

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 16, 2003, 12:00 a.m., and December 31, 2003, 11:59 p.m. are included in this, the January 15, 2004, 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 Rules being repealed are completely struck out.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 February 17, 2004. 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 May 14, 2004, 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.

The Proposed Rules Begin on the Following Page.

Natural Resources,
Forestry, Fire and State Lands
R652-40-1800
Abandonment

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26865

FILED: 12/22/2003, 09:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division grants easements on, through and over sovereign land for a variety of purposes including power lines, roads, trails, pipelines and communication lines. Approximately 150 easements of record are shown on the Division's lease management system. Most of these have a clause that requires the easement holder to pay an administrative fee every third year. Recently, and most often with communication line easements, the Division has experienced trouble with collecting administrative fees. The procedure is to send a courtesy billing to the easement holder approximately thirty days before payment is due. If no payment is received by the due date, the courtesy billing is followed by a bill that includes a late fee. This late billing is sent via certified mail with return receipt. This late bill is often ignored, subjecting the easement to immediate cancellation. Institutional memory is not very clear regarding the rationale for imposition of administrative fees. Perhaps the abandonment provision was relatively more important when state lands were commonly sold or exchanged. Easements are encumbrances that may affect land values. Since the Division now rarely exchanges land and does not sell land, knowledge of easement abandonment is less important than it was before. In many cases it is obvious whether or not an easement is still in use. Most of the easements granted by the Division are non-exclusive and do not prevent others from using the same alignment. Also, the ability to negotiate one-time fees in lieu of every-third-year administrative payments seems to argue against using administrative fees to determine whether or not an easement is still in use. Also arguing against administrative fees is the fact that easement land uses may be granted to government entities under a sovereign land general permit rather than an easement document, and without an administrative fee requirement. At the time of the split from the School and Institutional Trust Lands Administration (SITLA), the Division agreed to waive its share of administrative fees collected on easements crossing both SITLA and sovereign land. Some customers, primarily electric transmission line and petroleum pipeline customers, have become accustomed to the every-third-year fee and have built these payments into automated accounting systems. Many have not. With recent sales, mergers and bankruptcies in the telecommunications business, tracking down the party responsible for payment of administrative fees is challenging. Since the applicant for an easement pays the cost of the easement before it is granted, the Division receives full compensation.

SUMMARY OF THE RULE OR CHANGE: The amendment eliminates the administrative fee due every third year.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-7-8

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Elimination of the administrative fee will result in approximately \$1,000 less per year going into the sovereign lands management account.

❖LOCAL GOVERNMENTS: A saving of approximately \$180 per easement over the 30-year easement term for units of local government holding sovereign land easements.

❖OTHER PERSONS: A saving of approximately \$180 per easement over the 30-year easement term for persons holding sovereign land easements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are applicable. All persons holding sovereign land easements pay the full cost of the easement up front.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Holders of sovereign land easements will welcome this change because of reduced costs and paperwork.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jennifer Gregerson or Karl Kappe at the above address, by phone at 801-538-5418 or 801-538-5495, by FAX at 801-533-4111 or 801-533-4111, or by Internet E-mail at jennifergregerson@utah.gov or karlkappe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 02/17/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 02/18/2004

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

**R652. Natural Resources; Forestry, Fire and State Lands.
R652-40. Easements.**

~~[R652-40-1800. Abandonment.~~

~~—In order to facilitate the determination of an abandonment of easement, the grantee shall pay an administrative fee every three years during the term of the easement as provided in R652-4. This fee shall not be construed as rent. In lieu of this fee, the division may allow a grantee to pay to the division a one-time negotiated fee.]~~

KEY: natural resources, management, surveys, administrative procedure
[1993]February 18, 2004
Notice of Continuation April 2, 2002
65A-7-8

▼ ————— ▼

Natural Resources, Wildlife Resources **R657-33** Taking Bear

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 26867
FILED: 12/30/2003, 21:33

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 bear program.

SUMMARY OF THE RULE OR CHANGE: Section R657-33-13 is being amended to clarify that any person interested in baiting on lands administered by the U.S. Forest Service or Bureau of Land Management must verify that the lands are open to baiting before applying for a limited entry bear archery permit, and that the Division of Wildlife Resources will provide a copy of the baiting certificate of registration to a private landowner or appropriate district office of the land management agency that manages the land where the bait station will be placed as identified by the hunter on the application. Subsection R657-33-23(3) is being amended to clarify that a depredating bear may be taken by authorized persons with: (a) any weapon authorized for taking bear; or (b) with the use of snares only with written authorization from the director of the Division and subject to all the conditions and restrictions set out in the written authorization. The option in Subsection (3)(b) may only be authorized in the case of a chronic depredation situation where numerous livestock have been killed by a depredating bear and must be verified by Wildlife Services or Division personnel. Section R657-33-31 is being amended to provide that applicants who apply in the limited entry bear drawing will be notified by mail or e-mail of draw results. Other administrative changes are made for consistency and clarity.

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 clarifies the procedures and requirements for obtaining bear permits, and other administrative details. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or the DWR's budget.

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

❖ **OTHER PERSONS:** This amendment clarifies the procedures and requirements for obtaining bear permits, and other administrative details. 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 amendments provide procedures and requirements for obtaining bear permits, and other administrative details. The DWR determines that there are no additional compliance costs associated with this amendment.

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

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

NATURAL RESOURCES
WILDLIFE RESOURCES
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 debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 02/17/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 02/18/2004

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.

R657-33. Taking Bear.

R657-33-1. 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 bear.

(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 and pursuing bear.

R657-33-2. Definitions.

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

(2) In addition:

(a) "Bait" means any lure containing animal, mineral or plant materials.

(b) "Baiting" means the placing, exposing, depositing, distributing or scattering of bait to lure, attract or entice bear on or over any area.

(c) "Bear" means *Ursus americanus*, commonly known as black bear.

(d) "Canned hunt" means that a bear 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 bear.

(e) "Cub" means a bear less than one year of age.

(f) "Evidence of sex" means the teats, and sex organs of a bear, including a penis, scrotum or vulva.

(g) "Green pelt" means the untanned hide or skin of a bear.

(h) "Pursue" means to chase, tree, corner or hold a bear at bay.

(i) "Waiting period" means a specified period of time that a person who has obtained a bear permit must wait before applying for any other bear permit.

R657-33-3. Permits for Taking Bear.

(1)(a) To take a bear, a person must first obtain a valid limited entry bear permit for a specified hunt unit as provided in the proclamation of the Wildlife Board for taking bear.

