted by the department. It is unknown how many additional actions or what the costs of those actions might be. The change that allows the Bail Bond Board to become involved in the investigative process would only be at their own request and to the extent they desire. Costs resulting from their investigations would be paid for from the dedicated account created from their licensing fees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Some of these changes broaden the scope of unprofessional conduct that could increase the number of administrative actions conducted by the department. It is unknown how many additional actions or what the costs of those actions might be.

The change that allows the Bail Bond Board to become involved in the investigative process would only be at their own request and to the extent they desire. Costs resulting from their investigations would be paid for from the dedicated account created from their licensing fees.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These changes should create little to no fiscal impact on the bail bond business.

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

**INSURANCE  
 ADMINISTRATION**  
 Room 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY UT 84114-1201, or  
 at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@insurance.state.ut.us](mailto:jwhitby@insurance.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 PM on 03/04/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**  
**R590-186. Bail Bond Surety Business.**  
**R590-186-1. Purpose.**

This rule establishes uniform criteria and procedures for the initial and renewal licensing, of a bail bond surety company, and sets standards of conduct for those in the bail bond surety business in the State of Utah.

**R590-186-2. Authority.**

This rule is promulgated pursuant to:

(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure, and certification guidelines and standards of conduct for the bail bond business;

(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Chapter 35 of Title 31A;

(3) Subsection 31A-35-401(1)(c) which allows the commissioner to adopt rules governing the granting of licenses for bail bond surety companies;

(4) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond applicants applying for licensure;

(5) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a license as a bail bond surety company.



**R590-186-3. Scope and Applicability.**

This rule applies to any person engaged in the bail bond surety business.

**R590-186-4. Initial Company License.**

(1) Persons desiring to become licensed as bail bond surety companies shall file with the Bail Bond Surety Oversight Board (Board) a bail bond company application which can be obtained from the Insurance Department.

(2) The applicant shall pay the annual license fee set forth in R590-102, Insurance Department Fee Payment Deadlines, and provide at least one of the following:

(a) If the applicant relies on a letter of credit as the basis for issuing a bail bond, the applicant shall provide an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the State of Utah from [a]an entity qualified by state or federal regulators to do business as a financial institution in the state of Utah.

(b) If the applicant relies on the ownership of real or personal property located in Utah as the basis for issuing bail bonds, the applicant shall provide a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year. The financial statement must show a net worth of at least \$300,000, including a minimum of \$100,000 in liquid assets. The applicant shall also provide a copy of the applicant's federal income tax returns for the prior two years and, for each parcel of real property owned by the applicant and included in the applicant's net worth calculation, a preliminary title report dated not more than one month prior to the date of the application and an appraisal dated not more than two years prior to the date of the application.

(c) If the applicant relies on their status as the agent of a bail bond surety insurer as the basis for issuing bail bonds, the applicant shall provide a Qualifying Power of Attorney issued by the bail bond surety insurer[; and].

(3) Applications approved by the Board will be forwarded to the insurance commissioner for the issuance of a license.

(4) Applications disapproved by the Board may be appealed to the insurance commissioner within 15 days of mailing the notice of disapproval.

**R590-186-5. Company License Renewal.**

A licensed bail bond surety company shall renew its license on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application, pay the required renewal licensing fee set forth in R590-102, Insurance Department Fee Payment Deadlines, and provide the additional information described in this section.

(2) If the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds the applicant must include the following with the renewal:

(a) a statement that no material changes have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

(b) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least \$300,000, at least \$100,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

(c) the following items are required as indicated:

(i) renewal in 2002, 2008, and 2014: a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation; or

(ii) renewal in 2005, 2011, and 2017: a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation.

(3) Renewal applicants who were licensed as a bail bond surety company prior to December 31, 1999, may opt to apply under the lower limits in effect at that date.

(a) For renewal applicants relying on a letter of credit as the financial basis for issuing bail bonds, the amount is reduced to \$250,000.

(b) For renewal applicants relying on real or personal property as the basis for issuing bail bonds, the amount is reduced to a net worth of at least \$250,000, at least \$50,000 of which must consist of liquid assets[;].

(c) Renewal applicants opting for lower limits are limited to the 5 to 1 ratio of outstanding bond obligations as shown in R590-186-9.

**R590-186-6. Agent License and Renewal.**

(1) Bail bond surety companies and insurers are required to issue bail bonds only through licensed bail bond agents that have been contracted with and appointed by the insurer or designated by the bail bond surety company for whom they are issuing bail bonds.

(2) All persons doing business as bail bond agents must be licensed in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing. Bail bond agent licenses are individual limited line licenses. These licenses are issued for a two year period and require no licensing examination or continuing education.

(3) Individual bail bond agent licenses must be renewed at the end of the two year licensing period in accordance with Chapter 23 of Title 31A and applicable department rules regarding individual agent licensing renewal.

