

UTAH STATE BULLETIN

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

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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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SPECIAL NOTICES

Alcoholic Beverage Control Administration

Alcoholic Beverage Control Commission 2007 Meeting Schedule

Public Notice is hereby given of the 2007 calendar year meeting schedule for the Utah Alcoholic Beverage Control Commission. The Commission meets monthly at the department's administrative office at 1625 South 900 West in Salt Lake City, Utah. Meetings are held on the fourth Friday of each month, January through October; and on the third Friday in November and December. Meetings start at 9:00 a.m. and are open to the public. Meeting dates and times are subject to change.

To confirm meeting dates and times, contact Sharon Mackay at (801) 977-6801.

Environmental Quality Water Quality

Public Notice on Changing the Public Hearing Dates and Extending the Comment Period on the Amendment to Rule R317-2, entitled Standards of Quality for Waters of the State

The Division of Water Quality is giving notice that the public hearings for the proposed amendment to Rule R317-2, entitled Standards of Quality for the Waters of the State, as published in the December 15, 2006, issue of the Utah State Bulletin (2006-24, pg 14) under DAR No. 29295 are hereby cancelled.

In their place, two new public hearings are scheduled as follows: January 23, 2007, 1:00 p.m., Southeastern Utah District Health Department, 28 South 100 East, Price, UT; and January 24, 2007, Noon, Cannon Heath Building, 288 N 1460 W, Room 125, Salt Lake City, UT.

This action is being taken to give interested and affected parties additional time to review the proposed changes prior to the hearings. In addition, the public comment period for the proposed amendment is extended to 02/06/2007.

Direct questions or comments regarding this rule to: Dave Wham at Environmental Quality, Water Quality, Cannon Health Bldg, 288 N 1460 W, Salt Lake City, UT, 84116-3231; by phone at (801) 538-6052; by FAX at (801) 538-6016; or by Internet E-mail at dwham@utah.gov.

Insurance Administration

Public Hearing on Proposed Fees for Services Provided by the Utah Insurance Department During Fiscal Year 2008

The Utah Department of Insurance will hold a hearing on Thursday, January 11, 2007, at 10:00 a.m. in Room 3112 of the State Office Building (behind the State Capitol), Salt Lake City, Utah. The Utah Insurance Department is located in Room 3110 of the State Office Building.

The purpose of the hearing is to obtain public comment on proposed fees to be assessed for services provided and costs incurred by the Department during fiscal year 2008. Subsection 63-38-3.2(2)(b) of the Budgetary Procedures Act provides that an agency shall conduct a public hearing.

Background: Various divisions of the department assess fees for licensure, registration, or certification of individuals, agencies and companies to engage in the business of insurance. No fee increases are being requested, however, the department is requesting a change in its funding methodology. If approved, the department's funding would come from fee revenue rather than the General Fund. This change in funding may result in fee increases over time to provide sufficient funding to operate the department. The proposed fee schedule has been prepared for the 2007 General Session of the Utah Legislature. The fee schedule will be distributed at the January 11 hearing and can be found on the web at: <http://www.insurance.utah.gov/ruleindex.html>.

Questions regarding the proposed changes can be addressed to: Assistant Commissioner John E. "Mickey" Braun, Jr. at (801) 538-3865 or jbrown@utah.gov.

Governor's Executive Order 2006-0012: Prohibiting Unlawful Harassment

EXECUTIVE ORDER

Prohibiting Unlawful Harassment

WHEREAS, unlawful harassment, a form of discrimination, has been defined to be unwanted behavior or communication of a discriminatory nature which adversely affects a person's employment relationships and/or creates a hostile working environment;

WHEREAS, unlawful harassment is discriminatory treatment based on race, religion, national origin, color, sex, age, protected activity or disability;

WHEREAS, the occurrence of unlawful harassment undermines the integrity of the workplace, destroys morale and offends social and legal standards of acceptable behavior; and,

WHEREAS, this administration is committed to providing a workplace which is free from unlawful harassment, intimidation and retaliation of any kind;

NOW, THEREFORE, I, JON M. HUNTSMAN, JR., Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State, do hereby prohibit unlawful harassment, in any and every workplace in which state employees and employees of public and higher education are required to conduct business. As such I hereby order:

1. The Department of Human Resource Management to issue rules and policies to ensure continued implementation of this order for employees of State government to include a provision that unlawful harassment awareness training and education be mandatory for all employees in State government; and vigorously pursue the implementation of appropriate rules and policies to include imposition of disciplinary actions; education authorities are enjoined to do the same for their organizations;

2. The director of the Department of Human Resource Management to provide State agencies with an appropriate education program for all employees; provide guidelines on agency policy statements and complaint procedures; and provide technical assistance to State and educational authorities when requested;

3. The director of each State department or agency, board of education or institution of higher education to inform all employees of this order forbidding unlawful harassment in their respective departments; inform employees of their rights; assure access to a complaint system for individuals within their departments consistent with rules issued by the Department of Human Resource Management and the Equal Employment Opportunity Commission guidelines; provide structured training to all managers regarding their responsibility in identifying unlawful harassment and appropriately dealing with complaints and solving related problems; and provide training programs for employees.

This Executive Order supersedes and replaces the order "Prohibiting Sexual Harassment," dated March 17, 1993.

This order shall remain in effect until superseded or rescinded by Executive Order.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 13th day of December 2006.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2006/0012

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 2, 2006, 12:00 a.m., and December 15, 2006, 11:59 p.m. are included in this, the January 1, 2007, 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 January 31, 2007. 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 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 1, 2007, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE 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 Section 63-46a-4; and 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.

Agriculture and Food, Animal Industry
R58-23
 Equine Viral Arteritis (EVA)

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29342

FILED: 12/15/2006, 13:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is the intent of this rule to eliminate or reduce the spread of Equine Viral Arteritis (EVA) among equids by providing for a protocol for handling of equids and semens infected and/or exposed to Equine Arteritis Virus (EAV).

SUMMARY OF THE RULE OR CHANGE: This rule establishes protocol for the handling of equids and semens infected and/or exposed to EAV; requirements for approved facilities; and reporting requirements for EAV.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(l)(i)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No cost to state government. The cost will be to the owner for testing of the affected horse. Such fees are established by private veterinarians.
- ❖ LOCAL GOVERNMENTS: No cost to local government. The cost will be to the owner for testing. Such fees are established by private veterinarians.
- ❖ OTHER PERSONS: The cost will be to the owner for testing of the affected horse. Such fees are established by private veterinarians.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Program compliance costs will be the responsibility of the horse owner. Such fees are established by private veterinarians.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The horse industry is an integral part of agriculture. Additionally, recreational use has increased significantly in recent years. This rule is needed to protect the integrity of the horse industry and reduce the spread of disease. Leonard Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Terry Menlove, Kathleen Mathews, or Earl Rogers at the above address, by phone at 801-538-7166, 801-538-7103, or 801-538-7162, by FAX at 801-538-7169, 801-538-7126, or

801-538-7169, or by Internet E-mail at tmenlove@utah.gov, kmathews@utah.gov, or erogers@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 01/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/17/2007 at 1:00 PM, Department of Agriculture and Food, 350 N Redwood Road, Second Floor Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-23. Equine Viral Arteritis (EVA).

R58-23-1. Authority.

Promulgated under authority of Title 4, Subsection 4-2-2(1)(i). It is the intent of this rule to eliminate or reduce the spread of Equine Viral Arteritis among equids by providing for a protocol for handling of equids and semen infected and/or exposed to Equine Arteritis Virus.

R58-23-2. Definitions.

(A) Accredited Veterinarian - means a veterinarian approved by the Deputy Administrator of the United States Department of Agriculture (USDA), Animal Plant Health Inspection Service (APHIS), Veterinary Services (VS) in accordance with provisions of 9 CFR Part 161.

(B) Approved Facility - means a facility that has current written approval from the State Veterinarian to house and/or breed a carrier stallion in the state of Utah.

(C) Approved Laboratory - means a laboratory that has been approved by the State Veterinarian.

(D) Carrier Stallion - means any stallion that tests positive for EAV, but has no proof of a negative semen test.

(E) Equine or Equid - means any animal in the family Equidae, including, but not limited to horses, asses, mules, ponies, and zebras.

(F) Equine Viral Arteritis (EVA) - means an infectious disease of equids caused by Equine Arteritis Virus (EAV). The disease is characterized by abortion in pregnant mares, illness and death in young foals, inflammation of blood vessels resulting in edema and the potential of establishing a carrier state in stallions.

(G) Equine Arteritis Virus (EAV) - means the viral organism that causes Equine Viral Arteritis.

(H) EVA Positive - means an equid who has been identified as having tested positive to EAV.

R58-23-3. Importation of Stallions.

(A) All stallions used for breeding entering Utah shall be tested for Equine Viral Arteritis by an accredited veterinarian within 30 days prior to entry.

(B) Exceptions to the above (R58-23-3(A)) are stallions that have proof of negative EVA status prior to vaccination and proof of subsequent yearly vaccination.

R58-23-4. Importation of EVA Positive Equids and Semen.

(A) All equids imported into Utah shall be in compliance with R58-1-6.

(B) No EVA carrier stallion used for breeding purposes shall be permitted to enter into Utah without a prior permit from the State Veterinarian.

(C) No semen from a carrier stallion shall be permitted to enter into Utah without a prior permit from the State Veterinarian.

(D) All EVA Carrier Stallions, used for breeding purposes, imported into Utah shall be taken directly to an approved facility and shall remain on said facility until permission from the State Veterinarian is obtained to move the animal to another approved facility.

(E) All semen from an EVA Carrier Stallion imported into Utah shall be shipped directly to an approved facility and shall remain on said facility until inseminated, transported to another approved facility and/or disposed of.

R58-23-5. Handling of EVA Positive Equids and Semen.

(A) All stallions used for breeding purposes identified as EVA positive shall have their semen tested by an accredited veterinarian at an approved laboratory prior to breeding of said stallion.

(B) All carrier stallions used for breeding purposes shall be housed and maintained at an approved facility until permission from the State Veterinarian is given to move the stallion to another approved facility.

(C) All EVA infected semen shall only be collected, handled, evaluated, received, packaged and/or administered on an approved facility.

R58-23-6. Requirements for an Approved Facility.

(A) All equids, including but not limited to stallions, mares and geldings, on approved facilities shall be vaccinated for EVA no less than 21 days before the start of breeding season or no less than 21 days before arriving at an approved facility.

(B) Mares being bred to a carrier stallion, or inseminated with semen from a carrier stallion, shall remain on the approved facility for a minimum of 21 days after the initial breeding date.

(C) Adequate biosecurity precautions shall be in place during the breeding season. The adequacy of biosecurity may be monitored periodically by the Utah Department of Agriculture.

R58-23-7. Equine Viral Arteritis is a Reportable Disease.

(A) All EVA positive equids shall be reported to the State Veterinarian by the private veterinary practitioner immediately upon receiving a positive laboratory report on EVA.

(B) All EVA positive test results processed at a state owned laboratory shall be immediately reported to the State Veterinarian.

(C) The State Veterinarian may require testing of any stallion suspected of being exposed to EAV.

KEY: Equine Viral Arteritis (EVA), inspections

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 4-2-2(l)(i)



Agriculture and Food, Plant Industry

R68-20

Utah Organic Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29347

FILED: 12/15/2006, 14:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is the adoption of the United States Department of Agriculture's (USDA) amended Title 7 Part 205, National Organic Program Final Rule which changes the Origin of Livestock, Section 205.236.

SUMMARY OF THE RULE OR CHANGE: This amendment changes how an entire herd is converted to organic production.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(j); Sections 4-3-2 and 4-4-2; Subsection 4-5-17(1); Sections 4-9-2, 4-11-3, and 4-12-3; Subsection 4-14-6(5); Section 4-16-3; and Subsections 4-32-7(7)(a)(ii) and 4-37-109(2)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 7 CFR, Part 205, June 7, 2006, edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** No cost--The state does not own livestock and therefore does not have to buy feed. Higher feed costs will be to the organic livestock producer.

❖ **LOCAL GOVERNMENTS:** No cost--Local government does not own livestock and therefore does not have to buy feed. Higher feed costs will be to organic livestock producers.

❖ **OTHER PERSONS:** There will be a higher feed cost to the organic livestock producer. However we have no idea what feed manufacturer's will sell there feed for so we do not have an idea of how much more organic livestock producers will have to pay.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a higher feed cost to the organic livestock producer. However we have no idea what feed manufacturer's will sell there feed for so we do not have an idea of how much more organic livestock producers will have to pay.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a difference in cost for feed for the entire 12 months for organic transition of an entire herd. Leonard Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Seth Winterton, or Jed Christenson at the above address, by phone at 801-538-7103, 801-538-7141, or 801-538-7108, by FAX at 801-538-7126, 801-538-9436, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, sethwinterton@utah.gov, or jedchristenson@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-20. Utah Organic Standards.

R68-20-1. Authority.

Promulgated under authority of Sections 4-2-2(1)(j), 4-3-2, 4-4-2, 4-5-17(1), 4-9-2, 4-11-3, 4-12-3, 4-14-6(5), 4-16-3, 4-32-7(7)(a)(ii), 4-37-109(2).

A. The Utah Department of Agriculture and Food (UDAF) adopts and incorporates by reference CFR, [~~December 2000~~ June 7, 2006 edition, Title 7 Part 205, National Organic Program Final Rule] and amendments in Title 7 Part 205.600, Subpart G, The National List of Allowed and Prohibited Substances, effective November 4, 2003].

1. UDAF will make available to all its applicants for certification and producers of organic products, copies of the National Organic Program Final Rule.