(b) To pursue bear, a person must first obtain a valid bear pursuit permit from a division office.

(2) Any limited entry bear permit purchased after the season opens is not valid until seven days after the date of purchase.

(3) Residents and nonresidents may apply for limited entry bear permits and purchase bear pursuit permits.

R657-33-4. Purchase of License or Permit by Mail.

(1) A person may purchase a bear pursuit permit by mail by sending the following information to ~~the Salt Lake~~ a 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, business checks, cashier's check or money orders will be accepted.

(b) Personal and business checks drawn on an out-of-state will not be accepted.

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

R657-33-5. Hunting Hours.

Bear may be taken or pursued only between one-half hour before official sunrise through one-half hour after official sunset.

R657-33-6. Firearms and Archery Equipment.

(1) A person may use the following to take bear:

(a) any firearm not capable of being fired fully automatic, except a firearm using a rimfire cartridge; and

(b) a bow and arrows.

(2) A person may not use a crossbow to take bear, except as provided in Rule R657-12.

R657-33-7. Traps and Trapping Devices.

(1) Bear may not be taken with a trap, snare or any other trapping device, except as authorized by the division.

(2) Bear accidentally caught in any trapping device must be released unharmed.

(3)(a) Written permission must be obtained from a division representative to remove the carcass of a bear from any trapping device.

(b) The carcass shall remain the property of the state of Utah and must be surrendered to the division.

R657-33-8. 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 R651-603-5.

(2) Hunting with a rifle, handgun or muzzleloader in park areas designated open is prohibited within one mile of all area 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.

R657-33-9. Prohibited Methods.

(1) Bear 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 and pursuing bear. 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 bear.

(2) After a bear has been pursued, chased, treed, cornered, legally baited 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.

R657-33-10. 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.

R657-33-11. Party Hunting.

A person may not take a bear for another person.

R657-33-12. Use of Dogs.

(1) Dogs may be used to take or pursue bear only during open seasons as provided in the proclamation of the Wildlife Board for taking bear.

(2) The owner and handler of dogs used to take or pursue bear must have a valid bear permit or bear pursuit permit in possession while engaged in taking or pursuing bear.

(3) When dogs are used in the pursuit of a bear, the licensed hunter intending to take the bear must be present when the dogs are released and must continuously participate in the hunt thereafter until the hunt is completed.

(4) When dogs are used to take a bear 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 limited entry bear permit for the limited entry unit being hunted.

R657-33-13. Certificate of Registration Required for Bear Baiting.

(1) A certificate of registration for baiting must be obtained before establishing a bait station.

(2) Certificates of registration are issued only to holders of valid limited entry bear archery permits.

(3) A certificate of registration may be obtained from the division office within the region where the bait station will be established.

(4) The following information must be provided to obtain a ~~[certificate of registration]~~ Certificate of Registration for baiting: township, range, section to the nearest 1/4 section, county, drainage, type of bait used~~[-]~~ and written permission from the appropriate landowner for private lands ~~[or appropriate land management agency for public lands].~~

~~[(5)(a) The division recommends that any]~~ (5)(a) Any person interested in baiting on ~~[any]~~ lands administered by the U.S. Forest Service or Bureau of Land Management must verify that the lands are open to baiting before applying for a limited entry bear archery permit.

(b) ~~[Areas which]~~ Information on areas that are open to baiting on National Forests ~~[are designated on a map which may]~~ must be obtained from district offices. Baiting locations and applicable travel restrictions must be verified by the district supervisor prior to applying for a ~~[certificate of registration]~~ Certificate of Registration.

(c) Areas generally closed to baiting stations by these federal agencies include:

- (i) designated Wilderness Areas;
- (ii) heavily used drainages or recreation areas; and
- (iii) critical watersheds.

(d) The division shall send a copy of the certificate of registration to the private landowner or appropriate district office of the land management agency that manages the land where the bait station will be placed, as identified by the hunter on the application for a certificate of registration.

(6) A \$5 handling fee must accompany the application.

(7) Only hunters listed on the certificate of registration may hunt over the bait station and the certificate of registration must be in possession while hunting over the bait station.

(8) Any person tending a bait station must be listed on the certificate of registration.

R657-33-14. Use of Bait.

(1)(a) A person who has obtained a limited entry bear archery permit may use archery tackle only, even when hunting bear away from the bait station.

(b) A person may establish or use only one bait station. The bait station may be used during both open seasons.

(c) Bear lured to a bait station may not be taken with any firearm or the use of dogs.

(d) Bait may not be contained in or include any metal, glass, porcelain, plastic, cardboard, or paper.

(e) The bait station must be marked with a sign provided by the division and posted within 10 feet of the bait.

(2)(a) Bait may be placed only in areas open to hunting and only during the open seasons.

(b) All materials used as bait must be removed within 72 hours after the close of the season or within 72 hours after the person or persons, who are registered for that bait station harvest a bear.

(3) A person may use nongame fish as bait, except those listed as prohibited in Rule R657-13 and the proclamation of the Wildlife Board for Taking Fish and Crayfish. No other species of protected wildlife may be used as bait.

(4)(a) Domestic livestock or its parts, including processed meat scraps, may be used as bait.

(b) A person using domestic livestock or their parts for bait must have in possession:

(i) a certificate from a licensed veterinarian certifying that the domestic livestock or their parts does not have a contagious disease, and stating the cause and date of death; and

(ii) a certificate of brand inspection or other proof of ownership or legal possession.

(5) Bait may not be placed within:

- (a) 100 yards of water or a public road or designated trail; or
- (b) 1/2 mile of any permanent dwelling or campground.

(6) Violations of this rule and the proclamation of the Wildlife Board for taking and pursuing bear concerning baiting on federal lands may be a violation of federal regulations and prosecuted under federal law.

R657-33-15. Tagging Requirements.

(1) The carcass of a bear must be tagged in accordance with Section 23-20-30.

(2) The carcass of a bear must be tagged with a temporary possession tag before the carcass is moved from or the hunter leaves the site of kill.

(3) A person may not hunt or pursue bear after the notches have been removed from the tag or the tag has been detached from the permit.

(4) 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.

(5) A person may not possess a bear 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.

R657-33-16. Evidence of Sex and Age.

(1) Evidence of sex must remain attached to the carcass or pelt of each bear 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) The division may seize any pelt not accompanied by its skull.

R657-33-17. Permanent Tag.

(1) Each bear 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.

(2) A person may not possess a green pelt after the 48-hour check-in period, 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.

R657-33-18. Transporting Bear.