**R590-186-7. Unprofessional Conduct.**

Persons in the bail bond surety business may not engage in unprofessional conduct. For purposes of this rule, unprofessional conduct means the violation of any applicable insurance law, rule, or valid order of the commissioner, or the commission of any of the following acts by bail bond sureties, by bail bond surety agents or by bail bond enforcement agents working for bail bond sureties:

(1) having a license as a surety revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a trustee or other fiduciary;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the surety's net worth below the minimum required for licensure;

(5) being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury;

(6) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(7) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;

(8) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the bail bond agent, whichever is later;

(9) failing to advise the insurance commissioner of any change that has reduced the surety's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility or incarcerated in a jail facility to obtain referrals;

(11) offering consideration or gratuities to jail personnel or peace officers or inmates under any circumstances which would permit the inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the surety;

(d) the incarcerated person's obligations to the surety and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue;

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by the bail bond surety company;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of his executing a bail bond that the principal agree to engage the services of a specified attorney;

(19) preparing or issuing fraudulent or forged bonds or power of attorney;

(20) signing, executing, or issuing bonds by an unlicensed person;

(21) executing bond without countersignature by a licensed agent at time of issue;

(22) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond surety company, bail bond surety insurer or other person who is entitled to receive them; ~~and~~

(23) knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, or injunction in the course of a business regulated under this chapter;

[23](24) conviction of felony involving illegally using, carrying, or possessing a dangerous weapon;

(25) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person, including but not limited to violent felonies as defined under Utah Code Annotated Section 76-3-203.5;

(26) soliciting sexual favors as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors;

(27) acting as an unlicensed bail bond enforcement agent; and

(28) failing to comply with the provisions of the Utah statutes and rules regulating the bail bond surety business or order of the insurance commissioner.

#### **R590-186-8. Investigating Unprofessional Conduct.**

The ~~Board and the~~ commissioner shall investigate allegations of unprofessional conduct on the part of any bail bond surety, or bail bond surety agent. Complaints alleging unprofessional conduct shall be submitted in writing to the Department of Insurance.

(1)[-] Investigations shall be completed in the following manner:

(a)[-] Upon receipt of a complaint of unprofessional conduct, the commissioner shall provide a copy of the complaint to the person against whom the complaint was made, and, if warranted, to the person's surety. The commissioner may edit the copy of the complaint mailed under this subsection as may be necessary to protect the identity or interests of the person making the complaint if the complainant so requests.

(b)[-] The subject of the complaint shall provide to the commissioner a written response to the complaint within 15 days of the date the complaint was mailed to him.

(c)[-] ~~If the commissioner determines that the complaint has no merit, the commissioner may close the file on the matter without further action. If the commissioner determines the allegations appear to have merit, at the next meeting of the Board the commissioner shall conduct further investigation of the matter, present to the Board the complaint and the action undertaken by the Department to investigate the complaint.~~

(d)[-] After the investigation is completed, the commissioner shall present the findings and recommended disposition to the Board. The Board may concur with the commissioner's recommended disposition, recommend a different disposition, request additional investigation, or conduct its own investigation.

(i) ~~[(#)]~~ If the Board conducts its own investigation it may take and record witness statements under oath and may request any documents or other evidence from any person, including necessary financial records.

(ii) Witnesses may be compensated for their appearances as specified in 31A-2-301.

(iii) The Board may request a Subpoena from the commissioner to compel the production of documents or other evidence or to compel the testimony of a witness.

~~[e-](iv)~~ After the ~~[commissioner,] Board [or the Board,]~~ completes its investigation, ~~[they] it~~ shall:

~~[+](A)~~ close the investigation if the allegations have been shown to be unfounded or if the matter complained of is satisfactorily resolved ~~[, no further action is necessary; or]; or~~

~~[(#)](B)~~ if the investigation shows that unprofessional conduct did occur that requires the imposition of sanctions, ~~[they] it~~ shall compile the evidence necessary to pursue the matter in an administrative proceeding by the Department of Insurance, and shall make a written report of ~~[their] its~~ findings and of ~~[their] its~~

recommendations for the penalties to be applied, and forward the report and evidence to the commissioner for further action within 15 days of the conclusion of the investigation.

(2) Except for matters referred to the commissioner for further proceedings, the Board shall retain in the Utah Insurance Department a file on each of the investigations it conducts concerning unprofessional conduct for a period of 5 years. Files regarding investigations conducted by the Board shall be classified as protected under Governmental Records Access and Management Act (GRAMA).

**R590-186-9. Bonding Limits.**

(1) An insurance bondsman may not maintain outstanding bail bond obligations in excess of the amount allowed by the insurance company.

(2) A letter of credit bondsman and/or a property bondsman may not maintain outstanding bail bond obligations in excess of the amounts provided in the table below:

TABLE	
Financial Requirements	Ratio of Outstanding Bond Obligations to Letter of Credit or Net Worth and Liquidity Amounts
\$250,000 line of credit or net worth/\$50,000 liquidity)	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 5 to 1
300,000 or more line of credit limit or net worth/ at least \$100,000 liquidity	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 10 to 1

(3) The commissioner may reduce the bonding limit of a letter of credit or a property bail bond company who has qualified for the 10 to 1 ratio if that bail bond company's line of credit limit or net worth or liquidity limit falls below the limits stated in Subsection(2) above.

**R590-186-10. Publication of Licensed Bail Bond Surety Companies.**

On or before September 1 of each year, the Board shall publish a list of bail bond surety companies licensed to do business in the State of Utah.

**R590-186-11. Definition.**

In reference to subsection 31A-35-701(5) "members of their immediate families" shall be defined as: spouse, children, stepchildren, children-in-law, mother, father, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, step-mother, step-father, step-brother, step-sister, half-brother, and half-sister.

**R590-186-12. Penalties.**

Violations of this rule are punishable pursuant to Section 31A-2-308.

**R590-186-13. Enforcement Date.**

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date. Non-revised provisions are enforceable as of the effective date.