KEY: inspections

Date of Enactment or Last Substantive Amendment: [~~April 1, 2004~~ 2007]

Notice of Continuation: February 4, 2005

Authorizing, and Implemented or Interpreted Law: 4-2-2[(~~h~~)(j)]; 4-3-2; 4-4-2; 4-5-17(1); 4-9-2; 4-11-3; 4-12-3; 4-14-6(5); 4-16-3; 4-32-7(7)(a)(ii); 4-37-109(2)



Environmental Quality, Air Quality

R307-120

General Requirements: Tax Exemption for Air and Water Pollution Control Equipment

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29327

FILED: 12/14/2006, 16:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment removes references to water pollution control equipment and the Water Quality Board, because the Water Quality Board has proposed its own rule to address these issues (see separate filing on Rule R317-12 in this issue.) (DAR NOTE: The proposed new Rule R317-12 is found under DAR No. 29326 in this issue, January 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Legislature provided a sales tax credit for pollution control equipment in the early 1970s. The entire program was written into Title 19, Chapter 2, the Air Conservation Act, even though it applied to water pollution controls, as well as air pollution controls. Since that time, the Division of Water Quality has administered their own pollution control credits through Rule R307-120, which is an Air Quality rule. The Division of Water Quality is writing its own rule, Rule R317-12. The two divisions are working together to remove references to water pollution and the Water Quality Board from Rule R307-120 and ensuring that the new Water Quality rule and the changes in Rule R307-120 become effective on the same date. Some grammatical corrections in Rule R307-120 also are being made now (see separate filing in this issue on Rule R317-12.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-124, 19-2-125, 19-2-126, and 19-2-127

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no changes in cost for the Division of Air Quality, as the water quality portion of the tax credit program has always been administered by the Water Quality Board.

❖ **LOCAL GOVERNMENTS:** There are no changes in cost for local governments, as the tax credit program is not available to local governments because they pay no taxes.

❖ **OTHER PERSONS:** There are no changes in cost for other persons, as the water quality portion of the tax credit program always has been administered by the Water Quality Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in cost for other persons, as the water quality portion of the tax credit program always has been administered by the Water Quality Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no change in costs or benefits for business, as the Water Quality Board has always administered its part of the tax credit program. Dianne R. Neilson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-120. General Requirements: Tax Exemption for Air ~~and Water~~ Pollution Control Equipment.

R307-120-1. Application.

Application for certification shall be made on the form[s] provided by the ~~[State Department of Environmental]~~ Division of Air Quality, and shall include all information requested thereon and such additional reasonably necessary information as is requested by the executive secretary of the Air Quality Board ~~[or the executive secretary of the Water Quality Board]~~.

R307-120-2. Eligibility for Certification.

Certification shall be made only for taxpayers who are owners, operators (under a lease) or contract purchasers of a trade or business that utilizes Utah property with a pollution control facility to prevent or minimize air pollution.

R307-120-4. Conditions for Eligibility.

(1) All materials, equipment and structures (or part thereof) purchased, leased or otherwise procured and services utilized for construction or installation in an ~~[water or]~~ air pollution control facility shall be eligible for certification, provided:

(a) such materials, equipment, structures (or part thereof), and services installed, constructed, or acquired result in a demonstrated reduction of pollutant discharges or emission pollutant levels, and

(b) the primary purpose of such materials, equipment, structures (or part thereof), and services is preventing, controlling, reducing, or disposing of ~~[water or]~~ air pollution.

(2) The above includes expenditures ~~[which]~~ that reduce the amount of pollutants produced as well as expenditures ~~[which]~~ that result in removal of pollutants from waste streams. The materials, equipment, structures (or part thereof), and services that are necessary for the proper functioning of air ~~[or water]~~ pollution control facilities meeting the requirements of (1)(a) and (b) above, including equipment required for compliance monitoring, shall be eligible for certification.

R307-120-5. Limitations on Certification.

Applications for certification shall be certified by the executive secretary of the ~~[Air Quality]~~ Board ~~[or the executive secretary of the Water Quality Board]~~ after consultation with the State Tax Commission and only if:

(1) ~~[Air Quality]~~ ~~—(a)~~ the air pollution control facility in question has been reviewed and approved by the executive secretary of the ~~[Air Quality]~~ Board for those air pollution sources needing review in accordance with R307-401, or

~~[(b)]~~ the air pollution control facilities installed, constructed, or acquired are the result of the requirements of these rules (permits by rule) or the State Implementation Plan. ~~[~~

~~—(2) Water Quality.~~

~~—(a)~~ plans for the water pollution control facility in question require review and approval by the Water Quality Board and have been so approved, or

~~—(b)~~ the water pollution control facility is specifically required by the Water Quality Board, including facilities constructed for pretreatment of wastes prior to discharge to a public sewerage system in accordance with R317-8-8.1, but excluding facilities which are permitted by rule under R317-6-6.2 (Ground Water Discharge Permit by Rule) unless required to obtain an individual permit by the Water Quality Board, or

~~—(c)~~ the water pollution control facility is required and permitted by another statutory board within the Department of Environmental Quality, or

~~—(d)~~ the water pollution control facility eliminates or reduces the discharge of pollutants which would be regulated by the Water Quality Board, if such pollutants were discharged.]

R307-120-6. Exemptions from Certification.

The following items are specifically not eligible for certification:

(1) materials and supplies used in the normal operation or maintenance of the ~~[water or]~~ air pollution control facilities;

(2) materials, equipment, and services used to monitor ambient air ~~[or water]~~, unless required for a permit or approval from the Board ~~[a statutory board within the Department of Environmental Quality]~~;

(3) ~~[materials, equipment, and services for collection, treatment, and disposal of human wastes, unless the primary purpose of such materials, equipment and services is the treatment of industrial wastes;~~

~~—(4) materials, equipment and services used in removal, treatment, or disposal of pollutants from contaminated ground water, if the applicant caused the ground water contamination by failing to comply with applicable permits, approvals, rules, or standards existing at the time the contamination occurred; and~~

~~—(5) air conditioners.~~

R307-120-7. Duty to Issue Certification.

Upon determination that facilities described in any application under R307-120-1 satisfy the requirements of these rules and Sections 19-2-123 through 19-2-127 the executive secretary of the ~~[Air Quality]~~ Board ~~[or the executive secretary of the Water Quality Board]~~ shall issue a certification of pollution control facility to the applicant.

R307-120-8. Appeal and Revocation.

(1) A decision of the executive secretary of the ~~[Air Quality]~~ Board may be reviewed by filing a Request for Agency Action as

provided in R307-103-3. [~~A decision of the executive secretary of the Water Quality Board may be reviewed by filing a Request for Agency Action as provided in the administrative rules for Water Quality, R317.~~]

(2) Revocation of prior certification shall be made for any of the circumstances prescribed in Section 19-2-126, after consultation with the State Tax Commission.

KEY: air pollution, tax exemptions, equipment[*]

Date of Enactment or Last Substantive Amendment: [~~December 7, 2000~~]**2007**

Notice of Continuation: March 26, 2002

Authorizing, and Implemented or Interpreted Law: 19-2-123, 19-2-124; 19-2-125; 19-2-126; 19-2-127

Environmental Quality, Radiation Control

R313-25

License Requirements for Land Disposal of Radioactive Waste - General Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29333

FILED: 12/15/2006, 10:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment is to change Section R313-25-1, Purpose and Scope, to "Purpose and Authority" consistent with other Division rules, and to update an incorporated Federal regulation to the current edition.

SUMMARY OF THE RULE OR CHANGE: The rule change modifies Section R313-25-1 to be "Purpose and Authority" consistent with other rules of the Division of Radiation Control. A change in Subsection R313-25-33(8)(a)(i) updates a Federal regulation that is incorporated by reference to the current edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-3-104(4), 19-3-104(8), 19-3-104(11), and 19-3-104(12)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Appendix G of 10 CFR 20.1001 to 20.2402 (2006)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed changes would not have any impact on the state budget since the changes do not modify any current requirement with a financial impact.

❖ **LOCAL GOVERNMENTS:** The proposed changes would not have any impact on any local government budget since the changes do not modify any current requirement with a financial impact.

❖ **OTHER PERSONS:** The proposed changes would not have any financial impact on other persons since the changes do not modify any current requirement with a financial impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with the proposed rule changes since the changes do not modify any current requirement with a financial impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes are not anticipated to have any financial impact on businesses since the changes modify the format of the affected rule and update an incorporated Federal regulation that businesses are subject to already. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Philip Griffin at the above address, by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

R313-25-1. Purpose and Authority[Scope].

(1) The purpose of this rule is to prescribe the requirements for the issuance of ~~The rules in this chapter establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues~~ licenses for the land disposal of wastes received from other persons.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4), 19-3-104(8), 19-3-104(11), and 19-3-104(12).

(3) The requirements of R313-25 are in addition to, and not in substitution for, other applicable requirements of these rules.

R313-25-33. Maintenance of Records, Reports, and Transfers.

(1) Licensees shall maintain records and make reports in connection with the licensed activities as may be required by the conditions of the license or by the rules and orders of the Executive Secretary.

(2) Records which are required by these rules or by license conditions shall be maintained for a period specified by the appropriate rules or by license condition. If a retention period is not otherwise specified, these records shall be maintained and transferred to the officials specified in R313-25-33(4) as a condition of license termination unless the Executive Secretary otherwise authorizes their disposition.

(3) Records which shall be maintained pursuant to R313-25 may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing copy that is clear and legible at the end of the required retention period.

(4) Notwithstanding R313-25-33(1) through (3), copies of records of the location and the quantity of wastes contained in the disposal site shall be transferred upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State Governor, and other state, local, and federal governmental agencies as designated by the Executive Secretary at the time of license termination.

(5) Following receipt and acceptance of a shipment of waste, the licensee shall record the date that the shipment is received at the disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the condition of the waste packages as received, discrepancies between the materials listed on the manifest and those received, the volume of any pallets, bracing, or other shipping or onsite generated materials that are contaminated, and are disposed of as contaminated or suspect materials, and evidence of leakage or damaged packages or radiation or contamination levels in excess of limits specified in U.S. Department of Transportation and Executive Secretary regulations or rules. The licensee shall briefly describe repackaging operations of the waste packages included in the shipment, plus other information required by the Executive Secretary as a license condition.

(6) Licensees authorized to dispose of waste received from other persons shall file a copy of their financial report or a certified financial statement annually with the Executive Secretary in order to update the information base for determining financial qualifications.

(7)(a) Licensees authorized to dispose of waste received from other persons, pursuant to R313-25, shall submit annual reports to the Executive Secretary. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.

(b) The reports shall include:

(i) specification of the quantity of each of the principal contaminants released to unrestricted areas in liquid and in airborne effluents during the preceding year;

(ii) the results of the environmental monitoring program;

(iii) a summary of licensee disposal unit survey and maintenance activities;

(iv) a summary, by waste class, of activities and quantities of radionuclides disposed of;

(v) instances in which observed site characteristics were significantly different from those described in the application for a license; and

(vi) other information the Executive Secretary may require.

(c) If the quantities of waste released during the reporting period, monitoring results, or maintenance performed are significantly different from those predicted, the report shall cover this specifically.

(8) In addition to the other requirements in R313-25-33, the licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system.

(a) The manifest information that must be electronically stored is:

(i) that required in Appendix G of 10 CFR 20.1001 to 20.2402, (2006)[1997 ed.], which is incorporated into these rules by reference, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

(ii) that information required in R313-25-33(5).

(b) As specified in facility license conditions, the licensee shall report the stored information, or subsets of this information, on a computer-readable medium.

KEY: radiation, radioactive waste disposal

Date of Enactment or Last Substantive Amendment: ~~May 9, 2003~~ 2007

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108



Environmental Quality, Radiation Control

R313-26

Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29332

FILED: 12/15/2006, 10:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change the Section R313-26-1, Purpose and Scope, to "Purpose and Authority" to be consistent with other Division rules, to update an incorporated Federal regulation to the current edition, and to change some definitions to be consistent with other Division rules.

SUMMARY OF THE RULE OR CHANGE: Section R313-26-1 is changed to "Purpose and Authority", consistent with other Division of Radiation Control rules. Section R313-26-2 is changed to update the reference to Appendix G of 10 CFR 20.1001 to 20.2402 (2006), and to change the definitions of Waste Collector, Waste Generator, and Waste Processor to be consistent to other references to these terms in other Division rules. Sections R313-26-3 and R313-26-5 are changed to reflect the changes to the definitions in Section R313-26-2.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-3-104(4) and 19-3-104(8)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no financial impact to the state budget from the rule changes since the changes do not remove or include any additional requirements for permittees or shippers.
- ❖ LOCAL GOVERNMENTS: There is no financial impact to local government from the rule changes since the changes do not remove or include any additional requirements for permittees or shippers.
- ❖ OTHER PERSONS: There is no financial impact to other persons from the rule changes since the changes do not remove or include any additional requirements for permittees or shippers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected individuals since the changes do not remove or include any additional requirements to either permittees or shippers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses is anticipated since the changes to the rule do not add or remove any requirements from the existing rules. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Philip Griffin at the above address, by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-26. Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities.
R313-26-1. Purpose and Authority[Scope].

(1) The purpose of this rule is to ~~prescribe the requirements for the issuance of~~ ~~establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues~~ permits to generators for accessing a land disposal facility located within the State ~~[—This rule also contains]~~ and requirements for shippers.

(2) ~~The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).~~

(3) ~~The requirements of Rule R313-26 are in addition to, and not in substitution for, other applicable requirements of these rules.~~

R313-26-2. Definitions.

As used in Rule R313-26, the following definitions apply:

"Disposal" means the isolation of wastes from the biosphere by placing them in a land disposal facility.