Bear that have been legally taken may be transported by the permit holder provided the bear is properly tagged and the permittee possesses a valid permit.

R657-33-19. Exporting Bear from Utah.

(1) A person may export a legally taken bear or its parts if that person has a valid license and permit and the bear is properly tagged with a permanent possession tag.

(2) A person may not ship or cause to be shipped from Utah, a bear pelt without first obtaining a shipping permit issued by an authorized division representative.

R657-33-20. Donating.

(1) A person may donate protected wildlife or their parts to another person in accordance with Section 23-20-9.

(2) A written statement of donation must be kept with the protected wildlife or parts showing:

(a) the number and species of protected wildlife or parts donated;

(b) the date of donation;

(c) the license or permit number of the donor and the permanent possession tag number; and

(d) the signature of the donor.

(3) A green pelt of any bear donated to another person must have a permanent possession tag affixed.

(4) The written statement of donation must be retained with the pelt.

R657-33-21. Purchasing or Selling.

(1) Legally obtained tanned bear hides may be purchased or sold.

(2) A person may not purchase, sell, offer for sale or barter a gall bladder, tooth, claw, paw or skull of any bear.

R657-33-22. Waste of Wildlife.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts in accordance with Section 23-20-8.

(2) The skinned carcass of a bear may be left in the field and does not constitute waste of wildlife, however, the division recommends that hunters remove the carcass from the field.

R657-33-23. Livestock Depredation.

(1) If a bear 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 bear, may kill the bear;

(b) a landowner or livestock owner may notify the division of the depredation or human health and safety concerns, which shall authorize a local hunter to take the offending bear or notify a Wildlife Services specialist, supervised by the USDA Wildlife Program; or

(c) the livestock owner may notify a Wildlife Services specialist of the depredation who may take the depredating bear.

(2) Depredating bear may be taken at any time by a Wildlife Services specialist while acting in the performance of the person's assigned duties and in accordance with procedures approved by the division.

(3) A depredating bear may be taken ~~with~~ by those persons authorized in Subsection (1)(a) with:

(a) any weapon authorized for taking bear; or

(b) with the use of snares only with written authorization from the director of the Division and subject to all the conditions and restrictions set out in the written authorization.

(i) The option in Subsection (3)(b) may only be authorized in the case of a chronic depredation situation where numerous livestock have been killed by a depredating bear and must be verified by Wildlife Services or Division personnel.

(4)(a) Any bear taken pursuant to this section must be delivered to a division office or employee within 72 hours.

(b) A bear that is killed in accordance with Subsection (1)(a) shall remain the property of the state, except the division may sell a bear damage permit to a person who has killed a depredating bear if that person wishes to maintain possession of the bear.

(c) A person may acquire only one bear annually.

(5)(a) Hunters interested in taking depredating bear as provided in Subsection (1)(b) may contact the division.

(b) Hunters will be contacted by the division to take depredating bear as needed.

R657-33-24. 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.

R657-33-25. Taking Bear.

(1) A person may take only one bear during the season and from the limited entry area specified on the permit.

(2)(a) A person may not take or pursue a female bear with cubs.

(b) Any bear, except a cub or a sow accompanied by cubs, may be taken during the prescribed seasons.

(3) Limited entry permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking and pursuing bear.

(4)(a) A mandatory orientation course is required for hunters who draw a permit for the following hunts:

(i) South Slope, Yellowstone;

(ii) South Slope, Vernal/Diamond Mountain/Bonanza;

(iii) Nine Mile, Anthro-Range Creek;

(iv) ~~La Sal~~ La Sal Mountains, Dolores Triangle;

(v) San Juan;

(vi) Manti, North;

(vii) Manti, South;

(viii) Wasatch Mountains, West; and

(ix) Wasatch Mountains, Currant Creek-Avintaquin.

(b) Hunters will be notified of the orientation process.

(c) Permits for spring bear hunts will be distributed to successful applicants upon completion of the orientation.

(5) Season dates, closed areas and limited entry permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

R657-33-26. Bear Pursuit.

(1) Bear may be pursued only by persons who have obtained a bear pursuit permit. The bear pursuit permit does not allow a person to kill a bear.

(2) Pursuit permits may be obtained at Division offices.

(3) A person may not:

(a) take or pursue a female bear with cubs;

(b) repeatedly pursue, chase, tree, corner or hold at bay the same bear during the same day; or

(c) possess a firearm or any device that could be used to kill a bear while pursuing bear.

(i) The weapon restrictions set forth in Subsection (c) 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 bear.

(4) If eligible, a person who has obtained a bear pursuit permit may also obtain a limited entry bear permit.

(5) When dogs are used to take a bear 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 Section R657-33-12.

(6) Season dates, closed areas and bear pursuit permit areas are published in the proclamation of the Wildlife Board for taking and pursuing bear.

R657-33-27. General Application Information.

(1) A person may not apply for or obtain more than one bear permit within the same calendar year, except as provided in Subsection R657-33-27(3).

(2) A person must be 12 years of age or older by the posting date of the drawing to apply for a bear permit.

(3) Limited entry bear permits are valid only for the hunt unit and for the specified season designated on the permit.

R657-33-28. Waiting Period.

(1) Any person who purchases a permit valid for the current season, may not apply for a permit for a period of two years.

(2) Any person who draws a permit for the current season, may not apply for a permit for a period of two years.

R657-33-29. 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 five hunt unit choices when applying for limited entry bear permits. Hunt unit choices must be listed in order of preference.

(c) Applicants must specify on the application whether they want a limited entry bear permit or a limited entry bear archery permit.

(i) The application may be rejected if the applicant does not specify either a limited entry bear permit or limited entry bear archery permit.

(ii) Any person obtaining a limited entry bear archery permit must also obtain a certificate of registration if intending to use bait as provided in Section R657-33-14.

(3)(a) Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking and pursuing bear. Applications filled out incorrectly or received later than the date prescribed in the bear proclamation may be rejected.

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

(c) The opportunity to correct an error is not guaranteed.

(4)(a) Late applications received by the date published in the proclamation of the Wildlife Board for taking bear 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 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 bear, 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 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 R657-33-32(6)(b).

(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.

R657-33-30. Fees.

(1) Each application must include:

(a) the permit fee; and

(b) the nonrefundable handling fee.

(2) Fees must be paid in accordance with Rule R657-42-8.

R657-33-31. Drawings and Remaining Permits.

(1) 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.