**R590-186-14. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

**KEY: insurance**

- ~~2001~~2002
- 31A-35-104
- 31A-35-301
- 31A-35-401
- 31A-35-406



**End of the Notices of Changes in Proposed Rules Section**

**Notices of 120-Day (Emergency) Rules Begin on the Following Page**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Capitol Preservation Board (State), Administration **R131-3** Use of Magnetometers on Capitol Hill

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 24366  
FILED: 01/07/2002, 12:35

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule addresses the need for managing security on Capitol Hill.

**SUMMARY OF THE RULE OR CHANGE:** The rule identifies the levels of security under which magnetometers may be used on Capitol Hill and how those security levels may be changed. It also authorizes Capitol Hill security personnel to use magnetometers to screen persons who enter Capitol Hill facilities under the different security levels. (DAR NOTE: A corresponding proposed new rule is under 24369 in this Bulletin.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 63C-9-301(3)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--It will require additional security staffing, however, the current budget allows for emergency situations. Security levels two and three would only be used when needed, and the Utah Highway Patrol budget covers those circumstances.

❖ **LOCAL GOVERNMENTS:** This rule does not affect local governments. Therefore, there is no cost or savings impact to local governments.

❖ **OTHER PERSONS:** Other persons are not financially affected by this rule. The rule regulates visitors to Capitol Hill by requiring them to register, pass through a magnetometer, submit bags for security searches, or any combination of these procedures depending on the security level. Other persons may experience time delays depending on the level of security designated.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule imposes no financial costs to persons visiting Capitol Hill. However, these persons may experience time delays depending on the level of security designated.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule has no fiscal impact on businesses. David H. Hart

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Given the actions of September 11, 2001, with the State Capitol identified as a symbol of our country's democracy, and given that Salt Lake City is hosting the Winter Olympics, the board feels that additional security precautions must be taken to protect the health, safety, and welfare of the public, as well as the historic Capitol building.

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

CAPITOL PRESERVATION BOARD (STATE)  
ADMINISTRATION  
Room 123 STATE CAPITOL  
350 N STATE ST  
SALT LAKE CITY UT 84114-1103, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

David H. Hart at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at [dhart@cpb.state.ut.us](mailto:dhart@cpb.state.ut.us)

THIS RULE IS EFFECTIVE ON: 01/07/2002

AUTHORIZED BY: David H. Hart, AIA, Executive Director

**R131. Capitol Preservation Board (State), Administration.****R131-3. Use of Magnetometers on Capitol Hill.****R131-3-1. Authority.**

Subsection 63C-9-301(3)(a) requires the Capitol Preservation Board to make rules to govern, administer, and regulate Capitol Hill facilities and Capitol Hill grounds.

**R131-3-2. Definitions.**

(1) Terms used in this rule are defined in Section 63C-9-102.

(2) In addition:

(a) "Magnetometer" means a device that electronically detects the presence of ferrous metals from their effect on the magnetic field surrounding the earth.

(b) "Capitol Hill identification card" means a valid identification card issued or recognized by the board with a picture, individual name, and department identifying the person as a state elected official or state employee. A Capitol Hill identification card for this purpose does not include a card issued to an individual who are not a state elected official or state employee.

**R131-3-3. Security Levels.**

(1) Notwithstanding any provision in this rule, under all security levels, Capitol Hill security personnel may in all cases exercise the full authority and discretion granted to them by law to maintain the public safety and peace and to enforce the law.

(2) "Security level one"

(a) Any person entering a facility may be asked to register with the Capitol Hill security personnel. No one is required to pass through a magnetometer.

(b) State elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter at all entrances without registering or passing through a magnetometer.

(c) Bag searches may not be conducted.

(3) "Security level two"

(a) Except as provided in Subsection (3)(b), all persons entering a facility may be required to register with the Capitol Hill security personnel, and pass through a magnetometer.

(b) The board shall provide designated "employee entrances" where state elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter without registering. The Capitol Hill security personnel may require State elected officials and state employees to pass through the magnetometers.

(c) The Capitol Hill security personnel may require bag searches for persons entering a facility including state elected officials and state employees holding a valid Capitol Hill identification card.

(4) "Security level three"

(a) Except as provided in Subsection (4)(b), all persons entering a facility shall register with the Capitol Hill security personnel, and pass through a magnetometer.

(b) The board shall provide designated "employee entrances" where state elected officials and state employees holding valid Capitol Hill identification cards shall be allowed to enter without registering. The Capitol Hill security personnel shall require state elected officials and state employees to pass through the magnetometers.

(c) The Capitol Hill security personnel shall require bag searches for all person entering a facility, including state elected officials and state employees.

**R131-3-4. Magnetometers.**

(1) By this rule, the board authorizes the use of magnetometers by Capitol Hill security personnel. Magnetometers may be used for security levels two and three.

(2) Capitol Hill security personnel may use magnetometers in facilities and on the grounds under the jurisdiction of the board after the commander of Capitol Hill security, or that person's superior, determines that there is a justification for increasing security precautions to level two, or level three. Depending on where the threat is focused, different Capitol Hill facilities may be designated to be at different security levels. When practicable, the decision to increase security precautions at any Capitol Hill facility shall be made in consultation with the executive director. Otherwise, the person making the determination to change from one security level to another, shall notify the executive director as soon as practicable after the decision is made.

(3) The executive director shall notify the members of the board when the security level is changed. Any member of the board may request a meeting of the full board to examine further the decision to move to higher security levels. The Board may lower the security level by a majority vote of the members present forming a quorum of the Board. The Commander may also reduce the security level depending on the security information received.