"Generator Site Access Permit" means an authorization to deliver radioactive wastes to a land disposal facility located within the State of Utah.

"Land disposal facility" has the same meaning as that given in Section R313-25-2.

"Manifest" means the document, as defined in Appendix G of 10 CFR 20.1001 to 20.2402 (2006), used for identifying the quantity, composition, origin, and destination of radioactive waste during its transport to a disposal facility.

"Packager" means Waste Processor, Waste Collector or Waste Generator as defined in Section R313-26-2.

"Radioactive waste" means any material that contains radioactivity or is radioactively contaminated and is intended for ultimate disposal at a licensed land disposal facility in Utah.

"Shipper" means the person who offers radioactive waste for transportation, typically consigning this type of waste to a land disposal facility.

~~"Waste Collector," "Waste Generator," and "Waste Processor" has the meaning as defined in Appendix G of 10 CFR 20.1001 to 20.2402 (2006). ["Waste Collector" means an entity whose principal purpose is to collect and consolidate radioactive waste generated by others and to transfer this waste, without processing or repackaging the collected waste, to a licensed land disposal facility.~~

~~—"Waste Generator" means a person who possesses any material or component that contains radioactivity or is radioactively contaminated; and for which the person foresees no further use; and transfers the material or component to a commercial radioactive waste treatment disposal facility; or Waste Collector or Waste Processor.~~

~~—"Waste Processor" means an entity, whose principal purpose is to process, repackage or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of the material or waste to a licensed low-level radioactive waste land disposal facility.]~~

R313-26-3. Generator Site Access Permits.

A Waste Generator, Waste Collector, or Waste Processor ~~generator or broker~~ shall obtain a Generator Site Access Permit from the Executive Secretary before transferring radioactive waste to a land disposal facility in Utah.

(1) Generator Site Access Permit applications shall be filed on a form prescribed by the Executive Secretary.

(2) Applications shall be received by the Executive Secretary at least 30 days prior to any shipments being delivered to a land disposal facility in Utah.

(3) Each Generator Site Access Permit application shall include a certification to the Executive Secretary that the shipper shall comply with all applicable State or Federal laws, administrative rules and regulations, licenses, or license conditions of the land disposal facility regarding the packaging, transportation, storage, disposal and delivery of radioactive wastes.

(4) Generator Site Access Permit fees shall be assessed annually by the Executive Secretary based on the following classifications:

(a) Waste Generators shipping more than 1000 cubic feet of radioactive waste annually to a land disposal facility in Utah.

(b) Waste Generators shipping 1000 cubic feet or less of radioactive waste annually to a land disposal facility in Utah.

(c) Waste Collectors or Waste Processors shipping radioactive waste to a land disposal facility in Utah.

(5) Generator Site Access Permits shall be valid for a maximum of one year from the date of issuance. The Executive Secretary may modify individual Generator Site Access Permit terms and prorate the annual fees accordingly for administrative purposes.

(6) Generator Site Access Permits may be renewed by filing a new application with the Executive Secretary. To ensure timely renewal, generators and brokers shall submit applications, for Generator Site Access Permit renewal, a minimum of 30 days prior to the expiration date of their Generator Site Access Permit.

(7) Generator Site Access Permit fees are not refundable.

(8) Transfer of a Generator Site Access Permit shall be approved by the Executive Secretary.

(9) The number of Generator Site Access Permits required by each generator shall be determined by the following requirements:

(a) Generators who own multiple facilities within the same state may apply for one Generator Site Access Permit, provided the same contact person within the generator's company shall be responsible for responding to the Executive Secretary for matters pertaining to the waste shipments.

(b) Facilities which are owned by the same generator and located in different states shall obtain separate Generator Site Access Permits.

(c) Persons who both generate and are either a Waste Processor or Waste Collector shall obtain separate Generator Site Access Permits.

R313-26-4. Shipper's Requirements.

(1) The shipper shall provide on demand the Executive Secretary a copy of the Nuclear Regulatory Commission's "Uniform Low Level Radioactive Waste Manifest" for shipments consigned for disposal within Utah.

(2) The appropriate Generator Site Access Permit number(s) shall be documented on the manifest.

(3) Waste Generators, Waste Processors and Waste Collectors shall ensure that all Generator Site Access Permits are current prior to shipment of waste to a land disposal facility located in the state of Utah, and that the waste will arrive at the land disposal facility prior to the expiration date of the Generator Site Access Permits.

(4) A Waste Collector, Waste Processor or Waste Generator shall ensure all radioactive waste contained within a shipment for disposal at a land disposal facility in the state is traceable to the original generators and states, regardless of whether the waste is shipped directly from the point of generation to the disposal facility.

R313-26-5. Land Disposal Facility Licensee Requirements.

The land disposal facility licensee shall ensure that Waste G[en]erators, Waste Collectors and Waste Processors have a current, unencumbered Generator Site Access Permit prior to accepting a Waste G[en]erator's, Waste Collector's or Waste Processor's waste.

KEY: radioactive waste generator permit

Date of Enactment or Last Substantive Amendment: [~~August 8, 2003~~]**2007**

Notice of Continuation: May 9, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-106.4

◆ ————— ◆

Environmental Quality, Radiation Control **R313-28** Use of X-Rays in the Healing Arts

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29334

FILED: 12/15/2006, 10:41

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates references to incorporated federal rules, corrects a typographical error, and clarifies issues related to shielding plan reviews and the continuing qualifications of mammography imaging medical physicists.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the incorporated material to the current editions of the federal regulations in Subsections R313-28-35(9) and (11), and R313-28-120(1)(a). A typographical error is corrected in Subsection R313-28-35(11). Wording in Sections R313-28-32 and R313-28-200 is changed so that floor plan and shielding calculation reviews of new or remodeled facilities are to be done by qualified experts instead of Division staff. This change is a result of changes to the Division's statutory authority allowing Qualified Experts to perform such reviews, and because of a business decision to not have the Division staff perform these reviews and be in competition with Qualified Experts. The Division also avoids potential conflicts of interest since the division inspectors verify the adequacy of shielding at new and remodeled facilities. Wording in Subsection R313-28-140(2) is changed to clarify the continuing qualifications for Mammography Imaging Medical Physicists.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-3-104(4) and 19-3-104(8)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 21 CFR 1020.30 and 1020.31 (2006)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated financial impacts to the state budget from the proposed changes since the proposed changes do not modify existing requirements with a financial impact to the State.

❖ **LOCAL GOVERNMENTS:** There are no anticipated financial impacts to local government from the proposed changes since the proposed changes do not modify existing requirements with a financial impact to local government.

❖ **OTHER PERSONS:** Since Qualified Experts will be providing X-ray facility plan reviews, the compliance costs to an individual is difficult to estimate because of the differing charges by the Qualified Experts, and the way those costs are paid by the registrant. These plan reviews are only to be done during the construction of a new facility or the remodeling of an existing facility. As a result, only a few individuals or businesses are affected each year. When compared to the

cost of new X-ray equipment or the cost of building or remodeling a facility, the cost for a plan review to ensure that sufficient shielding is present in the facility is relatively small.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since Qualified Experts will be providing X-ray facility plan reviews, the compliance costs to affected persons is difficult to estimate because of the differing charges by the Qualified Experts, and the way those costs are paid by the registrant. These plan reviews are only to be done during the construction of a new facility or the remodeling of an existing facility. As a result, only a few individuals or businesses are affected each year. When compared to the cost of new X-ray equipment or the cost of building or remodeling a facility, the cost for a plan review to ensure that sufficient shielding is present in the facility is relatively small.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs of a plan review to ensure that a facility will provide adequate protection from radiation for workers and the public is small compared to the costs associated with corrective actions needed to bring a finished facility into compliance later on. Since the cost associated with plan reviews only affects a few registrants each year, the overall fiscal impact on businesses is relatively minor. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
 RADIATION CONTROL
 Room 212
 168 N 1950 W
 SALT LAKE CITY UT 84116-3085, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Philip Griffin at the above address, by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-28. Use of X-Rays in the Healing Arts.

R313-28-10. Purpose and Scope.

- (1) The purpose of the rules in R313-28 is to prescribe the requirements for the use of x-rays in the healing arts.
- (2) The rules set forth herein are adopted pursuant to the provisions of Sections 19-3-104(4)(3) and 19-3-104(8)(6).

R313-28-32. Plan Review.

(1) Prior to construction, the floor plans, shielding specifications and equipment arrangement of all new installations, or modifications of existing installations, utilizing ionizing radiation shall be submitted to a Qualified Expert for review [the Executive Secretary]. The required information is denoted in R313-28-200 and R313-28-450.

(2) A copy of the Qualified Expert's conclusions regarding shielding specifications [If the services of a consultant are used to review the shielding specifications, a copy of the report] must be submitted to the Executive Secretary within 14 working days.

(3) The Executive Secretary may require additional modifications should a subsequent analysis of operating conditions, for example, a change in workload or use and occupancy factors, indicate the possibility of an individual receiving a dose in excess of the limits prescribed in R313-15.

R313-28-35. General Requirements for Diagnostic X-Ray Systems.

In addition to other requirements of R313-28, all diagnostic x-ray systems shall meet the following requirements:

(1) Warning label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(2) Battery charge indicator. On battery powered generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(3) Leakage radiation from the diagnostic source assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 25.8 uC/kg (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors.

(4) Radiation from components other than the diagnostic source assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed 0.516 uC/kg (two milliroentgens) in one hour at five centimeters from accessible surfaces of the component when it is operated in an assembled x-ray system under the conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(5) Beam quality.

(a) The half value layer of the useful beam for a given x-ray tube potential shall not be less than the values shown in R313-28-35, Table I. If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made.

TABLE I

DESIGN OPERATING RANGE (KILOVOLTS PEAK)	MEASURED POTENTIAL (KILOVOLTS PEAK)	DENTAL INTRA-ORAL MANUFACTURED BEFORE AUGUST 1, 1974 AND ON OR AFTER DECEMBER 1, 1980	ALL OTHER DIAGNOSTIC X-RAY SYSTEMS
Below 51	30	(use prohibited)	0.3
	40	(use prohibited)	0.4
	50	1.5	0.5
	51	1.5	1.2
	60	1.5	1.3
	70	1.5	1.5

Above 70	71	2.1	2.1
	80	2.3	2.3
	90	2.5	2.5
	100	2.7	2.7
	110	3.0	3.0
	120	3.2	3.2
	130	3.5	3.5
	140	3.8	3.8
	150	4.1	4.1

(b) For capacitor discharge equipment, compliance with the requirements of R313-28-35(5)(a) shall be determined with the system fully charged and a setting of 10 mAs for exposures.

(c) The required minimal half-value layer of the useful beam shall include the filtration contributed by materials which are permanently present between the focal spot of the tube and the patient.

(d) Filtration control. For x-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filters and shall prevent an exposure unless the minimum amount of filtration necessary to produce the HVL required by R313-28-35(5)(a) is in the useful beam for the given kVp which has been selected.

(6) Multiple tubes. When two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. For equipment manufactured after August 1, 1974, indications shall be both on the x-ray control panel and at or near the tube housing assembly which has been selected.

(7) Mechanical support of tube head. The tube housing assembly supports shall be adjusted so that the tube housing assembly will remain stable during an exposure unless the tube housing movement during exposure is a designed function of the x-ray system.

(8) Technique indicators.

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins, except when automatic EXPOSURE controls are used, in which case the technique factors which are set prior to the exposure shall be indicated.

(b) On equipment having fixed technique factors, the requirements, in R313-28-35(8)(a) may be met by permanent markings. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(9) Maintaining compliance. Diagnostic x-ray systems and their associated components certified pursuant to the provisions of 21 CFR Part 1020 (2006) shall be maintained in compliance with applicable requirements of that standard.

(10) Locks. All position locking, holding, and centering devices on x-ray system components and systems shall function as intended.

(11) X-ray systems which have been granted a variance by the Director, Center for Devices and Radiological Health, Food and Drug Administration (Director), from the performance standards for ionizing radiation emitting products, in accordance with 21 CFR 1010.4 (2006); 1996 edition, shall be deemed to satisfy the requirements in R313-28 that correspond to the variance granted by the Director. The registrant shall insure that labeling pursuant to 21 CFR 1010.5(f) (2006) remains legible and visible on the x-ray system.

R313-28-120. Mammography X-Ray Systems - Equipment Design and Performance Standards.

Only x-ray equipment meeting the following standards shall be used for mammography examinations.

(1) Equipment Design.

(a) FDA Standards. The requirements of 21 CFR 1020.30 and 21 CFR 1020.31 (2006) [1990 ed.] are adopted and incorporated by reference.

(b) Dedicated Equipment. The x-ray equipment shall be specifically designed for mammography.

(c) Compression. Devices parallel to the imaging plane shall be available to immobilize and compress the breast during mammography procedures.

(d) Image Receptor. The x-ray equipment shall have both an 18 cm by 24 cm and a 24 cm by 30 cm image receptor and moving grids matched to each image receptor size.

(e) Automatic Exposure Control. X-ray equipment used in healing arts screening shall have automatic exposure control capabilities with a post exposure meter which indicates either milliampere-seconds or time values.

(f) Focal Spot. The focal spot size and source to image receptor distance configurations shall be limited to those appropriate for mammography.

(g) Beam Limitation. The x-ray equipment must allow for the x-ray field to extend to or beyond the chest wall edge of the image receptor.

(h) Magnification. X-ray equipment used in a noninvasive manner, requiring techniques beyond those utilized in standard mammography of asymptomatic patients, shall have x-ray magnification capability for noninvasive procedures. The equipment shall be able to provide at least one magnification within the range of 1.4 to 2.0.