(2) ~~[Drawing results will be posted at the Lee Kay Center, Cache Valley Hunter Education Center, division offices and on the division Internet address on]~~ Applicants will be notified by mail or e-mail of draw results by the date published in the proclamation of the Wildlife Board for taking and pursuing bear. The drawing results will be posted on the Division's Internet address.

(3) Permits remaining after the drawing will be sold only by mail or on a first-come, first-served basis beginning and ending on the dates provided in the proclamation of the Wildlife Board for taking and pursuing bear. These permits may be purchased by either residents or nonresidents.

(4) Waiting periods do not apply to the purchase of remaining permits. However, waiting periods are incurred as a result of purchasing remaining permits.

(5)(a) A person may withdraw their application for the bear drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking and pursuing bear.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(6)(a) An applicant may amend their application for the limited entry bear 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) An amendment may cause rejection if the amendment causes an error on the application.

(8) Handling fees will not be refunded.

R657-33-32. Bonus Points.

(1) A bonus point is awarded for:

(a) a valid unsuccessful application in the drawing; or

(b) a valid application when applying for a bonus point in the bear drawing.

(2)(a) A person may apply for one bear bonus point each year, except a person may not apply in the drawing for both a limited entry bear permit and a bear bonus point in the same year.

(b) A person may not apply for a bonus point if that person is ineligible to apply for a permit.

(c) Group applications will not be accepted when applying for bonus points.

(3)(a) Each applicant receives a random drawing number for:

(i) the current valid limited entry bear application; and

(ii) each bonus point accrued.

(b) The applicant will retain the lowest random number for the drawing.

(4)(a) Fifty percent of the permits for each hunt unit 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.

(c) If reserved permits remain, the reserved permits will be designated by random number to eligible applicants with the next greatest number of bonus points.

(d) The procedure in Subsection (c) will continue until all reserved permits have been issued or no applications for that hunt unit remain.

(e) Any reserved permits remaining and any applicants who were not selected for reserved permits will be returned to the drawing.

(5) Bonus points are forfeited if a person obtains a limited entry bear permit except as provided in Subsection (6).

(6) Bonus points are not forfeited if a person is successful in obtaining a Conservation Permit.

(7) Bonus points are not transferable.

(8)(a) Bonus points are tracked using Social Security numbers or Division-issued hunter identification numbers.

(b) The Division shall retain paper copies of applications for three years prior to the current bear drawing for the purpose of researching bonus point records.

(c) The Division shall retain electronic copies of applications from 1996 to the current bear drawing for the purpose of researching bonus point records.

(d) Any requests for researching an applicant's bonus point records must be requested within the time frames provided in Subsection (b) and (c).

(e) Any bonus points on the Division's records shall not be researched beyond the time frames provided in Subsection (b) and (c).

(f) The Division may eliminate any bonus points earned that are obtained by fraud or misrepresentation.

R657-33-33. Refunds.

(1) Unsuccessful applicants, who applied in the initial drawing and who applied with a check or money order, will receive a refund in May.

(2) Unsuccessful applicants, who applied with a credit or debit card, will not be charged for a permit.

(3) The handling fees are nonrefundable.

R657-33-34. 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.

KEY: wildlife, bear, game laws

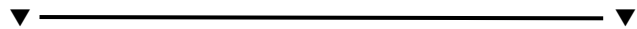
~~April 15, 2003~~ February 18, 2004

Notice of Continuation December 31, 2002

23-14-18

23-14-19

23-13-2



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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 February 17, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through May 14, 2004, 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.

The Changes in Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-17a-612
Operating Standards - Pharmaceutical
Wholesaler/Distributor and
Pharmaceutical Manufacturer located in
Utah

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26754
Filed: 12/22/2003, 15:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since the Division filed the original rule amendment filing in October 2003, the latest edition of the United States Pharmacopeia/National Formulary (USP/NF) was released. Therefore, the Division wants to amend the rule to reflect the most current edition. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the November 15, 2003, issue of the Utah State Bulletin, on page 11. 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 change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-17a-612(7)(a), the USP/NF book is updated to the 2003 edition which is official from January 1, 2004.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-17a-101 and 58-37-1, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes 2002 edition of the USP/NF which is official from January 1, 2003 and adds 2003 edition of the USP/NF which is official from January 1, 2004.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will not incur any additional costs beyond those previously identified in the original rule amendment filing.

❖LOCAL GOVERNMENTS: The proposed amendment does not apply to local governments.

❖OTHER PERSONS: No additional costs will be incurred by pharmaceutical wholesalers/distributors and pharmaceutical manufacturers located in Utah beyond those identified in the original rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs will be incurred by pharmaceutical wholesalers/distributors and pharmaceutical manufacturers located in Utah beyond those identified in the original rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to business is anticipated from this change in rule filing, which merely amends a reference in the rule to the current edition of the United States Pharmacopeia/National Formulary. Klarice Bachman, Executive Director

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:

Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 02/17/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 02/18/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-17a. Pharmacy Practice Act Rules.**

R156-17a-612. Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah.

In accordance with Subsection 58-17a-601(1), the operating standards for pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensee includes the following:

(1) A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs.

(2) A separate license shall be obtained for wholesale distribution activity and manufacturing activity.

(3) The licensee need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a responsible officer or management employee.

(4) There has not been established minimum requirements for persons employed by persons engaged in the distribution or manufacture of prescription drugs; however, this does not relieve the person who engages in the distribution of prescription drugs within the state or in interstate commerce into or from the state, or those engaged in the manufacture of prescription drugs in the state or in interstate commerce into or from the state from ensuring that persons employed by them have appropriate education, experience, or both to engage in the duties to which they are assigned and do so in a manner which does not jeopardize the public health, safety or welfare.

(5) All facilities associated with the distribution or manufacture of prescription drugs shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;

(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed, or in any other way unsuitable for use or entry into distribution or manufacture;

(e) be maintained in a clean and orderly condition, and

(f) be free from infestation by insects, rodents, birds, or vermin of any kind.

(6) In regard to security, all facilities used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building and life/safety codes, and control access of persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs or prescription drug precursors are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification to appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacture of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(7) In regard to storage, all facilities shall provide for storage of prescription drugs and prescription drug precursors in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the United States Pharmacopeia/National Formulary (USP/NF), [2002]2003 edition, which is official from January 1, [2003]2004 through Supplement 2, dated August 1, 2003, which is hereby incorporated by reference;

(b) if no storage requirements are established for a specific prescription drug or prescription drug precursor, the products shall be held in a condition of controlled temperature and humidity as defined in the USP/NF to ensure that its identity, strength, quality, and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs or prescription drug precursors are held to permit review of the record and ensure that the products have not been subjected to conditions which are outside of established limits.