(4) The board and Capitol Hill security personnel, while using magnetometers in facilities under the authority of the board, shall not impact or infringe upon the rights of persons to keep and bear arms in accordance with Utah Constitution Article I, Section 6, and Title 76, Chapter 10, Part 5. A person carrying a concealed weapon by permit may be asked to show a valid, current concealed weapons permit before being allowed to enter the facility.

**KEY: public buildings, state buildings, facilities use  
January 7, 2002  
63C-9-301(3)**

# 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 (1998).

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## Commerce, Occupational and Professional Licensing **R156-55a** Utah Construction Trades Licensing Act Rules

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24392  
FILED: 01/15/2002, 10:18

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 55, provides for the licensure of contractors. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(3) provides that the Contractor Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to contractors.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in March 1997, it has been amended four times. In November 2000, amendments were filed as a result of 2000 legislative changes to the governing statute. A November 29, 2000, hearing was held and no written comments were received. In October 1999, amendments were filed regarding the scope of practice for factory-built housing contractors. A October 19, 1999, hearing was held and no written comments were received. In June 1999, amendments were filed and a June 30, 1999, hearing was held. Again, no written comments were received by the Division with respect to the proposed amendments. In February 1998, amendments were proposed adding two new contractor trade classifications and updating contractor experience requirements. A February 25, 1998,

hearing was held and no written comments have been received. No additional written comments have been received with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 55, with respect to contractors.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Craig Cottle at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at [ccottle@br.state.ut.us](mailto:ccottle@br.state.ut.us)

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/15/2002



## Commerce, Occupational and Professional Licensing **R156-55b** Electricians Licensing Rules

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24367  
FILED: 01/07/2002, 14:40

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 55, provides for the licensure of electricians. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(3) provides that the Electricians Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to electricians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in February 1997, four amendment rule filings have been made. In January 2001, the Division filed changes with respect to the supervision of apprentice electricians. A rule hearing was held on January 18, 2001, and there were numerous discussions regarding whether the rule should be changed or deleted. In the end, Subsection R156-55b-102(2) was deleted by the Division when the rule amendment was made effective on April 30, 2001, prior to when H.B. 37 would have deleted this rule subsection on May 1, 2001. In May 2000, amendments were filed regarding standards for qualified continuing education and to reestablish the requirement for written approval to take a trade examination. A hearing was held on May 18, 2000; however, no written comments were received by the Division. These amendments were made effective June 1, 2000. In October 1999, an amendment was filed to reflect that a minimum of eight hours of continuing education be on the current edition of the National Electrical Code as it is identified in Section R156-56-701. No hearing was held and no written comments were received. This amendment was made effective November 16, 1999. In November 1998, numerous amendments were made to this rule to delete information already provided in the statute and to simply the rule overall. A November 19, 1998, rule hearing was held and the Division received written comments from Noel Williams, Greg Wagner, and Kent Bishop. The comments from Noel Williams and Greg Wagner were addressed during the rule hearing and no further changes were made in the proposed rule. The proposed amendment were made effective on December 3, 1998. A nonsubstantive rule filing was filed to correct an incorrect statute citation that was brought to the Division's attention by Kent Bishop on December 3, 1998.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 55, with respect to electricians.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING

HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Craig Cottle at the above address, by phone at 801-530-6375,  
by FAX at 801-530-6511, or by Internet E-mail at  
ccottle@br.state.ut.us

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/07/2002

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**Commerce, Occupational and  
Professional Licensing  
R156-55c  
Construction Trades Licensing Act  
Plumber Licensing Rules**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24368  
FILED: 01/07/2002, 14:43

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 55, provides for the licensure of plumbers. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(3) provides that the Plumbers Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to plumbers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in February 1997, two amendment rule filings have been made. In January 2001, the Division filed changes with respect to the supervision of apprentice plumbers. A rule hearing was held on January 12, 2001, and there were numerous discussions regarding whether the rule should be changed or deleted. In the end, Subsection R156-55c-102(3) was deleted by the Division when the rule amendment was made effective on April 30, 2001, prior to when H.B. 37 would have deleted this rule subsection on May 1, 2001. In September 2001, the Division again amended the rule to update required experience hours for journeyman plumbers to reflect changes in the industry. No rule hearing was held with respect to this amendment and no written comments were



received by the Division. This amendment was made effective September 4, 2001.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 55, with respect to plumbers.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Cottle at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at ccottle@br.state.ut.us

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/07/2002



**Commerce, Occupational and  
Professional Licensing  
R156-57  
Respiratory Care Practices Act Rules**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24391  
FILED: 01/14/2002, 17:54

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 57, provides for the licensure of respiratory care practitioners. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-57-3(3) provides that the Respiratory Care Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 57, with respect to respiratory care practitioners.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in March 1997, the rule has been amended twice. In

December 1999, numerous revisions were made to the rule. A rule hearing was held on December 9, 1999. However, the Division received no written comments regarding the proposed amendments. The amendments were made effective on January 4, 2000. In April 2000, an amendment was filed which deleted the law/rule examination as a requirement for licensure. No written comments were received with respect to this amendment. The amendment was made effective on May 2, 2000.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 57, with respect to respiratory care practitioners.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernar@br.state.ut.us

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/14/2002



**Commerce, Occupational and  
Professional Licensing  
R156-58  
Preneed Funeral Arrangement Act  
Rules**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24390  
FILED: 01/14/2002, 17:49

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 58, provides for the licensure of preneed funeral arrangement providers and sales agents. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-58-3(3) provides that the Preneed Funeral Arrangement Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202.