(2) Performance Standards.

(a) State Standards. The x-ray equipment shall meet the applicable performance standards in R313-28.

(b) Filtration. The useful beam shall have a half-value layer between the values of the measured kilovolts peak divided by 100 and the measured kilovolts peak divided by 100 plus 0.1 mm of aluminum equivalent. These values are to include the contribution to filtration by the compression device.

(c) Minimum Radiation Output. X-ray equipment installed after the effective date of this rule shall meet the following standard: at 28 kilovolts peak on the focal spot used in routine healing arts screening the x-ray equipment shall be capable of sustaining a minimum output of 500 mR per second for at least three seconds. This output shall be measured at a point 4.5 centimeters from the surface of the patient support device when the source to image receptor distance is at its maximum and the compression paddle is in the beam. Existing x-ray equipment shall meet this minimum radiation output standard within one year of the effective date of this rule.

(d) Exposure Linearity. For kilovolts peak settings used clinically, the exposure per mAs shall be within plus or minus ten percent of the average exposure per mAs for those mAs stations or time stations, if applicable, that are tested.

(e) Automatic Exposure Control. The automatic exposure control mode shall produce consistent film density under changing patient and examination conditions. These conditions include breast thickness, adiposity, kilovolts peak and density settings. This requirement will be deemed satisfied when:

(i) an automatic exposure control technique guide is posted, and
(ii) for a series of films obtained for attenuator thicknesses of two to seven centimeters the resulting radiographic optical densities are within plus or minus 0.2 of the average value when the kVp and density control setting are adjusted as indicated on the technique guide. The attenuator used for determining compliance shall be either acrylic or other tissue equivalent material.

(f) Patient Dose. The x-ray equipment must be capable of giving an average glandular dose to an average size breast of average tissue density that does not exceed 3.0 mGy (0.3 rad) with a grid or 1.0 mGy (0.1 rad) without a grid. This will be deemed satisfied when using an acrylic phantom of 4.5 cm thickness. In addition, under all clinical use conditions, the average glandular dose to the breast must be less than 5.0 mGy (0.5 rad) per film for healing arts screening procedures.

(3) Mammography X-ray Equipment Quality Control.

(a) Initial Installation. Upon completion of the initial installation of the x-ray equipment, and before it is commissioned for clinical use, the equipment shall be evaluated by a mammography imaging medical physicist who has been approved by the Board. The evaluation results shall be submitted to the Executive Secretary for review and approval.

(b) Annual Evaluation. At intervals not to exceed 12 months or at the request of the Executive Secretary, the x-ray equipment shall be evaluated by a mammography imaging medical physicist who has been approved by the Board.

(c) The registrant shall develop and implement a quality control testing procedure for monitoring the radiation performance of the x-ray equipment.

R313-28-140. Qualifications of Mammography Imaging Medical Physicist.

An individual seeking certification by the Board for approval as a mammography imaging medical physicist shall file an application for certification on forms furnished by the Division. The Board may certify individuals who meet the requirements for initial qualifications. To remain certified by the Board as a mammography imaging medical physicist, an individual shall satisfy the requirements for continuing qualifications.

(1) Initial qualifications.

(a) Be certified by the American Board of Radiology in Radiological Physics or Diagnostic Radiological Physics, or the American Board of Medical Physicists in Diagnostic Imaging Physics; or

(b) Satisfy the following educational and experience requirements:

(i) Have a master's or higher degree from an accredited university or college in physical sciences; and

(ii) Have two years full-time experience conducting mammography surveys. Five mammography surveys shall be equal to one year full-time experience.

(2) Continuing qualifications.

(a) During the three-year period after initial certification and for each subsequent three-year period, the individual shall earn 15 hours of continuing educational credits in mammography imaging; and

(b) Perform at least two mammography surveys during the 12-month period from June 1 and May 31 to remain certified by the Board[annually].

(3) Mammography imaging medical physicists who fail to maintain the required continuing qualifications stated in R313-28-140(2) shall re-establish their qualifications before independently surveying another mammography facility. To re-establish their qualifications, mammography imaging physicists who fail to meet:

(a) The continuing education requirements of R313-28-140(2)(a) must obtain a sufficient number of continuing educational credits to bring their total credits up to the required 15 in the previous three years.

(b) The continuing experience requirement of R313-28-140(2)(b) must obtain experience by surveying two mammography facilities for each year of not meeting the continuing experience requirements under

the supervision of a mammography imaging medical physicist approved by the Board.

R313-28-200. Information on Radiation Shielding Required for Plan Reviews.

In order to evaluate a need for radiation shielding associated with a plan review, the following information ~~shall~~must be submitted to a Qualified Expert so that an adequate review may be performed.

(1) The plans showing, as a minimum, the following:

(a) the normal location of the radiation producing equipment's radiation port, the port's travel and traverse limits, general directions of the radiation beam, locations of windows, the location of the operator's booth, and the location of the x-ray control panel;

(b) structural composition and thickness of walls, doors, partitions, floor, and ceiling of the rooms concerned;

(c) the dimensions, including height, floor to floor, of the rooms concerned;

(d) the type of occupancy of adjacent areas inclusive of space above and below the rooms concerned. If there is an exterior wall, show distance to the closest existing occupied areas;

(e) the make and model of the x-ray equipment, the maximum energy output, and the energy waveform; and

(f) the type of examination or treatment which will be performed with the equipment.

(2) Information on the anticipated workload of the x-ray systems in mA-minutes per week.

(3) A report showing all basic assumptions used in the development of the shielding specifications.

KEY: dental, x-ray, mammography, beam limitation

Date of Enactment or Last Substantive Amendment: ~~March 14, 2003~~**2007**

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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**Environmental Quality, Radiation
Control
R313-36
Special Requirements for Industrial
Radiographic Operations**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29336

FILED: 12/15/2006, 10:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the incorporated federal regulations to the current version.

SUMMARY OF THE RULE OR CHANGE: With the exception of changing "Sections" to "Subsections," the rule changes are a result of incorporating the 01/01/2006, edition of 10 CFR 34

instead of the 2001 edition. The changes in the wording of the substitutions and exclusions are a result of changes in 10 CFR 34.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-3-104(4) and 19-3-104(8)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 10 CFR 34 (2006)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no proposed rule changes that would affect the state budget since the proposed changes do not modify current requirements with a fiscal impact.

❖ LOCAL GOVERNMENTS: There are no proposed rule changes that would affect local government since the proposed changes do not modify current requirements with a fiscal impact.

❖ OTHER PERSONS: There are no proposed rule changes that would affect other persons since the proposed changes do not modify current requirements with a fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the proposed rule changes since the proposed changes do not modify current requirements with a fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes will not have a fiscal impact on businesses since the current edition of the Federal regulations do not place additional requirements on licensees. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Philip Griffin at the above address, by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.

R313-36. Special Requirements for Industrial Radiographic Operations.

R313-36-1. Purpose and Authority.

(1) The rules in R313-36 prescribe requirements for the issuance of licenses and establish radiation safety requirements for persons utilizing sources of radiation for industrial radiography.

(2) The rules set forth herein are adopted pursuant to the provisions of ~~Subsections~~Sections 19-3-104(4)~~(3)~~ and 19-3-104(8)~~(6)~~.

(3) The requirements of R313-36 are in addition to, and not in substitution for, the other requirements of these rules.

R313-36-3. Clarifications or Exceptions.

For purposes of R313-36, 10 CFR 34 (2006)~~(2004)~~, is incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following 10 CFR sections: "34.1", "34.5", "34.8", "34.11", "34.121", and "34.123";

(2) The exclusion of "10 CFR 34.45(a)(9)";

(3) The exclusion of the following 10 CFR references within 10 CFR 34: "21", "~~Sec. 21.21~~", "30.7", "30.9", and "30.10";

(4) The exclusion of "offshore" in 10 CFR 34.3 definition for "offshore platform radiography";

(5) The substitution of the following wording:

(a) "Utah Radiation Control Rules" for the reference to:

(i) "Commission's regulations", except as stated in R313-36-3(5)(f);

(ii) "Federal regulations"; ~~and~~

(iii) "NRC regulations"; and

(iv) "this chapter" as stated in 10 CFR 34.101(1)(a);

(b) "Executive Secretary" for the reference to "Commission", except as stated in 10 CFR 34.20 and R313-36-3(5)(c)(iv);

(c) "Executive Secretary, U.S. Nuclear Regulatory Commission, or an Agreement State" for references to:

(i) "NRC or an Agreement State";

(ii) "Commission or by an Agreement State";

(iii) "Commission or an Agreement State"; and

(iv) "Commission" in 10 CFR 34.43(a)(2);

(d) "License" for reference to "NRC license(s)";

(e) In 10 CFR 34.27(d), "reports of test results for leaking or contaminated sealed sources shall be made pursuant to R313-15-1208.", for reference to the following statements:

(i) "A report must be filed with the Director of Nuclear Material Safety and Safeguards, by an appropriate method listed in Sec. 30.6(a) of this chapter, the report to be filed~~[U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001,~~ within 5 days of any test with results that exceed the threshold in this paragraph (d), and to describe~~[subsection, describing]~~ the equipment involved, the test results, and the corrective action taken."; and

(ii) "A copy of the report must be sent to the Administrator of the appropriate Nuclear Regulatory Commission's Regional Office listed in appendix D of 10 CFR part 20 of this chapter "Standards for Protection Against Radiation.";

(f) In 10 CFR 34.27(d), "R313-15-401(6)" for the reference to "Commission regulations";

(g) In 10 CFR 34.43(a)(1), "10 CFR 30.6" for the reference to "Sec. 30.6(a) of this chapter";

(h[~~g~~]) In 10 CFR 34.89, "a U.S. Nuclear Regulatory Commission or an Agreement State" for the reference to "the Agreement State";

(i[~~h~~]) In 10 CFR 34.101(a), "Executive Secretary" for the following wording:

~~(i[~~h~~]) "NRC's Office of Nuclear Material Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, by an appropriate method listed in Sec. 30.6(a) of this chapter," ["U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, D.C. 20555-0001, with a copy to the Director, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001"];~~

(i[~~i~~]) In 10 CFR 34.101(c), "Executive Secretary" for the reference to "appropriate NRC regional office listed in 10 CFR 30.6(a)(2) of this chapter";

(k[~~j~~]) In Item 12, Section I of Appendix A to 10 CFR 34, "Executive Secretary, the U.S. Nuclear Regulatory Commission and other independent certifying organizations and/or Agreement States" for the reference to "Commission and other independent certifying organizations and/or Agreement States";

(l[~~k~~]) In Item 1, Section II of Appendix A to 10 CFR 34, "equivalent U.S. Nuclear Regulatory Commission or Agreement State regulations" for the reference to "equivalent Agreement State regulations"; and

(m[~~l~~]) In Item 2(c), Section II of Appendix A to 10 CFR 34, "a Utah, U.S. Nuclear Regulatory Commission, or an Agreement State licensee" for the reference to "an Agreement State or a NRC licensee"; and

(6) The substitution of the following R313 references for specific 10 CFR references:

(a) "R313-12-55(1)" for reference to "10 CFR 34.111";

(b) "R313-15" for the reference to "10 CFR 20";

(c) "R313-15-601(1)(a)" for the reference to "10 CFR 20.1601(a)(1)";

(d) "R313-15-902(1) and (2)" for the reference to "10 CFR 20.1902(a) and (b)";

(e) "R313-15-903" for the reference to "10 CFR 20.1903";

(f) "R313-15-1203" for the reference to "10 CFR 20.2203";

(g) "R313-18" for the reference to "10 CFR 19";

(h) "R313-19-30" for the reference to "10 CFR 150.20";

(i) "R313-19-50" for the reference to "Sec. 30.50"~~["10 CFR 30.50"]~~;

(j) "R313-19-100" for the reference to "10 CFR 71", "10 CFR 71.5", and "49 CFR 171 to 173";

(k) "R313-22-33" for the reference to "10 CFR 30.33"; and

(l) "R313-36" for the reference to "10 CFR 34."

KEY: industry, radioactive material, licensing, surveys

Date of Enactment or Last Substantive Amendment: ~~May 11, 2004~~**2007**

Notice of Continuation: October 5, 2006

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

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Environmental Quality, Radiation Control **R313-70** Payments, Categories and Types of Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29335

FILED: 12/15/2006, 10:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change Section R313-70-1 to "Purpose and Authority" to be consistent with other Division rules, and to change the wording of the types of fees collected to accurately reflect the current fee structure.

SUMMARY OF THE RULE OR CHANGE: Sections R313-70-1 and R313-70-2 are changed to be consistent with other Division rules with a "Purpose and Authority" section. The changes in Section R313-70-7 are intended to clarify the types of fees assessed and collected by the Division. The changes do not represent new fees since all fees are set by the state legislature.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(6)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Since the proposed changes are meant to accurately reflect current fees, there are no anticipated costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government since the proposed changes do not modify current requirements with a fiscal impact.

❖ **OTHER PERSONS:** Since the proposed changes are meant to accurately reflect current fees, there are no anticipated costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the proposed changes are meant to accurately reflect current fees, there are no anticipated compliance costs affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes do not include any new fees or requirements for businesses and individuals possessing radioactive material or using x-ray machines in the State. Therefore, there are no fiscal impact on businesses from the proposed rule changes. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Philip Griffin at the above address, by phone at 801-536-4261,
by FAX at 801-533-4097, or by Internet E-mail at
pgriffin@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-70. Payments, Categories and Types of Fees.
R313-70-1. Purpose and Authority[General].

- (1) The purpose of this rule is to prescribe the requirements to assess fees of registrants and licensees possessing sources of radiation.
- (2) The rules set forth herein are adopted pursuant to the provisions of Subsection 19-3-104(6).