(8) In regard to examination of materials, each facility shall provide that:

(a) upon receipt, each outside shipping container containing prescription drugs or prescription drug precursors shall be visually

examined for identity and to prevent the acceptance of prescription drugs or prescription drug precursors that are contaminated, reveal damage to the containers or are otherwise unfit for distribution; and

(b) each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(9) In regard to returned, damaged, and outdated prescription drugs, each facility shall provide that:

(a) prescription drugs or prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated from other prescription drugs or prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(b) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier; and

(c) if the condition or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality, or purity, then the drug shall be appropriately destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality, and purity.

(10) In regard to record keeping, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped, or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver, and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities, and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(11) In regard to written policies and procedures, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain, and adhere to written policies and procedures which shall be followed for the receipt, security, storage, inventory, manufacture, distribution or other disposal of prescription drugs or prescription drug precursors, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first, with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the Food and Drug Administration of other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action by the pharmaceutical wholesaler/distributor or pharmaceutical manufacturer to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacing of existing product with an improved product or new package design;

(c) a procedure to ensure that a pharmaceutical wholesaler/distributor or pharmaceutical manufacturer prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed;

(e) a procedure providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state, or local authorities for a period of two years after disposition of the product.

(12) In regard to responsible persons, pharmaceutical wholesaler/distributors and pharmaceutical manufacturers shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers, and other persons in charge of wholesale drug distribution, manufacture, storage, and handling, which lists shall include a description of their duties and a summary of their background and qualifications.

(13) In regard to compliance with law, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall:

(a) operate in compliance with applicable federal, state and local laws and regulations;

(b) permit the state licensing authority and authorized federal, state, and local law enforcement officials, upon presentation of proper credentials, to enter and inspect their premises and delivery vehicles, and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtain a controlled substance license from the division and register with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacture of controlled substances, and shall comply with all federal, state and local regulations applicable to the distribution or manufacture of controlled substances.

(14) In regard to salvaging and processing, pharmaceutical wholesalers/distributors and pharmaceutical manufacturers shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

(15) A person who is engaged in the wholesale distribution or manufacturing of prescription drugs but does not have a facility located within Utah in which prescription drugs are located, stored, distributed or manufactured is exempt from Utah licensure as a pharmaceutical wholesaler/distributor or a pharmaceutical manufacturer, if said person is currently licensed and in good standing in each state of the United States in which that person has a facility engaged in distribution or manufacturing of prescription drugs entered into interstate commerce.

KEY: pharmacists, licensing, pharmacies

~~2003~~2004

Notice of Continuation April 26, 2001

58-17a-101

58-37-1

58-1-106(1)(a)

58-1-202(1)(a)



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

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.

Tax Commission, Administration

R861-1A-37

Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 26864
FILED: 12/19/2003, 14:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to provide direction in interpreting the language of Section 59-1-404, passed in 2003 S.B. 2004. (DAR NOTE: S.B. 2004 is found at UT L 2003 2nd Spec. Sess. Ch 7, and was effective November 25, 2003, with certain provisions contingently effective at later dates; for more information see <http://www.leg.state.ut.us/~2003S2/htmldoc/sbillhtm/SB2004.htm>)

SUMMARY OF THE RULE OR CHANGE: This emergency rule provides that "information of a commercial nature" does not include the name of a property owner or the taxes and other amounts owed by that taxpayer, the amount of tax collected or abated, the tax status of the property or information relating to a tax sale and "physical description of the property" includes a property's street address; in addition, the emergency rule indicates that a party to a proceeding may disclose commercial information of a property taxpayer that is not a party to the proceeding if that information is directly involved in the proceeding; finally, the rule provides that a party may disclose commercial information to the extent necessary to

fulfill any statutory obligations under Title 59, Chapter 2, Part 13.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--Passage of this emergency rule will allow counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers.
- ❖ LOCAL GOVERNMENTS: None--Passage of this emergency rule will allow counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers.
- ❖ OTHER PERSONS: None--Passage of this emergency rule will allow counties to continue their current statutorily required equalization hearings and publish information regarding delinquent property taxpayers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Passage of this rule will continue the current practices of the counties.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact as a result of this emergency rule.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare; and place the agency in violation of federal or state law.

Without this emergency rule, counties believe they would be unable to disclose information necessary to hold county board of equalization hearings. This interference with the tax collection process would cause an imminent peril to the public welfare. In addition, counties believe that without this rule,

they would be unable to publish statutorily required disclosures regarding delinquent taxpayers. In that event, the county agencies the Tax Commission has constitutional duty to supervise will not be in compliance with state laws.

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at cleee@utah.gov

THIS RULE IS EFFECTIVE ON: 12/19/2003

AUTHORIZED BY: Pam Hendrickson, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-37. Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404.

The provisions of this rule apply to the provisions relating to the disclosure of commercial information under Section 59-1-404.

- A. "Information of a commercial nature" does not include:
 - 1. the name of a property owner or property taxpayer; or
 - 2. the amount of any of the property tax due, collected, or abated;
 - 3. the amount of any interest, costs, or other charges relating to the property tax due;
 - 4. the tax status of the property, including exemptions, property classifications, and bankruptcy filings; or
 - 5. information relating to a tax sale of the property.
- B. "Physical description of the property" includes a property's street address.
- C. The disclosure required under Subsection 59-1-404(4)(a)(iii) on behalf of any party to any action or proceeding under Title 59 shall include commercial information obtained from a property taxpayer that is not a party to any action or proceeding under Title 59 if the commercial information is directly involved in the action or proceeding.
 - 1. Any party subject to the provisions of Section 59-1-404 may publish notice to the public, lien holders, and other interested parties, file liens, or otherwise disclose commercial information to the extent necessary to fulfill that party's statutory obligations under Title 59, Chapter 2, Part 13, Collection of Taxes.

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
December 19, 2003
Notice of Continuation April 22, 2002
59-1-404**



End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the 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).

Commerce,
Consumer Protection
R152-30
Utah Personal Introduction Services
Protection Act

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26856
FILED: 12/16/2003, 11:34

**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: These rules are promulgated under Subsection 13-2-5(1) to facilitate the orderly administration of the Utah Personal Introduction Services Protection Act (hereafter, "the Act"), Title 13, Chapter 30 of the Utah Code Annotated.