Subsection 58-1-202(1) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 58, with respect to preneed funeral arrangement providers and sales agents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in March 1997, only one amendment has been made. On May 29, 1997, a rule hearing was held with respect to an amendment regarding the minimum type size requirements for preneed contracts. No written comments were received by the Division. This amendment was made effective on June 3, 1997. No other written comments have been received by the Division with respect to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 58, with respect to preneed funeral arrangement providers and sales agents.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dsjones@br.state.ut.us

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/14/2002



Environmental Quality, Radiation  
Control  
**R313-35**  
Requirements for X-ray Equipment  
Used for Non-Medical Applications

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24360  
FILED: 01/02/2002, 14:28

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Subsection 19-1-106(1) creates the Radiation Control Board within the Department of Environmental Quality. Subsection 19-3-104(3) provides that the Board may make rules necessary for controlling exposure to sources of radiation that constitute a significant health hazard and to meet the requirements of federal law relating to radiation control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This was not a controversial rule. Review by the Division of Radiation Control recommends continuation of this rule. No other comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because it establishes the radiation safety requirements for persons who use electronic sources of radiation for industrial radiographic applications, analytical applications, or other non-medical applications.

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

ENVIRONMENTAL QUALITY  
RADIATION CONTROL  
Room 212  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Giddings at the above address, by phone at 801-536-4259, by FAX at 801-533-4097, or by Internet E-mail at sgidding@deq.state.ut.us

AUTHORIZED BY: William Sinclair, Director

EFFECTIVE: 01/02/2002



Labor Commission, Antidiscrimination  
and Labor, Fair Housing  
**R608-1**  
Utah Fair Housing Rules

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24371  
FILED: 01/10/2002, 10:17

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 57-21-8 gives the Labor Commission jurisdiction over the subject of housing

discrimination and authorizes the making of rules to administer Chapter 21 of Title 57.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the procedures for filing, investigating, and deciding a claim of unlawful housing practice. It also establishes the circumstances under which the Commission will provide legal representation for aggrieved persons, how declaratory orders may be requested, and outlines the appeal rights of parties.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR, FAIR HOUSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-7685, or by Internet E-mail at ahennebo.icmain@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002



Labor Commission, Antidiscrimination  
and Labor, Labor  
**R610-1**  
Minimum Wage, Clarify Tip Credit, and  
Enforcement

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24370  
FILED: 01/10/2002, 10:17

**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: Chapter 40, Title 34, "Utah Minimum Wage Act", gives the Labor Commission authority to set and enforce Utah's minimum wage. Section 34-40-105 give the Labor Commission authority to make rules that are consistent with the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission is responsible for the enforcement of Utah's Minimum Wage Act.

This rule establishes who is covered by the act; how tips, gratuities, and commissions are affected by the minimum wage; and the procedures for filing and investigating of claims related to minimum wage violations.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR, LABOR  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-7685, or by Internet E-mail at ahennebo.icmain@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002



Labor Commission, Antidiscrimination  
and Labor, Labor  
**R610-2**  
Employment of Minors

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24373  
FILED: 01/10/2002, 10:18

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34-23-104 gives the Labor Commission jurisdiction over the subject of employment of minors. Section 34-23-104 also gives the Commission authority to make rules consistent with the provisions of Title 34, Chapter 23, "Employment of Minors".

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the parameters under which persons under the age of 18 may work. It establishes the procedures for obtaining authorization from the Commission for a minor to work in an occupation requiring Commission approval. It also establishes the procedures for filing a request for agency action and the enforcement methods available to the Commission.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR, LABOR  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-7685, or by Internet E-mail at ahennebo.icmain@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the procedures for filing a wage claim, the methods which can be used in the investigation of wage claims, and the manner in which decisions can be made. It also sets forth the method of determining attorney fees, and appellate and enforcement procedures. Lawful deductions and offsets from wages are set forth as well. Uniform deposits are also set forth.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR, LABOR  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold at the above address, by phone at 801-530-6937, by FAX at 801-530-7685, or by Internet E-mail at ahennebo.icmain@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002

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**Labor Commission, Antidiscrimination  
and Labor, Labor  
R610-3  
Filing, Investigation, and Resolution of  
Wage Claims**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR File No.: 24372  
FILED: 01/10/2002, 10:18

**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: Sections 34-28-9 and 34-28-19 give the Labor Commission authority to enforce the provisions of Chapter 28, "Payment of Wages". Section 34-40-105 "Minimum Wage" gives the Labor Commission authority to enforce that employees are paid at least minimum wage. Section 34-23-104 "Employment of Minors" gives the Labor Commission authority over the conditions under which minors work. These sections also give the Commission authority to establish rules consistent with these chapters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

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**Labor Commission, Safety  
R616-2  
Boiler and Pressure Vessel Rules**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR File No.: 24376  
FILED: 01/10/2002, 13:51

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-7-103(6) authorizes the Safety Division of the Labor Commission to certify the safety of boilers and pressure vessels in accordance with rules established by the Commission. Subsection 34A-1-105(1) authorizes the commission to adopt rules as authorized by Title 34A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it establishes the safety standards which boilers and pressure vessels must meet to be operated in

Utah. This rule also sets forth the procedure for requesting a variance to the standards, the procedure for appealing a denial, and the fees for inspecting boilers and pressure vessels.

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

LABOR COMMISSION  
SAFETY  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Larry Patrick at the above address, by phone at 801-530-6872, by FAX at 801-530-6390, or by Internet E-mail at icmain.lpatrick@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002



Labor Commission, Safety  
**R616-3**  
Elevator Rules

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24375  
FILED: 01/10/2002, 13:50

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-7-203(6) authorizes the Safety Division of the Labor Commission to certify the safety of elevators and escalators in accordance with rules established by the Commission. Subsection 34A-1-105(1) authorizes the commission to adopt rules as authorized by Title 34A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it establishes which national codes are adopted in Utah; the qualifications for inspectors of elevators and escalators; as well as, the procedures for requesting a variance to the codes. The rule also establishes specifications for special lifts and the fees for inspections.