R313-70-2. Scope.

The requirements of R313-70 apply[applies] to persons who receive, possess, or use sources of radiation provided;[;] however, that nothing in these rules shall apply to the extent a person is subject to regulation[s] by the U.S. Nuclear Regulatory Commission.[The fees charged are authorized by subsection 19-3-104(4) of the Environmental Quality Code.]

R313-70-7. License Categories and Types of Fees for Radioactive Materials Licenses.

Fees shall be established in accordance with the Legislative Appropriations Act. Copies of established fee schedules may be obtained from the Executive Secretary.

TABLE

LICENSE CATEGORY	TYPE OF FEE
(1) Special Nuclear Material	
(a) Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers and neutron generators.	New License or Renewal Annual Fee

(b) Licenses for possession and use of less than 15 g special nuclear material in unsealed form for research and development.	New License or Renewal Annual Fee
(c) All other special nuclear material licenses.	New License or Renewal Annual Fee
(d) Special nuclear material to be used as calibration and reference sources.	New License or Renewal Annual Fee
(2) Source Material.	
(a) Licenses for concentrations of uranium from other areas like copper or phosphates for the production of moist, solid, uranium yellow cake.	New License or Renewal Annual Fee Review Fees
(b) Licenses for possession and use of source material in extraction facilities such as conventional milling, in-situ leaching, heap leaching, and other processes including licenses authorizing the possession of byproduct material (tailings and other wastes) from source material extraction facilities, as well as licenses authorizing the possession and maintenance of a facility in a standby mode, and licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations.	Monthly fee for active or inactive mill Annual Fee Review Fees
(c) Licenses that authorize the receipt of byproduct material, as defined in Section 19-3-102, from other persons for possession and disposal.	Application Fee Annual Fee New License or Renewal Monthly Fee
(d) Licenses for possession and use of source material for shielding.	New License or Renewal Annual Fee
(e) All other source material licenses.	New License or Renewal Annual Fee
(3) Radioactive Material Other than Source	

<p>Material and Special Nuclear Material. (a)(i) Licenses of broad scope for possession and use of radioactive material for processing or manufacturing of items containing radioactive material for commercial distribution.</p>	<p>New License or Renewal Annual Fee</p>	<p>(f)(ii) Licenses for possession and use of 10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes.</p>	<p>New License or Renewal Annual Fee</p>
<p>(a)(ii) Other licenses for possession and use of radioactive material for processing or manufacturing of items containing radioactive material for commercial distribution.</p>	<p>New License or Renewal Annual Fee</p>	<p>(g) Licenses to distribute items containing radioactive material that require device review to persons exempt from the licensing requirements of R313-19, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of R313-19.</p>	<p>New License or Renewal Annual Fee</p>
<p>(b) Licenses authorizing the processing or manufacturing and distribution or redistribution of radio-pharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material.</p>	<p>New License or Renewal Annual Fee</p>	<p>(h) Licenses to distribute items containing radioactive material or quantities of radioactive material that do not require device evaluation to persons exempt from the licensing requirements of R313-19, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of R313-19.</p>	<p>New License or Renewal Annual Fee</p>
<p>(c) Licenses authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material.</p>	<p>New License or Renewal Annual Fee</p>	<p>(i) Licenses to distribute items containing radioactive material that require sealed source or device review to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under R313-21.</p>	<p>New License or Renewal Annual Fee</p>
<p>(d) Licenses for possession and use of radioactive material for industrial radiography operations.</p>	<p>New License or Renewal Annual Fee</p>		
<p>(e) Licenses for possession and use of sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).</p>	<p>New License or Renewal Annual Fee</p>		
<p>(f)(i) Licenses for possession and use of less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes.</p>	<p>New License or Renewal Annual Fee</p>		

<p>(j) Licenses to distribute items containing radioactive material or quantities of radioactive material that do not require sealed source or device review to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under R313-21.</p>	<p>New License or Renewal Annual Fee</p>	<p>for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.</p>	<p>New License or Renewal Annual Fee</p>
<p>(k) Licenses for possession and use of radioactive material for research and development, which do not authorize commercial distribution.</p>	<p>New License or Renewal Annual Fee</p>	<p>(c) Licenses specifically authorizing the receipt of prepackaged waste radioactive material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.</p>	<p>New License or Renewal Annual Fee</p>
<p>(l) All other specific radioactive material licenses.</p>	<p>New License or Renewal Annual Fee</p>	<p>(d) Licenses authorizing packaging of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material.</p>	<p>New License or Renewal Annual Fee</p>
<p>(m) Licenses of broad scope for possession and use of radioactive material for research and development which do not authorize commercial distribution.</p>	<p>New License or Renewal Annual Fee</p>	<p>(5) Well logging, well surveys and tracer studies.</p>	<p>New License or Renewal Annual Fee</p>
<p>(n) Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services which are subject to the fees specified for the listed services.</p>	<p>New License or Renewal Annual Fee</p>	<p>(a) Licenses for possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies.</p>	<p>New License or Renewal Annual Fee</p>
<p>(o) Licenses that authorize services for leak testing only.</p>	<p>New License or Renewal Annual Fee</p>	<p>(b) Licenses for possession and use of radioactive material for field flooding tracer studies.</p>	<p>New License or Renewal Annual Fee</p>
<p>(4) Radioactive Waste Disposal:</p>	<p>New License or Renewal Annual Fee</p>	<p>(6) Nuclear laundries.</p>	<p>New License or Renewal Annual Fee</p>
<p>(a) Licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee.</p>	<p>Application Fee New License or Renewal Siting Review Fee</p>	<p>(a) Licenses for collection and laundry of items contaminated with radioactive material.</p>	<p>New License or Renewal Annual Fee</p>
<p>(b) Licenses specifically authorizing the receipt of waste radioactive material from other persons</p>	<p>New License or Renewal Annual Fee</p>	<p>(7) Human use of radioactive material. (a) Licenses for human use of radioactive material in sealed sources contained in teletherapy devices.</p>	<p>New License or Renewal Annual Fee</p>

<p>(b) Other licenses issued for human use of radioactive material, except licenses for use of radioactive material contained in teletherapy devices.</p>	<p>New License or Renewal Annual Fee</p>
<p>(c) Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of radioactive material, except licenses for radioactive material in sealed sources contained in teletherapy devices.</p>	<p>New License or Renewal Annual Fee</p>
<p>(8) Civil Defense.</p>	
<p>(a) Licenses for possession and use of radioactive material for civil defense activities.</p>	<p>New License or Renewal Annual Fee</p>
<p>(9) Power Source.</p>	
<p>(a) Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power.</p>	<p>New License or Renewal Annual Fee</p>
<p>(10) General License.</p>	
<p>(a) Measuring, gauging and control devices as described in R313-21-22(4), other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere.</p>	<p>___Fee per device[registration certificate]</p>
<p>(b) In Vitro testing</p>	<p>Fee per registration certificate</p>
<p>(c) Depleted uranium</p>	<p>Fee per registration certificate</p>
<p>(d) Reciprocal recognition, as provided for in year</p>	<p>Annual fee for license category listed in R313-70-7(1) through (10), <u>(10)</u>, per 180 days in one calendar</p>
<p>R313-19-30, of a _____ year license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.</p>	

KEY: radioactive materials, x-rays, registration, fees
Date of Enactment or Last Substantive Amendment: [September 12, 2002]2007

Notice of Continuation: October 5, 2006
Authorizing, and Implemented or Interpreted Law: 19-3-104(6)



Environmental Quality, Water Quality **R317-12** Tax Exemption for Water Pollution Control Equipment

NOTICE OF PROPOSED RULE (New Rule)

DAR FILE NO.: 29326
 FILED: 12/14/2006, 16:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Currently, the rule used by to Division of Water Quality to implement tax exemption for water pollution control activities resides in Rule R307-102, a Division of Air Quality Rule. This proposed new rule would establish a stand-alone rule for the Division of Water Quality. (DAR NOTE: The proposed amendment to Rule R307-120 is found under DAR No. 29327 in this issue, January 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The purposed rule, Rule R317-12, implements the tax exemption portion of the Utah Water Quality Act independent from the Division of Air Quality. There are no substantive changes in the scope or intent of the proposed rule from the current Air Quality regulation, Rule R307-120, other than the separation of the rule into its two component parts: air quality and water quality.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-5-104, 19-2-123, 19-2-124, 19-2-125, 19-2-126, and 19-2-127

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The Division of Water Quality is already implementing these regulations under the existing Air Quality rule, Rule R307-120.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local budgets. The Division of Water Quality is already enforcing these regulations under the existing Air Quality rule, Rule R307-120.
- ❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. The Division of Water Quality is already enforcing these regulations under the existing Air Quality rule, Rule R307-120.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed regulation allows tax exemption for certain qualifying purchases. Compliance is voluntary, and is only required in order to qualify for tax exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No significant fiscal impacts to businesses are anticipated as the Division of Water Quality is already enforcing these regulations under the existing Air Quality rule, Rule R307-120. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 01/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/14/2007 at 2:00 PM, Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/20/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-12. General Requirements: Tax Exemption for Water Pollution Control Equipment.

R317-12-1. Application.

Application for certification shall be made on forms provided by the State Department of Environmental Quality, and shall include all information requested thereon and such additional reasonably necessary information as is requested by the executive secretary of the Water Quality Board.

R317-12-2. Eligibility for Certification.

Certification shall be made only for taxpayers who are owners, operators (under a lease) or contract purchasers of a trade or business that utilizes Utah property with a pollution control facility to prevent or minimize pollution.

R317-12-3. Review Period.

Date of filing shall be date of receipt of the final item of information requested and this filing date shall initiate the 120-day review period.

R317-12-4. Conditions for Eligibility.

(1) All materials, equipment and structures (or part thereof) purchased, leased or otherwise procured and services utilized for construction or installation in a water pollution control facility shall be eligible for certification, provided:

(a) such materials, equipment, structures (or part thereof), and services installed, constructed, or acquired result in a demonstrated reduction of pollutant discharges, and

(b) the primary purpose of such materials, equipment, structures (or part thereof), and services is preventing, controlling, reducing, or disposing of water pollution.

(2) The above includes expenditures which reduce the amount of pollutants produced as well as expenditures which result in removal of pollutants from waste streams. The materials, equipment, structures (or part thereof), and services that are necessary for the proper functioning of water pollution control facilities meeting the requirements of (1)(a) and (b) above, including equipment required for compliance monitoring, shall be eligible for certification.

R317-12-5. Limitations on Certification.

Applications for certification shall be certified by the executive secretary of the Water Quality Board after consultation with the State Tax Commission and only if:

(1) plans for the water pollution control facility in question require review and approval by the Water Quality Board and have been so approved, or

(2) the water pollution control facility is specifically required by the Water Quality Board, including facilities constructed for pretreatment of wastes prior to discharge to a public sewerage system in accordance with R317-8-8.1, but excluding facilities which are permitted by rule under R317-6-6.2 (Ground Water Discharge Permit by Rule) unless required to obtain an individual permit by the Water Quality Board, or

(c) the water pollution control facility is required and permitted by another statutory board within the Department of Environmental Quality, or

(d) the water pollution control facility eliminates or reduces the discharge of pollutants which would be regulated by the Water Quality Board, if such pollutants were discharged.

R317-12-6. Exemptions from Certification.

The following items are specifically not eligible for certification:

(1) materials and supplies used in the normal operation or maintenance of the water pollution control facilities;

(2) materials, equipment, and services used to monitor water, unless required for a permit or approval from a statutory board within the Department of Environmental Quality;

(3) materials, equipment, and services for collection, treatment, and disposal of human wastes, unless the primary purpose of such materials, equipment and services is the treatment of industrial wastes;

(4) materials, equipment and services used in removal, treatment, or disposal of pollutants from contaminated ground water, if the applicant caused the ground water contamination by failing to comply with applicable permits, approvals, rules, or standards existing at the time the contamination occurred.

R317-12-7. Duty to Issue Certification.

Upon determination that facilities described in any application under R317-12-1 satisfy the requirements of these rules and Sections 19-2-123 through 19-2-127 the executive secretary of the Water Quality Board shall issue a certification of pollution control facility to the applicant.

R317-12-8. Appeal and Revocation.

(1) A decision of the executive secretary of the Water Quality Board may be reviewed by filing a Request for Agency Action as provided in the administrative rules for Water Quality, R317.

(2) Revocation of prior certification shall be made for any of the circumstances prescribed in Section 19-2-126, after consultation with the State Tax Commission.

KEY: water pollution, tax exemptions, equipment**Date of Enactment or Last Substantive Amendment: 2007****Authorizing, and Implemented or Interpreted Law: 19-2-123, 19-2-124; 19-2-125; 19-2-126; 19-2-127**

◆ ————— ◆

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-61** Home and Community-Based Waivers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29311

FILED: 12/11/2006, 16:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Subsection 26-18-3(2), this rule implements current versions of home and community-based services waivers. The rule incorporates these waivers by reference.