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.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to facilitate the orderly administration of the Act. The Act requires that "[t]he bond, certificate of deposit, or letter of credit shall be for an amount prescribed by rule..." (See Subsection 13-30-106(2))

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

COMMERCE
CONSUMER PROTECTION
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:

Douglas Haymore at the above address, by phone at 801-530-6929, by FAX at 801-530-6001, or by Internet E-mail at dhaymore@utah.gov

AUTHORIZED BY: Francine Giani, Director

EFFECTIVE: 12/16/2003



Natural Resources,
Oil, Gas and Mining; Administration
R642-200
Applicability

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26857
FILED: 12/16/2003, 16:24

**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 63-3-904 authorizes the Board of Oil, Gas and Mining as a governmental entity to, by rule, specify certain requirements under the Government Records Access and Management Act. Subsection 63-2-201(6) provides the authority for the substance of this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received during the last five years which support or oppose this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As far as accessibility to documents is concerned this rule defers to the authorities in

existing federal and state statutes, court rules, and federal regulations. This approach to access is in concert with the (Utah) Government Records Access and Management Act (GRAMA) and should be maintained for programmatic continuity.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ADMINISTRATION
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Daniels at the above address, by phone at 801-538-5316, by FAX at 801-359-3940, or by Internet E-mail at rondaniels@utah.gov

AUTHORIZED BY: Ron Daniels, Coordinator of Minerals Research

EFFECTIVE: 12/16/2003

▼ ————— ▼

**Natural Resources,
Oil, Gas and Mining; Coal
R645-101
Restrictions on State Employees**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26860
FILED: 12/19/2003, 10:20

**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 under the Utah Surface Mining Control and Reclamation Act, Section 40-10-1 et seq., which is the statutory basis for the Utah coal regulatory primacy program implemented for the U.S. Office of Surface Mining. The Utah statute is equivalent to the federal law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments in opposition to or in support of the rule have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah is required to have a

state regulatory program no less effective than the equivalent federal program to maintain its state primacy role; this rule in part serves that purpose.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Daniels at the above address, by phone at 801-538-5316, by FAX at 801-359-3940, or by Internet E-mail at rondaniels@utah.gov

AUTHORIZED BY: Ron Daniels, Coordinator of Minerals Research

EFFECTIVE: 12/19/2003

▼ ————— ▼

**Natural Resources,
Oil, Gas and Mining; Coal
R645-104
Protected Activity**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 26861
FILED: 12/19/2003, 10:21

**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 under the Utah Surface Mining Control and Reclamation Act, Section 40-10-1 et seq., which is the statutory basis for the Utah coal regulatory primacy program implemented in Utah for the U.S. Office of Surface Mining. The Utah statute is equivalent to the federal law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments in opposition to or in support of the rule have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah is required to have a state regulatory program that is no less effective than the equivalent federal program to maintain its state primacy role; this rule in part serves that purpose.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Daniels at the above address, by phone at 801-538-5316, by FAX at 801-359-3940, or by Internet E-mail at rondaniels@utah.gov

AUTHORIZED BY: Ron Daniels, Coordinator of Minerals Research

EFFECTIVE: 12/19/2003

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Daniels at the above address, by phone at 801-538-5316, by FAX at 801-359-3940, or by Internet E-mail at rondaniels@utah.gov

AUTHORIZED BY: Ron Daniels, Coordinator of Minerals Research

EFFECTIVE: 12/19/2003

▼ ————— ▼

**Natural Resources,
Oil, Gas and Mining; Coal
R645-401
Inspection and Enforcement: Civil
Penalties**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26862
FILED: 12/19/2003, 10:51

**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: This rule is authorized under the Utah Surface Mining Control and Reclamation Act, Section 40-10-1 et seq., which is the statutory basis for the Utah coal regulatory primacy program implemented in Utah for the U.S. Office of Surface Mining. The Utah statute is equivalent to the federal law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments in opposition to or in support of the rule have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah is required to have a state regulatory program that is no less effective than the equivalent federal program to maintain its state primacy role; this rule in part serves that purpose.

▼ ————— ▼

**Natural Resources,
Oil, Gas and Mining; Oil and Gas
R649-6
Gas Processing and Waste Crude Oil
Treatment**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26863
FILED: 12/19/2003, 10:52

**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: Subsection 40-6-5(2) grants to the Board of Oil, Gas and Mining the authority to adopt rules as necessary to administer the Utah Oil and Gas Conservation Act; included in this Act at Subsection 40-6-5(2)(h) and Subsection 40-6-5(3) are provisions for regulating gas processing and crude oil treatment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments in opposition to or in support of 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 rule is needed to maintain a regulatory environment for oil and gas operations that is consistent, stable, and reliable.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
Room 1210
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Daniels at the above address, by phone at 801-538-5316, by FAX at 801-359-3940, or by Internet E-mail at rondaniels@utah.gov

AUTHORIZED BY: Ron Daniels, Coordinator of Minerals Research

EFFECTIVE: 12/19/2003



School and Institutional Trust Lands,
Administration
R850-110
Off-Highway Vehicle Designations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 26855
FILED: 12/16/2003, 09:09

**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 41-22-10.1 allows for lands administered by the School and Institutional Trust Lands

Administration to be designated for Off-Highway Vehicle (OHV) use. Subsection 53C-1-302(1)(a)(ii) authorizes the Director of the School and Institutional Trust Lands Administration to require off-highway vehicle use designation.

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 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: The need to designate certain roads, trails, and areas as "Open" for various classes of Off-Highway Vehicles (OHV) is becoming more and more critical as this form of recreation is becoming more popular. This rule is needed to help protect the value of the lands held in trust for the various beneficiaries.

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 801-538-5101, by FAX at 801-538-5118, or by Internet E-mail at kevincarter@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 12/16/2003



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (*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).

Public Safety

Criminal Investigations and Technical Services, Criminal Identification

No. 26858 (filed 12/17/2003 at 8:51 a.m.): R722-900 (was R722-2). Review and Challenge of Criminal Record.