The procedures for appeal of a denial of certification are also set forth.

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

LABOR COMMISSION  
SAFETY  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alan Hennebold or Larry Patrick at the above address, by phone at 801-530-6937 or 801-530-6872, by FAX at 801-530-7685 or 801-530-6390, or by Internet E-mail at ahennebo.icmain@state.ut.us or icmain.lpatrick@state.ut.us

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 01/10/2002



Public Safety, Administration  
**R698-1**  
Public Petitions for Declaratory Orders

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24362  
FILED: 01/03/2002, 11:20

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 63-46b-21(2) requiring that each agency issue a rule providing the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department is required to have a rule addressing the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the department, and doing so allows the public to have greater access, input, and understanding regarding the laws that affect them.

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

PUBLIC SAFETY  
ADMINISTRATION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 1ST FLR  
SALT LAKE CITY UT 84119-5994, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at 801-965-4466, by FAX at 801-965-4608, or by Internet E-mail at jfvalerg@dps.state.ut.us

AUTHORIZED BY: Robert Flowers, Commissioner

EFFECTIVE: 01/03/2002

Public Safety, Administration  
**R698-2**

Government Records Access and  
Management Act Rule

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24363  
FILED: 01/03/2002, 11:21

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 63-2-204(2) allowing a governmental entity to make rules specifying where and to whom requests for government records may be made.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it assists the public in making requests for department records, and also assists the department in its efforts to respond to those requests in a timely manner.

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

PUBLIC SAFETY  
ADMINISTRATION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 1ST FLR  
SALT LAKE CITY UT 84119-5994, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at 801-965-4466, by FAX at 801-965-4608, or by Internet E-mail at jfvalerg@dps.state.ut.us

AUTHORIZED BY: Robert Flowers, Commissioner

EFFECTIVE: 01/03/2002

Public Safety, Administration  
**R698-3**

Americans With Disabilities Act (ADA)  
Complaint Procedure

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24361  
FILED: 01/03/2002, 11:19

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 63-46a-3(2) requiring the department to make rules informing the public that they are protected by the ADA in their interactions with the department, how the public can file ADA complaints against the department, and how the department will process those complaints.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it assists the public in filing ADA complaints against the department and provides for fair treatment of those complaints.

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

PUBLIC SAFETY  
ADMINISTRATION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 1ST FLR  
SALT LAKE CITY UT 84119-5994, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at 801-965-4466, by FAX at 801-965-4608, or by Internet E-mail at jfvalerg@dps.state.ut.us

AUTHORIZED BY: Robert Flowers, Commissioner

EFFECTIVE: 01/03/2002

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Regents (Board Of), Administration

**R765-610**

Utah Higher Education Assistance  
Authority Federal Family Education  
Loan Program, PLUS, SLS and Loan  
Consolidation Programs

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24365  
FILED: 01/04/2002, 13:52

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-12-10 and Pub. L. No. 102-35 (Higher Education Act): the statute authorizes the Utah Higher Education Assistance Authority (UHEAA) to adopt, amend, or repeal rules to govern the authorized activities.

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 existing policy, which incorporates by reference federal statutes, regulations, and policies contained in the "Common Manual, Unified Student Loan Policy," remains valid.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
Room 550 3 TRIAD CENTER  
355 W NORTH TEMPLE  
SALT LAKE CITY UT 84180-1205, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cathryn Judd at the above address, by phone at 801-321-7249, by FAX at 801-321-7299, or by Internet E-mail at [cjudd@utahsbr.edu](mailto:cjudd@utahsbr.edu)

AUTHORIZED BY: Chalmers Gail Norris, Associate  
Commissioner for Student Financial Aid

EFFECTIVE: 01/04/2002

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## Regents (Board Of), Administration

**R765-612**

## Lender Participation

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 24364  
FILED: 01/04/2002, 13:41

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-12-10 and Pub. L. No. 102-35 (Higher Education Act): The statute authorizes the Utah Higher Education Assistance Authority (UHEAA) to adopt, amend, or repeal rules to govern the authorized activities.

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 existing UHEAA lender participation requirements remain valid.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
Room 550 3 TRIAD CENTER  
355 W NORTH TEMPLE  
SALT LAKE CITY UT 84180-1205, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cathryn Judd at the above address, by phone at 801-321-7249, by FAX at 801-321-7299, or by Internet E-mail at [cjudd@utahsbr.edu](mailto:cjudd@utahsbr.edu)

AUTHORIZED BY: Chalmers Gail Norris, Associate  
Commissioner for Student Financial Aid

EFFECTIVE: 01/04/2002

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## School and Institutional Trust Lands,

## Administration

**R850-90**

## Land Exchanges

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 24396  
FILED: 01/15/2002, 15:21

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) gives general direction for the Director of the agency to make rules for the day-to-day administration of the agency, while Subsection 53C-4-101(1) specifically instructs the Director to promulgate rules laying out the criteria for the exchange of trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to give direction for members of the general public to follow in order to apply for an exchange. In the absence of this rule, the agency would be unable to react in a consistent and orderly manner to applications to exchange land.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at [kcarter.tlmain@state.ut.us](mailto:kcarter.tlmain@state.ut.us)