SUMMARY OF THE RULE OR CHANGE: For clarification, the word "services" is added to the title of this rule, which is now "Home and Community-Based Services Waivers." Language that incorporates the State Plan by reference is removed because Rule R414-1, Utah Medicaid Program, already incorporates the State Plan by reference. The effective date for the "Waiver for Individuals Age 65 or Older" is updated to 07/01/2005. This waiver eliminates financial management as a service and includes it as an administrative function. The effective date for the "Waiver for Individuals with Physical Disabilities" is updated to 07/01/2006. This waiver adds financial management services, incident reporting requirements, and individual risk analysis requirements. The title, "Waiver for Individuals with Developmental Disabilities or Retardation," is changed to "Waiver for Individuals with Mental Retardation and Other Related Conditions." The effective date for this waiver is updated to 07/01/2005. This waiver eliminates senior support services, educational support services, and specialized support services. It adds behavior consultation services, extends living support services, companion services, family training and preparation services, financial management services, living start-up costs, massage therapy, and professional medication monitoring and personal budget assistance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-1-5, and Section 1915(c) of the Social Security Act

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Medicaid 1915(c) Home and Community-Based Services Waiver for Individuals Age 65 or Older, effective 07/01/2005; Medicaid 1915(c) Home and Community-Based Services Waiver for Individuals with Physical Disabilities, effective 07/01/2006; and Medicaid 1915(c) Home and Community-Based Services Waiver for Individuals with Mental Retardation and Other Related Conditions, effective 07/01/2005

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no budget impact because discontinued waiver services are offset by new waiver services.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not provide home and community-based services.
- ❖ OTHER PERSONS: There is no budget impact because discontinued waiver services are offset by new waiver services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because discontinued waiver services are offset by new waiver services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business is anticipated as new waiver services offset discontinued waiver services. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-61. Home and Community-Based Services Waivers.****R414-61-1. Introduction and Authority.**

(1) This rule establishes authority for the Department of Health to administer all Section 1915(c) waivers.

(2) The rule is authorized by Section 26-18-3 and Section 1915(c) of the Social Security Act.

R414-61-2. Incorporation by Reference.

~~[The Department adopts the document entitled "Utah State Plan under Title XIX of the Social Security Act" 1999 edition, and the document entitled "Home and Community Based Waiver Implementation Plan", 1999 edition, which are incorporated by reference within this rule. These documents are available for public inspection during normal working hours, at the State Health Department Building, located at 288 North, 1460 West, Salt Lake City, UT, 84114 3102, at the office of the Division of Health Care Financing. These documents will be used by the Division for the provision of services under the following waivers:]~~
The Department incorporates by reference the following home and community-based services waivers:

- (1) Waiver for Technology Dependent/Medically Fragile Individuals, ~~[dated]~~Effective July 1, 2003;
- (2) Waiver for Individuals Age 65 ~~[and]~~or Older, ~~[dated]~~Effective July 1, 2004~~[5]~~;
- (3) Waiver for Individuals with Acquired Brain Injuries, ~~[dated]~~Effective July 1, 2004;
- (4) Waiver for Individuals with Physical Disabilities, ~~[dated]~~Effective July 1, 2003~~[6]~~;
- (5) Waiver for Individuals with ~~[Developmental Disabilities or]~~Mental Retardation ~~and Other Related Conditions~~, ~~[dated]~~Effective July 1, 2003~~[5]~~;
- (6) New Choices Waiver, Effective January 1, 2007.

These documents are available for public inspection during business hours at the Utah Department of Health, Division of Health Care Financing, located at 288 North 1460 West, Salt Lake City, UT, 84114-3102.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[February 1, 2005]~~2007

Notice of Continuation: March 11, 2005

Authorizing, and Implemented or Interpreted Law: 26-18-3



Labor Commission, Safety

R616-2-3

Safety Codes and Rules for Boilers and Pressure Vessels

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29313

FILED: 12/12/2006, 10:02

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to adopt the most current addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The Utah Labor Commission's intent is to maintain uniformity between its practices and national standards.

SUMMARY OF THE RULE OR CHANGE: The addenda adopted by the proposed rule make a large number of relatively minor technical and editorial changes such as: material specifications; testing; inspection; and administrative dialog.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-7-701

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: American Society of Mechanical Engineers Boiler and Pressure Vessel Code 2006 addenda issued 07/01/2006, Sections I, IV, and VIII

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because the addenda address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the ASME code is purchased every three years and the addenda are included in the original purchase price.
- ❖ LOCAL GOVERNMENTS: Because the addenda address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the ASME code is purchased every three years and the addenda are included in the original purchase price.
- ❖ OTHER PERSONS: Because the addenda address a large number of relatively minor changes, these changes taken as a whole will not result in net costs or savings. As for the purchase of the code books, the ASME code is purchased every three years and the addenda are included in the original purchase price.

COMPLIANCE COSTS FOR AFFECTED PERSONS: On balance, the proposed rule will not result in significant expense or savings to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The technical changes required by these addenda will have no net fiscal impact on business; however, businesses enjoy competitive benefits by maintaining conformity between Utah and National Standards. Sherrie Hayashi, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R616. Labor Commission, Boiler and Elevator Safety.

R616-2. Boiler and Pressure Vessel Rules.

R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

A. ASME Boiler and Pressure Vessel Code (2004).

1. Section I Rules for Construction of Power Boilers published July 1, 2004, ~~and~~ the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

2. Section IV Rules for Construction of Heating Boilers published July 1, 2004, ~~and~~ the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

3. Section VIII Rules for Construction of Pressure Vessels published July 1, 2004, ~~and~~ the 2005 Addenda published July 1, 2005, and the 2006 Addenda published July 1, 2006.

B. Power Piping ASME B31.1 (2004), issued August 16, 2004.

C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-1998; the ASME CSD-1a-1999 addenda, issued March 10, 2000; and the ASME CSD-1b (2001) addenda, issued November 30, 2001.

D. National Board Inspection Code ANSI/NB-23 (2004) issued December 31, 2004, and the 2005 Addendum issued December 31, 2005.

E. NFPA 85 Boiler and Combustion Systems Hazard Code 2004 Edition.

F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.

G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 (1997); the 1998 Addenda, published December 1998, and Addendum 2, published December 2000.

KEY: boilers, certification, safety

Date of Enactment or Last Substantive Amendment: ~~May 17, 2006~~ 2007

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.



Natural Resources, Wildlife Resources
R657-5
 Taking Big Game

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 29351
 FILED: 12/15/2006, 15:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule allow the Division or its agent to sell or donate protected wildlife that the division obtains by any means, provide seasons for gathering shed antlers and shed horns, create a management bull elk hunt (Section R657-5-71), and create a buck deer and bull elk combination hunt (Section R657-5-72). The goal of the management bull elk hunt is to remove excess bull from certain populations, which should improve calf production in the areas. The intent of the buck/bull combination hunt is to allow hunting for deer and elk during the same season and in the same area. A handful of other changes were made to add consistency and clarity throughout this important rule.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) determines that these amendments will create a cost to DWR's budget since the two new hunting opportunities will require significant, additional, programming changes to be made by the drawing contractor. DWR estimates this price to be nearly \$17,000. DWR will cover this cost and possible increased workload with existing budget.

❖ **LOCAL GOVERNMENTS:** The amendments specify shed antler and horn season dates and create two new hunting opportunities, therefore this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** The amendments specify shed antler and horn season dates and create two new hunting opportunities. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments specify shed antler and horn season dates and create two new hunting opportunities. DWR determines that there are no additional compliance costs associated with this amendment, because participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who do not participate. Furthermore, there is not license, permit or Certificate of Registration required to pick-up shed antlers and shed horns.

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. Michael R. Styler, Executive Director

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:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-12. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

- (a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and
- (b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;
- (c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded[;] and
- (d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

- (a) a crossbow, except as provided in Rule R657-12;
- (b) arrows with chemically treated or explosive arrowheads;
- (c) a mechanical device for holding the bow at any increment of draw;
- (d) a release aid that is not hand held or that supports the draw weight of the bow; or
- (e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit may not possess or be in control of a firearm or have a firearm in his camp or motor vehicle during an archery hunt.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Proclamation and Waterfowl Proclamation, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-5-21. Purchasing or Selling Big Game or Their Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or their parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the proclamation of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns, or legally possessed big game as provided in Subsection 23-20-3(1)(d), may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is [~~unlawfully taken and seized~~]obtained by the division by any means may be sold or donated at any time by the division or its agent.

(b) A person may purchase or receive protected wildlife from the division, which is sold or donated in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

- (a) the name and address of the person who harvested the animal;
 - (b) the transaction date; and
 - (c) the permit number of the person who harvested the animal.
- (4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Possession of Antlers and Horns.

(1) A person may possess antlers or horns or parts of antlers or horns only from:

- (a) lawfully harvested big game;
- (b) antlers or horns lawfully [~~purchased~~]obtained as provided in Section R657-5-21; or
- (c) shed antlers or [~~horns~~]shed horns.

(2)(a) A person may gather shed antlers or shed horns or parts of shed antlers or shed horns only during the shed antler and shed horn season published in the Bucks, Bulls, Once-in-a-Lifetime, Proclamation of the Wildlife Board for taking big game.

(b) No permit, license or Certificate or Registration is required to gather shed antlers and shed horns.

(3) "Shed antler" means an antler which:

- (a) has been dropped naturally from a big game animal as part of its annual life cycle; and
- (b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

[~~(3)~~](4) "Shed horn" means the sheath from the horn of a pronghorn that has been dropped naturally as part of its annual life cycle. No other big game species shed their horns naturally.

R657-5-23. Poaching-Reported Reward Permits.

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

(2) Any person who provides information leading to another person's ~~arrest and~~ successful prosecution for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn under Section 23-20-4 for any once-in-a-lifetime species or within any limited entry area may receive a permit from the division to hunt for the same species and on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection ~~(2)~~(3).

~~(2)(a)~~(3)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

~~(3)(a)~~(4)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar year.

~~(4)(a)~~(5)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

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

(c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.

~~(5)~~(6) Any person who receives a poaching-reported reward permit must be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

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

R657-5-24. Application Process for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit ~~and~~, Once-In-A-Lifetime Permits and Management Bull Elk, and Application Process for General Buck Deer, General Muzzleloader Elk~~s~~ and Youth General Any Bull Elk Permits.

(1)(a) A person may obtain only one permit per species of big game, including premium limited entry, limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, sportsman, landowner and general permits, except antlerless permits

as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

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

(c) A person who applies for, or obtains a permit must notify the division of any change ~~of~~in mailing address, residency, telephone number, and physical description.

(2) Applications are available from license agents, division offices, and through the division's Internet address.

(3) A resident may apply in the big game drawing for the following permits:

(a) only one of the following:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - premium limited entry, limited entry and cooperative wildlife management unit; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit; and

(b) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits, except as provided in Section R657-5-64(2)(b).

(4) A nonresident may apply in the big game drawing for the following permits:

(a) only one of the following:

(i) buck deer - premium limited entry and limited entry;

(ii) bull elk - premium limited entry and limited entry; or

(iii) buck pronghorn - limited entry; and

(b) only one once-in-a-lifetime permit.

(5) A resident or nonresident may apply in the big game drawing for:

(a)(i) a statewide general archery buck deer permit;

(ii) by region for general any weapon buck deer; or

(iii) by region for general muzzleloader buck deer.

(b) A youth may apply in the drawing as provided in Subsection (a) or Subsection R657-5-27(4), and for youth general any bull elk pursuant to Section R657-5-46.

(6) A person may not submit more than one application per species as provided in Subsections (3) and (4), and Subsection (5) in the big game drawing.

(7)(a) Applications must be mailed by the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game. Applications filled out incorrectly or received later than the date prescribed in the Bucks, Bulls and Once-In-A-Lifetime Proclamation may be rejected.

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

(8)(a) Late applications, received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation, will not be considered in the drawing, but will be processed, for the purpose of entering data into the division's draw database to provide:

(i) future preprinted applications;

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

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

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

(c) Late applications received after the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation shall not be processed and shall be returned to the applicant.

(9) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

(10) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Subsections R657-5-27(4).

(12) To apply for a resident permit, a person must be a resident at the time of purchase.

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

R657-5-25. Fees for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit ~~and~~, Once-In-A-Lifetime and Management Bull Elk Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

(1) Each premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime application must include:

- (a) the highest permit fee of any permits applied for;
- (b) a nonrefundable handling fee for one of the following permits:
 - (i) buck deer;
 - (ii) bull elk; or
 - (iii) buck pronghorn; and
- (c) the nonrefundable handling fee for a once-in-a-lifetime permit; and
- (d) the nonrefundable handling fee, if applying only for a bonus point.

(2) Each general buck deer and general muzzleloader elk application must include:

- (a) the permit fee, which includes the nonrefundable handling fee; or
- (b) the nonrefundable handling fee per species, if applying only for a preference point.

R657-5-26. Applying as a Group for Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit~~and~~, Once-In-A-Lifetime and Management Bull Elk Permits, and for General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Permits.

(1)(a) Up to four people may apply together for premium limited entry, limited entry, and resident cooperative wildlife management unit deer, elk or pronghorn permits in the big game drawing and in the antlerless drawing.

~~(b)~~ (c) People may not apply together for management bull elk permits in the big game drawing as provided in R657-5-71(2)(b).

~~(c)~~ (c) Up to two youth may apply together for youth general any bull elk permits in the big game drawing.

~~(d)~~ (d) Up to ten people may apply together for general deer permits in the big game drawing.

~~(e)~~ (e) Youth applicants who wish to participate in the youth general buck deer drawing process as provided in Subsection R657-5-27(4), or the youth antlerless drawing process as provided in Subsection R657-5-59(3), must not apply as part of a group.

(2)(a) Applicants must indicate the number of hunters in the group by filling in the appropriate box on each application form.

(b) If the appropriate box is not filled out with the number of hunters in the group, each hunter in that group shall be entered into the drawing as individual hunters, and not as a group.

(3) Group applicants must submit their applications together in the same envelope.

(4) Residents and nonresidents may apply together.

(5)(a) Group applications shall be processed as one single application.

(b) Any bonus points used for a group application, shall be averaged and rounded down.