Enacted or Last Five-Year Review: 12/16/1998 (No. 21744, 5YR, filed 12/16/1998 at 4:02 p.m., published 1/15/1998)

Extended Due Date: 04/14/2004

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

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.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Fleet Operations

No. 26660 (AMD): R27-4. Vehicle Replacement and Expansion of State Fleet.
Published: October 15, 2003
Effective: December 19, 2003

No. 26752 (AMD): R27-4-3. Vehicle Replacement and Expansion of State Fleet.
Published: November 15, 2003
Effective: December 19, 2003

Agriculture and Food

Regulatory Services

No. 26715 (AMD): R70-410-1. Authority.
Published: November 15, 2003
Effective: December 16, 2003

Commerce

Occupational and Professional Licensing

No. 26714 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.
Published: November 15, 2003
Effective: December 17, 2003

No. 26693 (AMD): R156-56. Utah Uniform Building Standard Act Rules.
Published: November 1, 2003
Effective: January 1, 2004

No. 26692 (AMD): R156-56-707. Statewide Amendments to the IPC.
Published: November 1, 2003
Effective: January 1, 2004

Environmental Quality

Air Quality

No. 26651 (AMD): R307-101-2. Definitions.
Published: October 1, 2003
Effective: December 31, 2003

No. 26616 (CPR): R307-110-28. Regional Haze.
Published: December 1, 2003
Effective: December 31, 2003

No. 26648 (CPR): R307-150. Emission Inventories.
Published: December 1, 2003
Effective: December 31, 2003

No. 26649 (REP): R307-155. Hazardous Air Pollutant Inventory.
Published: October 1, 2003
Effective: December 31, 2003

No. 26650 (REP): R307-158. Emission Statement Inventory.
Published: October 1, 2003
Effective: December 31, 2003

No. 26617 (CPR): R307-204. Emission Standards: Smoke Management.
Published: December 1, 2003
Effective: December 31, 2003

No. 26615 (CPR): R307-250. Western Backstop Sulfur Dioxide Trading Program.
Published: December 1, 2003
Effective: December 31, 2003

No. 26653 (AMD): R307-415-9. Fees for Operating Permits.
Published: October 1, 2003
Effective: December 31, 2003

Drinking Water

No. 26760 (AMD): R309-705. Financial Assistance: Federal Drinking Water Project Revolving Loan Program.
Published: November 15, 2003
Effective: January 1, 2004

Health

Health Systems Improvement, Primary Care and Rural Health

No. 26756 (NEW): R434-40. Utah Health Care Workforce Financial Assistance Program Rule.
Published: November 15, 2003
Effective: December 23, 2003

Human Services

Recovery Services

No. 26764 (AMD): R527-550. Assessment.
Published: November 15, 2003
Effective: December 17, 2003

Labor Commission

Industrial Accidents

No. 26697 (AMD): R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund..

Published: November 1, 2003
Effective: January 1, 2004

No. 26766 (AMD): R884-24P-33. 2004 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

Published: November 15, 2003
Effective: December 18, 2003

Safety

No. 26674 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

Published: October 15, 2003
Effective: January 1, 2004

No. 26677 (AMD): R884-24P-53. 2003 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

Published: October 15, 2003
Effective: December 18, 2003

Natural Resources

Wildlife Resources

No. 26762 (AMD): R657-6. Taking Upland Game.

Published: November 15, 2003
Effective: December 17, 2003

No. 26675 (AMD): R884-24P-67. Information Required for Valuation of Low-Income Housing Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-301.3.

Published: October 15, 2003
Effective: December 18, 2003

No. 26763 (AMD): R657-22. Commercial Hunting Areas.

Published: November 15, 2003
Effective: December 17, 2003

Workforce Services

Employment Development

No. 26705 (AMD): R986-100. Employment Support Programs.

Published: November 1, 2003
Effective: January 1, 2004

No. 26706 (AMD): R986-400. General Assistance and Working Toward Employment.

Published: November 1, 2003
Effective: January 1, 2004

Tax Commission

Auditing

No. 26765 (AMD): R865-9I-50. Addition to Federal Taxable Income for Interest Earned on Bonds, Notes, and Other Evidences of Indebtedness Pursuant to Utah Code Ann. Section 59-10-114.

Published: November 15, 2003
Effective: December 18, 2003

No. 26707 (AMD): R986-700. Child Care Assistance.

Published: November 1, 2003
Effective: January 1, 2004

Property Tax

No. 26703 (AMD): R884-24P-24. Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.

Published: November 1, 2003
Effective: December 18, 2003

End of the Notices of Rule Effective Dates Section

**2003 RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The *2003 Index* lists changes made effective from January 1, 2003, through January 1, 2004. 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/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

DEPARTMENT <u>AGENCY</u>	CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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ADMINISTRATIVE SERVICES

Administration

R13-1	Public Petitions for Declaratory Orders	26614	5YR	9/10/2003	2003-19/67
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Facilities Construction and Management

R23-3	Authorization of Programs for Capital Development Projects	25639	R&R	1/2/2003	2002-23/3
R23-3	Planning and Programming for Capital Projects	25989	AMD	3/24/2003	2003-4/4
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25964	5YR	1/15/2003	2003-3/62
R23-4	Contract Performance Review Committee and Suspension/Debarment From Consideration for Award of State Contracts	25783	AMD	2/4/2003	2003-1/3
R23-5	Contingency Funds	25955	5YR	1/15/2003	2003-3/62
R23-6	Value Engineering and Life Cycle Costing of State-Owned Facilities Rules and Regulations	25956	5YR	1/15/2003	2003-3/63
R23-7	Utah State Building Board Policy Statement Master Planning	25770	REP	2/4/2003	2003-1/5
R23-7	Utah State Building Board Policy Statement Master Planning	25984	EXT	02/04/2003 (see REP DAR No. 25770)	Not Printed
R23-8	Planning Fund Use	25640	REP	1/2/2003	2002-23/5