AUTHORIZED BY: Kevin S. Carter, Deputy Director

EFFECTIVE: 01/15/2002



School and Institutional Trust Lands,  
Administration  
**R850-120**  
Beneficiary Use of Institutional Trust  
Land

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 24397  
FILED: 01/15/2002, 15:22

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) gives general direction for the Director of the agency to make rules for the day-to-day administration of the agency, while subsection 53C-4-101(1) specifically instructs the Director to promulgate rules laying out the criteria for the sale, lease, or other disposition of trust lands. Also, Section 8 of the Utah Enabling Act, ch. 138, 28 Stat. 107 (1894), specifically provides that lands granted for the University of Utah and Utah State University (Agricultural College) are for the benefit and use of the respective beneficiaries.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to give direction for trust land beneficiaries to follow in order to apply for noncompensated use of lands held in trust for them.

In the absence of this rule, the agency would be forced to respond to beneficiary requests using the same standards that are applied to members of the general public, in violation of the conditions of the grants as spelled out in the Enabling Act.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at [kcarter.tlmain@state.ut.us](mailto:kcarter.tlmain@state.ut.us)

AUTHORIZED BY: Kevin S. Carter, Deputy Director

EFFECTIVE: 01/15/2002





## 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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### Health

#### Health Care Financing, Coverage and Reimbursement Policy

No. 24378 (filed 01/07/2002 at 3:20 p.m.): R414-21. Physical Therapy.

Enacted or Last Five-Year Review: 01/06/97 (No. 18504, 5YR, filed 01/06/97 at 4:07 p.m., published 02/01/97)

Extended Due Date: 05/06/2002

No. 24381 (filed 01/10/2002 at 4:30 p.m.): R414-22. Administrative Sanction Procedures and Regulations.

Enacted or Last Five-Year Review: 01/13/98 (No. 20653, 5YR, filed 01/13/98 at 3:15 p.m., published 02/01/98)

Extended Due Date: 05/13/2002\*

\*DAR Note: Due to a clerical error at the Division of Administrative Rules, the agency was informed that the five-year review for R414-22 was due on 01/13/2002 when it is actually due on 01/13/2003. Since the agency filed the extension, it is being published.

No. 24379 (filed 01/07/2002 at 3:20 p.m.): R414-38. Personal Care Service.

Enacted or Last Five-Year Review: 01/06/97 (No. 18505, 5YR, filed 01/06/97 at 4:07 p.m., published 02/01/97)

Extended Due Date: 05/06/2002

### Public Safety

#### Peace Officer Standards and Training

No. 24380 (filed 01/10/2002 at 4:23 p.m.): R728-405. Drug Testing Requirement.

Enacted or Last Five-Year Review: 01/13/97 (No. 18550, 5YR, filed 01/13/97 at 09:48 a.m., published 02/01/97)

Extended Due Date: 05/13/2002

**End of the Notices of Five-Year Review Extensions Section**

**Notices of Rule Effective Dates Begin on the Following Page**

## 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

### Commerce

#### Occupational and Professional Licensing

No. 24247 (AMD): R156-24a-601. Animal Physical Therapy.

Published: December 1, 2001

Effective: January 7, 2002

No. 24196 (AMD): R156-60c-502. Unprofessional Conduct.

Published: December 1, 2001

Effective: January 7, 2002

No. 24202 (REP): R156-66a. Amateur Boxing Fund Grant Rules.

Published: December 1, 2001

Effective: January 7, 2002

### Education

#### Administration

No. 24293 (REP): R277-432. Twenty Percent Funding for Class Size Reduction.

Published: December 15, 2001

Effective: January 15, 2002

No. 24262 (AMD): R277-502. Teacher Certification Procedures.

Published: December 1, 2001

Effective: January 4, 2002

No. 24263 (AMD): R277-717. Math, Engineering, Science Achievement (MESA).

Published: December 1, 2001

Effective: January 4, 2002

No. 24254 (REP): R277-902. Applied Technology Center Tuitions.

Published: December 1, 2001

Effective: January 4, 2002

No. 24255 (REP): R277-903. Career Ladders for Applied Technology Centers.

Published: December 1, 2001

Effective: January 4, 2002

No. 24257 (REP): R277-904. Applied Technology Center and Service Region Standards and Operating Procedures.

Published: December 1, 2001

Effective: January 4, 2002

No. 24258 (REP): R277-905. Standards for Granting Academic Credit by Utah System of Higher Education Institutions for Course Work Completed at Applied Technology Centers.

Published: December 1, 2001

Effective: January 4, 2002

No. 24259 (REP): R277-907. ATC/ATCSR Membership Hour Accounting.

Published: December 1, 2001

Effective: January 4, 2002

No. 24260 (REP): R277-912. Standards and Procedures for Post-Secondary Applied Technology Education Accreditation.

Published: December 1, 2001

Effective: January 4, 2002

No. 24261 (REP): R277-913. Utah's State Custom Fit Training Program.

Published: December 1, 2001

Effective: January 4, 2002

DAR Note: Due to a clerical error at DAR, the notice of effective date for the R&R for R365-5 published in the January 15, 2002, Bulletin, listed the wrong publication date and the wrong effective date. The notice should have been:

### Governor

Planning and Budget, Chief Information Officer

No. 23972 (R&R): R365-3. Computer Software Licensing, Copyright, and Control.

Published: September 1, 2001

Effective: December 21, 2001

### Health

Epidemiology and Laboratory Services, Epidemiology

No. 24297 (NEW): R386-710. Early Warning Reporting.