(6) When applying as a group:

(a) if the group is successful in the drawing, then all applicants with valid applications in that group shall receive a permit;

(b) if the group is rejected due to an error in fees and only one species is applied for, then the entire group is rejected;

(c) if the group is rejected due to an error in fees and more than one species is applied for, the group will be kept in the drawing for any species with sufficient fees, using the draw order; or

(d) if one or more members of the group are rejected due to an error other than fees, the members with valid applications will be kept in the drawing, unless the group indicates on the application that all members are to be rejected.

(i) The applicant whose application is on the top of all the applications for that group, will be designated the group leader.

(ii) If any group member has an error on their application that is not corrected during the correction process, the reject box on the group leader's application will determine whether the entire group is rejected.

R657-5-27. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit~~and~~, Once-In-A-Lifetime and Management Bull Elk Drawings, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Drawings.

(1)(a) Big game drawing results may be posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center, division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) Applicants shall be notified by mail of draw results by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) Permits for the big game drawing shall be drawn in the following order:

(a) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(b) premium limited entry, limited entry and cooperative wildlife management unit bull elk;

(c) limited entry and cooperative wildlife management unit buck pronghorn;

(d) once-in-a-lifetime;

(e) youth general buck deer;

(f) general buck deer; and

(g) youth general any bull elk.

(3) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:

(a) a premium limited entry, limited entry or Cooperative Wildlife Management unit buck deer;

(b) a premium limited entry, limited entry, or Cooperative Wildlife Management unit elk; or

(c) a limited entry or Cooperative Wildlife Management unit buck pronghorn.

(4)(a) Fifteen percent of the general buck deer permits in each region are reserved for youth hunters.

(b) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(c) Youth hunters who wish to participate in the youth drawing must:

(i) submit an application in accordance with Section R657-5-24; and

(ii) not apply as a group.

(d) Youth applicants who apply for a general buck deer permit as provided in Subsection (c), will automatically be considered in the youth drawing based upon their birth date.

(e) Preference points shall be used when applying.

(f) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

(5) If any permits listed in Subsection (2)(a) through (2)(d) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-28. Premium Limited Entry, Limited Entry, Cooperative Wildlife Management Unit~~[-and]~~, Once-In-A-Lifetime~~[-]~~ and Management Bull Elk Application Refunds, and General Buck Deer, General Muzzleloader Elk and Youth General Any Bull Elk Application Refunds.

(1) Unsuccessful applicants who applied in the big game drawing ~~[and who applied]~~ with a check or money order will receive a refund in May.

(2)(a) Unsuccessful applicants~~[-]~~ who applied in the big game drawing with a credit or debit card~~[-]~~ will not be charged for a permit.

(b) Unsuccessful applicants~~[-]~~ who applied as a group~~[-]~~ will receive an equally distributed refund of money remaining after the successful applicants' permits are paid for.

(c) If group members have other financial arrangements between themselves, group members should be prepared to reallocate each group member's individual refunds among themselves.

(3) The handling fees are nonrefundable.

R657-5-31. Waiting Periods for Elk.

(1) A person who obtained a premium limited entry, limited entry, management bull elk or cooperative wildlife management unit bull elk permit through the big game drawing process during the preceding four years may not apply in the big game drawing for any of these permits during the current year.

(2) A person who obtains a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit through the big game drawing, may not apply for any of these permits for a period of five years.

(3) A waiting period does not apply to:

(a) general archery, general any weapon, general muzzleloader, antlerless elk, cooperative wildlife management unit spike bull elk, conservation, sportsman, poaching-reported reward and dedicated hunter limited entry elk permits; or

(b) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.

(4) The waiting period imposed on a management bull elk permit will be removed if:

(a) the hunter complies with the mandatory reporting requirements in R657-5-71(6), and the animal harvested has five points or less on at least one antler.

R657-5-37A. Bonus Point System.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for limited entry permits in the big game or antlerless drawing; or

(ii) each valid application when applying for bonus points in the big game or antlerless drawing.

(b) Bonus points are awarded by species for:

(i) premium limited entry, limited entry and cooperative wildlife management unit buck deer;

(ii) premium limited entry, limited entry, management bull elk, and cooperative wildlife management unit bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn;

(iv) all once-in-a-lifetime species; and

(v) antlerless moose.

(3) A person may apply for a bonus point for:

(a) only one of the following species:

(i) buck deer - premium limited entry, limited entry and cooperative wildlife management unit;

(ii) bull elk - limited entry, management and cooperative wildlife management unit; or

(iii) buck pronghorn - limited entry and cooperative wildlife management unit;

(iv) antlerless moose, and

(b) only one once-in-a-lifetime, including once-in-a-lifetime cooperative wildlife management unit.

(4)(a) A person may not apply in the drawing for both a premium limited entry or limited entry bonus point and a premium limited entry or limited entry permit.

(b) A person may not apply in the drawing for a once-in-a-lifetime bonus point and a once-in-a-lifetime permit.

(c) A person may not apply in the drawing for an antlerless moose bonus point and an antlerless moose permit.

(d) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(e) A person may only apply for bonus points in the big game and antlerless drawings.

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

(5)(a) Fifty percent of the permits for each hunt unit and species will be reserved for applicants with bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

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

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

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

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

- (i) each species applied for; and
- (ii) each bonus point for that species.

(7) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species as provided in Subsection (2)(c), including any permit obtained after the drawing.

(8) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(9) Bonus points may be reinstated if a hunter obtains a management bull elk permit and complies with R657-5-71(7).

~~[(9)](10)~~ Bonus points are not transferable.

~~[(10)](11)~~ Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

~~[(11)](12)(a)~~ Bonus points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain paper copies of applications for three years prior to the current big game and antlerless drawings for the purpose of researching bonus point records.

(c) The division shall retain electronic copies of applications from 1996 to the current big game 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.

R657-5-38. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment to take:

(a) one buck deer statewide within a general hunt area published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(c) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(d) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete ~~[an extended archery ethics course]~~ the Archery Ethics Course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess ~~[the extended archery ethics course certificate of completion]~~ an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person 18 years of age or younger on the opening day of the general archery buck deer season, may hunt the statewide general archery, or by region the general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-8 through R657-5-12, respectively, for each respective season, provided that person obtains a general any weapon or general muzzleloader deer permit for a specified region.

(b) If a person 18 years of age or younger purchases a general archery buck deer permit, that person may only hunt during the statewide general archery deer season and the extended archery season as provided Section R657-5-38(3).

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-41. Limited Entry Buck Deer Hunts.

(1) To hunt in a premium limited entry or limited entry area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck, general any weapon buck, or general muzzleloader buck hunting, except as specified in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A limited entry buck deer permit allows a person using the prescribed legal weapon, to take one buck deer within the area and season specified on the permit, except deer cooperative wildlife management units located within the limited entry unit.

(3)(a) A person who has obtained a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck deer.

(b) Limited entry and cooperative wildlife management unit buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a limited entry buck permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

R657-5-43. General Archery Elk Hunt.

(1) The dates of the general archery elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general archery elk permit may use archery equipment to take:

(i) one elk of hunter's choice on a general any bull elk unit, except on elk cooperative wildlife management units;

(ii) an antlerless elk or spike bull elk on a general spike bull elk unit, except on elk cooperative wildlife management units and the Plateau, Fish Lake-Thousand Lakes;

(iii) only a spike bull elk on the Plateau, Fish Lake-Thousand Lakes; or

(iv) one elk of hunter's choice on the Wasatch Front or Uintah Basin extended archery areas as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the Wasatch Front, Uintah Basin, Nebo-West Desert, and Sanpete Valley extended archery areas during the extended archery area seasons as provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete ~~[an extended archery ethics course]~~ the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(c) A person must possess ~~[the extended archery ethics course certificate of completion]~~ an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

R657-5-45. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

(a) Salt Lake County south of I-80 and east of I-15; and

(b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may use a muzzleloader take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may use a muzzleloader take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-48(3).

R657-5-47. Premium Limited Entry and Limited Entry Bull Elk ~~Hunt~~ Hunts.

(1) To hunt in a premium limited entry or limited entry bull elk area, a hunter must obtain the respective premium limited entry or limited entry elk permit.

(2)(a) A premium limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and to hunt all limited entry bull elk seasons specified in the hunt tables, published in the proclamation of the Wildlife Board for taking big game, for the area specified on the permit, except elk cooperative wildlife management units located within a premium limited entry unit. Spike bull elk restrictions do not apply to premium limited entry elk permittees.

(b) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) A person who has obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A person who has obtained a premium limited entry or limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-48(3).

R657-5-49. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(4) A buck pronghorn permit allows a person using any legal weapon to take one buck pronghorn within the area and season specified on the permit, except during the buck pronghorn archery hunt ~~[when only archery equipment may be used and on buck pronghorn cooperative wildlife management unit located within a limited entry unit.~~

R657-5-52. Bull Moose Hunts.

(1) To hunt bull moose, a hunter must obtain a bull moose permit.

(2) A person who has obtained a bull moose permit may not obtain any other moose permit or hunt during any other moose hunt.

(3) A bull moose permit allows a person using any legal weapon to take one bull moose within the area and season specified on the permit, except in bull moose cooperative wildlife management units located within a limited entry unit.

(4)(a) A person who has obtained a bull moose permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull moose.

(b) Bull moose permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-53. Bison Hunts.

(1) To hunt bison, a hunter must obtain a bison permit.

(2) A person who has obtained a bison permit may not obtain any other bison permit or hunt during any other bison hunt.

(3) The bison permit allows a person using any legal weapon to take a bison of either sex within the area and season as specified on the permit.

(4)(a) An orientation course is required for bison hunters who draw an Antelope Island bison permit. Hunters shall be notified of the orientation date, time and location.

(b) The Antelope Island hunt is administered by the Division of Parks and Recreation.

(5) A Henry Mountain cow bison permit allows a person to take one cow bison using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6) An orientation course is required for bison hunters who draw Henry Mountain cow bison permits. Hunters will be notified of the orientation date, time and location.

(7)(a) A person who has obtained a bison permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bison.

(b) Bison permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-54. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt desert bighorn sheep or Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit may not obtain any other desert bighorn sheep or Rocky Mountain bighorn sheep permit or hunt during any other desert bighorn sheep or Rocky Mountain bighorn sheep hunt.

(3) Desert bighorn sheep and Rocky Mountain big horn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) The desert bighorn sheep permit allows a person using any legal weapon to take one desert bighorn ram within the area and season specified on the permit.

(b) The Rocky Mountain sheep permit allows a person using any legal weapon to take one Rocky Mountain bighorn ram within the area and season specified on the permit.

(5) The permittee may attend a hunter orientation course. The division provides each permittee with the time and location of the course.

(6) All bighorn sheep hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting bighorn sheep. Any ram may be legally taken, however, permittees are encouraged to take a mature ram. The terrain inhabited by bighorn sheep is extremely rugged, making this hunt extremely strenuous.

(7) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(8)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-55. Rocky Mountain Goat Hunts.

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit. Permittees are encouraged to take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.

(4) The goat permit allows a person using any legal weapon to take one goat within the area and season specified on the permit.

(5) All goat hunters are encouraged to have a spotting scope with a minimum of 15 power while hunting goats. The terrain inhabited by Rocky Mountain goat is extremely rugged making this hunt extremely strenuous. The goat's pelage may be higher quality later in the hunting season.

(6) A female-goat only permit allows a person to take one female-goat using any legal weapon within the area and season as specified on the permit and in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(7) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only permits. Hunters will be notified of the orientation date, time and location.

(8)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

R657-5-61. Over-the-~~counter~~ Counter Permit Sales After the Antlerless Drawing.

Permits remaining after the drawing will be sold beginning on the date prescribed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game on a first-come, first-served basis from division offices, through participating online license agents, and through the mail.

R657-5-62. Application Withdrawal or Amendment.

(1)(a) An applicant may withdraw their application for premium limited entry, limited entry, cooperative wildlife management unit ~~and~~, once-in-a-lifetime and management bull elk, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing ~~[by requesting such in writing]~~ provided a written request for such is received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the address published in the proclamation of the Wildlife Board for taking big game.

(c) Handling fees will not be refunded.

(2)(a) An applicant may amend their application for the premium limited entry, limited entry, cooperative wildlife management unit and once-in-a-lifetime, and general buck deer and general muzzleloader elk permits from the big game drawing, or antlerless drawing ~~[by requesting such in writing]~~ provided a written request for such is received by the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(b) The applicant must send their notarized signature with a statement requesting that their application be amended to the address published in the proclamation of the Wildlife Board for taking big game.

(c) The applicant must identify in their statement the requested amendment to their application.

(d) Handling fees will not be refunded.

(e) An amendment may cause rejection if the amendment causes an error on the application.

R657-5-65. Fees for Special Hunt Applications.

(1) Each application must include:

(a) the permit fee for the species applied for; and

(b) a nonrefundable handling fee.

(2)(a) Personal checks, money orders, cashier's checks and credit or debit cards are accepted from residents.

(b) Money orders, cashier's checks and credit or debit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.

(3)(a) Credit or debit cards must be valid at least 30 calendar days after the drawing results are posted.

(b) If applicants are applying as a group, all fees for all applicants in that group must be charged to one credit or debit card.

(c) Handling fees are charged to the credit or debit card when the application is processed. Permit fees are charged after the drawing, if successful.

(d) Payments to correct an invalid or refused credit or debit card must be made with a cashier's check or money order for the full amount of the application fees plus any permits requested.

(4) An application is voidable if the check is returned unpaid from the bank or the credit or debit card is invalid or refused.

R657-5-66. Special Hunt Drawing.

(1) The special hunt drawing results ~~are~~ may be posted at the Lee Kay Center, Cache Valley Hunter Education Center and division offices on the date published in the addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation or Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

R657-5-71. Management Bull Elk Hunt.