DEPARTMENT						
<u>AGENCY</u>						
CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE	
R23-9	Building Board State/Local Cooperation Policy	25957	5YR	1/15/2003	2003-3/63	
R23-9	Building Board State/Local Cooperation Policy	25988	R&R	3/24/2003	2003-4/5	
R23-10	Naming of State Buildings	25962	5YR	1/15/2003	2003-3/64	
R23-10	Naming of State Buildings	25784	AMD	2/4/2003	2003-1/5	
R23-11	Facilities Allocation and Sale Procedures	25771	REP	2/4/2003	2003-1/7	
R23-11	Facilities Allocation and Sales Procedures	25986	EXT	02/04/2003 (see REP DAR No. 25771)	Not Printed	
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	26117	5YR	3/25/2003	2003-8/44	
R23-14	Management of Roofs on State Buildings	26115	NEW	5/16/2003	2003-8/7	
R23-21	Division of Facilities Construction and Management Lease Procedures	25959	5YR	1/15/2003	2003-3/64	
R23-24	Capital Projects Utilizing Non-appropriated Funds	25960	5YR	1/15/2003	2003-3/65	
<u>Finance</u>						
R25-5	Payment of Per Diem to Boards	26717	5YR	10/22/2003	2003-22/53	
R25-6	Relocation Reimbursement	26206	5YR	5/1/2003	2003-10/146	
R25-6	Relocation Reimbursement	26205	NSC	6/1/2003	Not Printed	
R25-7	Travel-Related Reimbursements for State Employees	26203	5YR	5/1/2003	2003-10/146	
R25-7	Travel-Related Reimbursements for State Employees	26204	AMD	7/1/2003	2003-10/4	
R25-8	Meal Allowance	26716	5YR	10/22/2003	2003-22/53	
<u>Fleet Operations</u>						
R27-3	Vehicle Use Standards	25879	AMD	5/15/2003	2003-2/5	
R27-3	Vehicle Use Standards	26459	AMD	9/17/2003	2003-15/4	
R27-4	Vehicle Replacement and Expansion of State Fleet	26660	AMD	12/19/2003	2003-20/3	
R27-4-3	Vehicle Replacement and Expansion of State Fleet	26752	AMD	12/19/2003	2003-22/9	
R27-7	Safety and Loss Prevention of State Vehicles	26191	AMD	7/8/2003	2003-10/6	
<u>Fleet Operations, Surplus Property</u>						
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26771	5YR	11/4/2003	2003-23/106	
<u>Purchasing and General Services</u>						
R33-2-102	Authority to Make Small Purchases	26136	AMD	5/27/2003	2003-8/8	
R33-3	Source Selection and Contract Formation	26138	AMD	5/27/2003	2003-8/9	
R33-5	Construction and Architect - Engineer Selection	26139	AMD	5/27/2003	2003-8/15	
R33-6	Modification and Termination of Contracts for Supplies and Services	26680	5YR	10/3/2003	2003-21/90	
R33-7	Cost Principles	26681	5YR	10/3/2003	2003-21/90	
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	R671-521	Alternative to Re-Incarceration of Parolees	26639	REP	11/19/2003	2003-19/57
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R722-300	Concealed Firearm Permit Rule	25999	5YR	1/28/2003	2003-4/59
R722-320	Undercover Identification	25998	5YR	1/28/2003	2003-4/60
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R708-2	Commercial Driver Training Schools	26775	EMR	11/5/2003	2003-23/103	
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R708-37	Certification of Licensed Instructors of Commercial Driver Training School to Administer Driving Skills Tests	26288	CPR	8/18/2003	2003-14/14	
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R710-7	Concerns Servicing Automatic Fire Suppression Systems	25961	AMD	3/6/2003	2003-3/36	
R710-7	Concerns Servicing Automatic Fire Suppression Systems	26001	AMD	3/18/2003	2003-4/32	
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R710-9	Rules Pursuant to the Utah Fire Prevention Law	26289	AMD	7/2/2003	2003-11/69	
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R728-411	Guidelines Regarding Administrative Action Taken Against Individuals Functioning as Peace Officers without Peace Officer Certification or Powers	26067	5YR	3/4/2003	2003-7/91	
R728-501	Career Development Courses	26694	5YR	10/10/2003	2003-21/93	
R728-502	Procedure for POST Instructor Certification	26069	EXT	07/03/2003 (see EXD DAR No. 26445)	Not Printed	
R728-502	Procedure for POST Instructor Certification	26445	EXD	7/3/2003	Not Printed	

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R728-504	Regional Training	26446	EXD	7/3/2003	Not Printed	
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R746-210	Utility Service Rules Applicable Only to Electric Utilities	26419	5YR	6/25/2003	2003-14/97	
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R746-332	Depreciation Rates for Water Utilities	26143	5YR	4/2/2003	2003-9/136	
R746-340	Service Quality for Telecommunications Corporations	26418	5YR	6/25/2003	2003-14/98	
R746-342	Rule on One-Way Paging	26145	5YR	4/2/2003	2003-9/137	
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R746-345	Pole Attachments for Cable Television Companies	26539	5YR	8/8/2003	2003-17/91	
R746-347	Extended Area Service (EAS)	25578	NEW	3/10/2003	2002-22/44	
R746-347-5	Customer Survey for New or Expanded EAS	26197	AMD	6/30/2003	2003-10/116	
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R765-605	Utah Centennial Opportunity Program for Education	26002	NSC	5/1/2003	Not Printed	
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R865-9I-16	Collection and Payment of Income Tax Pursuant to Utah Code Ann. Section 59-10-406	26522	AMD	9/25/2003	2003-16/16
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R865-9I-3	Credit for Income Tax Paid by an Individual to Another State Pursuant to Utah Code Ann. Section 59-10-106	26527	AMD	9/25/2003	2003-16/16
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R884-24P-60	Age-Based Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Section 59-2-405.1	26044	AMD	4/23/2003	2003-5/15	
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R986-700	Child Care Assistance	26707	AMD	1/1/2004	2003-21/83	
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	26065	R501-8-19	NSC	4/1/2003	Not Printed
	25703	R501-16	EXT	02/26/2003 (see 5YR DAR No. 26055)	Not Printed
	26055	R501-16	5YR	2/26/2003	2003-6/17
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**2004
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BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 1, 2004, including notices of effective date received through December 31, 2003, the effective dates of which are no later than January 15, 2004. 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).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the *Bulletin* and related publications; we hope to have them resolved as soon as possible. *Bulletin* issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
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R426-15	Licensed and Designated Provider Operations	26671	AMD	01/01/2004	2003-20/14
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R432-2	General Licensing Provisions.	26876	5YR	01/05/2004	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement.	26875	5YR	01/05/2004	Not Printed
R432-4	General Construction.	26869	5YR	01/05/2004	Not Printed
R432-5	Nursing Facility Construction.	26877	5YR	01/05/2004	Not Printed
R432-6	Assisted Living Facility General Construction.	26886	5YR	01/08/2004	Not Printed
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R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.	26879	5YR	01/05/2004	Not Printed
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R986-700	Child Care Assistance	26707	AMD	01/01/2004	2003-21/83

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	26692	R156-56-707	AMD	01/01/2004	2003-21/34
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	26877	R432-5	5YR	01/05/2004	Not Printed
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	26693	R156-56	AMD	01/01/2004	2003-21/7
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	26781	R414-304	AMD	01/01/2004	2003-23/29
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	26870	R277-735	5YR	01/05/2004	Not Printed
<u>public utilities</u> Public Service Commission, Administration	26883	R746-365	5YR	01/06/2004	Not Printed
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	26879	R907-65	5YR	01/05/2004	Not Printed
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	26879	R907-65	5YR	01/05/2004	Not Printed
	26720	R907-67	NEW	01/05/2004	2003-22/50
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