Published: December 15, 2001

Effective: January 15, 2002

Health Care Financing, Coverage and Reimbursement Policy

No. 24167 (AMD): R414-304. Income and Budgeting.

Published: November 15, 2001

Effective: January 14, 2002

Health Systems Improvement, Child Care Licensing  
No. 24264 (AMD): R430-50. Residential Certificate Child Care Standards.  
Published: December 1, 2001  
Effective: January 14, 2002

No. 24265 (AMD): R430-60. Hourly Child Care Center.  
Published: December 1, 2001  
Effective: January 14, 2002

No. 24266 (AMD): R430-90. Licensed Family Child Care.  
Published: December 1, 2001  
Effective: January 14, 2002

Health Systems Improvement, Licensing  
No. 24268 (AMD): R432-35. Background Screening.  
Published: December 1, 2001  
Effective: January 14, 2002

No. 24165 (AMD): R432-500. Freestanding Ambulatory Surgical Centers Rules.  
Published: November 15, 2001  
Effective: January 14, 2002

#### Human Resource Management

##### Administration

No. 24236 (AMD): R477-9. Employee Conduct.  
Published: December 1, 2001  
Effective: January 4, 2002

#### Human Services

##### Child and Family Services

No. 24039 (AMD): R512-43. Adoption Assistance.  
Published: September 15, 2001  
Effective: January 11, 2002

##### Recovery Services

No. 24190 (AMD): R527-5. Release of Information.  
Published: December 1, 2001  
Effective: January 2, 2002

#### Insurance

##### Administration

No. 23813 (CPR): R590-211. Underinsured Motorist Insurer Notification Ruling.  
Published: December 1, 2001  
Effective: January 10, 2002

No. 24050 (CPR): R590-212. Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits.  
Published: December 1, 2001  
Effective: January 10, 2002

#### Labor Commission

##### Adjudication

No. 24285 (AMD): R602-2-4. Attorney Fees.  
Published: December 15, 2001  
Effective: January 15, 2002

#### Industrial Accidents

No. 24280 (AMD): R612-1-11. Burial Expenses.  
Published: December 15, 2001  
Effective: January 15, 2002

No. 24283 (AMD): R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.  
Published: December 15, 2001  
Effective: January 15, 2002

No. 24296 (AMD): R612-7-3. Method for Rating.  
Published: December 15, 2001  
Effective: January 15, 2002

#### Occupational Safety and Health

No. 24281 (AMD): R614-1-4. Incorporation of Federal Standards.  
Published: December 15, 2001  
Effective: January 15, 2002

#### Safety

No. 24286 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.  
Published: December 15, 2001  
Effective: January 15, 2002

No. 24295 (AMD): R616-3. Elevator Rules.  
Published: December 15, 2001  
Effective: January 15, 2002

#### Natural Resources

##### Parks and Recreation

No. 24189 (AMD): R651-611. Fee Schedule.  
Published: November 15, 2001  
Effective: January 1, 2002

##### Forestry, Fire and State Lands

No. 24168 (AMD): R652-121. Wildland Fire Suppression Fund.  
Published: November 15, 2001  
Effective: January 4, 2002

##### Wildlife Resources

No. 24067 (AMD): R657-13. Taking Fish and Crayfish.  
Published: October 15, 2001  
Effective: January 2, 2002

No. 24289 (AMD): R657-38. Dedicated Hunter Program.  
Published: December 15, 2001  
Effective: January 15, 2002

#### Public Safety

##### Fire Marshal

No. 24249 (AMD): R710-2. Rules Pursuant to the Utah Fireworks Act.  
Published: December 1, 2001  
Effective: January 2, 2002

No. 24242 (AMD): R710-3. Assisted Living Facilities.  
Published: December 1, 2001  
Effective: January 2, 2002

No. 24243 (AMD): R710-4. Buildings Under the  
Jurisdiction of the State Fire Prevention Board.  
Published: December 1, 2001  
Effective: January 2, 2002

No. 24244 (AMD): R710-6. Liquefied Petroleum Gas  
Rules.  
Published: December 1, 2001  
Effective: January 2, 2002

No. 24245 (AMD): R710-8. Day Care Rules.  
Published: December 1, 2001  
Effective: January 2, 2002

No. 24246 (AMD): R710-9. Rules Pursuant to the Utah  
Fire Prevention Law.  
Published: December 1, 2001  
Effective: January 2, 2002

Workforce Services

Workforce Information and Payment Services

No. 24252 (AMD): R994-306-101. Reduction in Force  
Separations.  
Published: December 1, 2001  
Effective: January 1, 2002

No. 24253 (AMD): R994-405-201. Discharge - General  
Definition.  
Published: December 1, 2001  
Effective: January 1, 2002

**End of the Notices of Rule Effective Dates Section**

**Rules Index Begins on the Following Page**

**2001 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2001, through January 1, 2002. 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.utah.gov/>).

DAR Note: The complete rules index, including nonsubstantive changes that were not included in the index printed in the January 15, 2002, issue of the *Utah State Bulletin*, can be viewed at the Division of Administrative Rules, or on the Division's web site at <http://www.rules.utah.gov/>. The complete index will also appear in the *Index of Changes*, to be published by the Division later this year.

**2002 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2002, including notices of effective date received through January 15, 2002, the effective dates of which are no later than February 1, 2002. 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).

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DAR Note: Because of space constraints, the 2002 Rules Index is not published in this issue of the *Utah State Bulletin*. It can be viewed at the Division of Administrative Rules, or on the Division's web site at:

<http://www.rules.utah.gov/>.