(1)(a) For the purposes of this section "management bull" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.

(b) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the management bull elk archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2)(a) Management bull elk permits shall be distributed through the division's big game drawing. Thirty percent of the permits are allocated to youth, 30 percent to seniors and the remaining 40 percent to hunters of all ages.

(b) Group application shall not be accepted in the division's big game drawing for management bull elk permits.

(3) Waiting periods as provided in R657-5-31 are incurred as a result of obtaining management bull elk permits, except as provided in Subsection (7).

(4)(a) Bonus points shall be awarded when an applicant is unsuccessful in obtaining a management bull elk permit in the big game drawing.

(b) Bonus points shall be expended when an applicant is successful in obtaining a management bull elk permit in the big game drawing, except as provided in Subsection (7).

(5) Management bull elk permit holders may take one management bull elk during the season, on the area and with the weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the Bucks, Bulls

and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(6)(a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.

(b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(7)(a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a), and have their animal inspected by the division, will have their bonus points reinstated and waiting period for limited bull elk removed.

(b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 72 hours of leaving the hunting area.

(8) Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).

(9) A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-48(3).

R657-5-72. General Any Weapon Buck Deer and Bull Elk Combination Hunt.

(1) Permit numbers, season dates and unit boundary descriptions for the general any weapon buck deer and bull elk combination hunt shall be established in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(2) A person who obtains a general any weapon buck deer and bull elk combination permit may use any legal weapon to take one buck deer and one bull elk during the season and within the unit specified on the permit.

(a) A general any weapon buck deer and bull elk combination permit does not authorize the holder to hunt deer or elk within any cooperative wildlife management unit.

(3) A person who has obtained a general any weapon buck deer and bull elk combination permit may not hunt during any other deer or elk hunt or obtain any other deer or elk permit, except:

(a) antlerless deer, as provided in Subsection R657-5-42, and

(b) antlerless elk, as provided in Subsection R657-5-48.

(4)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general any weapon or general muzzleloader deer permit.

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: [July 11, 2006]2007

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

◆ ————— ◆

Natural Resources, Wildlife Resources

R657-17-3

Lifetime License Entitlement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29328

FILED: 12/14/2006, 18:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's big game program, which directly affects the Lifetime Hunting and Fishing License program.

SUMMARY OF THE RULE OR CHANGE: A subsection was added to Section R657-17-3 to address a new hunting opportunity that was adopted by the Wildlife Board in Section R657-5-72, General Any Weapon Buck Deer and Bull Elk Combination Hunt, specifically. This change is necessary to maintain consistency between the two rules.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-17.5

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The reason for this rule amendment was to maintain consistency between two rules of Division of Wildlife Resources so the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWRs) budget. Although there may be some additional programming costs added to the big game drawing, the amendments will not create any cost or savings impact to the state budget or DWR's budget. Any additional work will be carried out with existing budget.

❖ **LOCAL GOVERNMENTS:** Since this amendment simply addresses a new hunting opportunity in Rule R657-5, Taking Big Game, that Lifetime License holder may want to participate in, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** Since this amendment simply addresses a new hunting opportunity in Rule R657-5 that Lifetime License holder may want to participate in, DWR determined that this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments simply address a new hunting opportunity in Rule R657-5 which Lifetime License holder may wish to participate in, so DWR determines that there are no additional compliance costs for affected persons associated with this amendment. If a Lifetime License holder obtains a permit for the new opportunity, they only pay the additional cost for a bull elk permit, which is not a license participants are entitled to.

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. Michael R. Styler, Executive Director

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:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.
R657-17. Lifetime Hunting and Fishing License.
R657-17-3. Lifetime License Entitlement.**

(1)(a) A permanent lifetime license card shall be issued to lifetime licensees in lieu of an annual small game, and fishing license.

(b) The issuance of a permanent lifetime license card does not authorize a lifetime licensee to all hunting privileges. The lifetime licensee is subject to the requirements as provided in Subsection R657-17-1(2).

(2) Each year, a lifetime licensee who is eligible to hunt big game may receive without charge, a permit and tag for the region of their choice for one of the following general deer hunts:

- (i) archery buck deer;
- (ii) any weapon buck deer; or
- (iii) muzzleloader buck deer.

(3) Sales of lifetime hunting and fishing licenses may not be refunded, except as provided in Section 23-19-38.

(4) Lifetime hunting and fishing licenses are not transferable.

(5) Lifetime hunting and fishing licenses are no longer for sale as of March 1, 1994.

(6)(a) Lifetime license holders may participate in the Dedicated Hunter Program.

(b) Upon entering the Dedicated Hunter Program, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5 during enrollment in the Dedicated Hunter Program.

(7)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general

any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5 during the year the general any weapon buck deer and bull elk combination permit is valid.

KEY: wildlife, game laws, hunting and fishing licenses

Date of Enactment or Last Substantive Change: ~~January 18, 2006~~ **2007**

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-19-17.5; 23-19-40; 23-19-11



Natural Resources, Wildlife Resources

R657-38

Dedicated Hunter Program

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 29329

FILED: 12/14/2006, 18:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's Dedicated Hunter Program.

SUMMARY OF THE RULE OR CHANGE: The goal of this rule amendment is to simplify the Dedicated Hunter Program by combining all of the program's deadlines into one single date, which corresponds to the annual big game drawing application deadline. That deadline changes slightly from year to year, and will be published in the annual proclamation of the Wildlife Board for taking big game.

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 applicable to participants in the Dedicated Hunter Program. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget. The amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload they can be carried out with existing budget.

❖ LOCAL GOVERNMENTS: Since this amendment clarifies the procedures and requirements applicable to participants in the Dedicated Hunter Program, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: The amendments provide clarification of procedures and requirements applicable to participants in the Dedicated Hunter Program, therefore, the amendments do not

impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These amendments are for clarification and providing requirements and procedures for participants in the Dedicated Hunter Program. Because of this, DWR determined 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. Michael R. Styler, Executive Director

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:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-38. Dedicated Hunter Program.

R657-38-6. Dedicated Hunter Permits.

(1)(a) Participants may hunt during the general archery, general any weapon and general muzzleloader deer hunts within the hunt area and during the season dates prescribed in the proclamation of the Wildlife Board for taking big game.

(b) The division may exclude multiple season opportunities on specific units due to extenuating circumstances on that specific unit.

(2)(a) Participants must designate a regional hunt choice upon joining the program.

(b) The regional hunt choice shall remain in effect unless otherwise changed in writing by the participant by ~~January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day, or as modified or rescinded by the Wildlife Board.~~ the application deadline for the big game drawing, which is published in the proclamation of the Wildlife Board for taking big game.

(3)(a) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter Permit by mail.

(b) A participant who enters the program as a resident and becomes a nonresident, or claims residency outside of Utah shall be

issued a nonresident at no additional charge for the remainder of the three-year enrollment period.

(c) A participant who enters the program as a nonresident and becomes a resident, or claims residency in Utah, shall be issued a resident with no reimbursement of the higher nonresident fee for the remainder of the three-year enrollment period.

(4)(a) Dedicated Hunter permits may be issued through the mail by June 1 of each year and again three weeks prior to the beginning of the general archery deer hunt, and only upon evidence that all program requirements have been completed by the participant.

(b) Participants completing program requirements after June 1 may obtain their Dedicated Hunter Permit over-the-counter from any division office.

(5) A Dedicated Hunter Permit may not be issued to any participant who:

(a) does not perform the program requirements; or

(b) violates the terms of this rule or the Dedicated Hunter Certificate of Registration.

(6)(a) The division may issue a duplicate Dedicated Hunter Permit pursuant to Section 23-19-10.

(b) If a participant's unused Dedicated Hunter Permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate.

(c) A duplicate Dedicated Hunter Permit shall not be issued after the closing date of the general any weapon buck deer hunt, however, a participant may complete an affidavit and submit a copy of the affidavit for program reporting purposes as required in Section R657-38-9(1).

(7)(a) A participant may exchange or surrender a Dedicated Hunter Permit in accordance with Rule R657-42 provided annual program requirements are completed.

(b) A participant may not exchange a Dedicated Hunter Permit for any other buck deer permit once the general archery deer hunt has begun, except:

(i) a participant may exchange a Dedicated Hunter Permit for a Dedicated Hunter Permit in any other available area prior to the opening of the general muzzleloader buck deer hunt.

(c) A participant may not surrender a Dedicated Hunter Permit for any other buck deer permit once the general archery deer hunt has begun, except:

(i) a participant may surrender a Dedicated Hunter Permit after the opening of the buck deer archery hunt, provided the Division can verify that the permit was never in the participant's possession.

(9)(a) Lifetime license holders may participate in the program.

(b) Upon signing the certificate of registration, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5.

(c) A refund or credit is not issued for the general archery, general any weapon or general muzzleloader permit.

R657-38-11. Reporting Requirements.

(1)(a) A participant must return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-6(6)(c), to a division office ~~by January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day~~ annually by the application deadline for the big game drawing, which is published in the proclamation of the Wildlife Board for taking big game.

(b) The division shall credit a program harvest to any participant who fails to return the unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Section R657-38-6(6)(c), by ~~January 31 with a program harvest~~ the application deadline for the big game drawing.

(i) An unused Dedicated Hunter Permit and attached tag, or an affidavit as provided in Subsection R657-38-6(6)(c), returned after ~~January 31~~ the application deadline for the big game drawing, will be accepted and the credited program harvest removed.

(ii) A participant who returns an unused Dedicated Hunter Permit after the ~~January 31~~ application deadline for the big game drawing, and who is credited with a second program harvest, is only eligible to obtain a Dedicated Hunter Permit for an available region if permits remain after the big game drawing and must obtain the Dedicated Hunter Permit over-the-counter at a division office.

(iii) If there are no permits remaining after the big game drawing, additional Dedicated Hunter permits shall not be issued.

(2)(a) The division may contact participants to gather annual harvest information and hunting activity information.

(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.

(3)(a) A participant may specify a change to their regional hunt choice for a Dedicated Hunter Permit by submitting a request in writing to the division by ~~January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day.~~ the application deadline for the big game drawing.

(b) If a change is not specified pursuant to Subsection (a), the regional hunt choice selected initially or in the prior year shall be assigned.

R657-38-12. Limited Entry Dedicated Hunter Program Drawing.

(1) Any unfilled Dedicated Hunter Permit with an unused attached tag, returned to the Division by ~~January 31 annually, unless January 31 is a Saturday, Sunday, or holiday, in which case the date shall be extended to the following business day~~ the application deadline for the big game drawing, which is published in the proclamation of the Wildlife Board for taking big game, may qualify the participant to be entered into the Dedicated Hunter Program Drawing provided:

(a) the participant is currently enrolled in the program; and

(b) the participant has returned the Dedicated Hunter Permit and unused, attached tag, or an affidavit as provided in Section R657-38-6(6)(c).

(2)(a) One limited entry deer permit and one limited entry elk permit shall be offered through the drawing for each 250 permits received by the Division in accordance with Subsection (1).

(b) The eligible participants and limited entry permits shall be randomly drawn.

(c) The successful participant must meet all program requirements by June 1 for the current year in which the permit is valid before the issuance of the permit.

(d) If the successful participant fails to fulfill program requirements by June 1, the permit may be issued to the next participant on the alternate drawing list as provided in Rule R657-42.

(3) The drawing results may be posted at division offices and on the division Internet address on the date published in the Bucks, Bulls and Once-In-A-Lifetime Proclamation of the Wildlife Board for taking big game.

(4)(a) The successful participant shall be notified by mail.

(b) The successful participant must submit the appropriate limited entry fee within ten business days of the date on the notification letter.

(c) If the successful participant fails to submit the required limited entry permit fee, the permit may be issued to the next participant, who would have drawn the permit, in accordance with Rule R657-42.

(5)(a) The Limited Entry Dedicated Hunter Permit allows the recipient to take only the species for which the permit is issued.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(e) The recipient of a limited entry deer or elk permit is subject to all of the provisions of Title 23, Wildlife Resources Code, and the rules and proclamations of the Wildlife Board for taking and pursuing wildlife.

(f) Bonus points shall not be awarded or utilized when applying for or obtaining Limited Entry Dedicated Hunter permits.

(g) Any participant who obtains a Limited Entry Dedicated Hunter Permit is not subject to the waiting periods set forth in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

KEY: wildlife, hunting, recreation, wildlife conservation
Date of Enactment or Last Substantive Amendment: ~~January 18, 2006~~ 2007

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-14-18

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Natural Resources, Wildlife Resources **R657-42** Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29330

FILED: 12/14/2006, 18:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to fees, exchanges, surrenders refunds and reallocation of permits and other documents.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule adjust Section R657-42-4 to define a Cooperative Wildlife Management Unit (CWMU) season opening date as the first date provided to a hunter by the CWMU operator, and clarify Section R657-42-11 to reflect the change in Section R657-42-4.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-19-1 and 23-19-38

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments define and clarify the season opening date for CWMU hunts. Therefore, DWR determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget

❖ LOCAL GOVERNMENTS: Since the amendments define and clarify the season opening date for CWMU hunts, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: These amendments define and clarify the season opening date for CWMU hunts. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification, thus DWR determined that there were 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. Michael R. Styler, Executive Director

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:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-42. Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents.

R657-42-4. Surrenders.

(1) Any person who has obtained a wildlife document and decides not to use it, may surrender the wildlife document to any division office.

(2) Any person who has obtained a wildlife document may surrender the wildlife document prior to the season opening date of the wildlife document for the purpose of:

(a) waiving the waiting period normally assessed and reinstating the number of bonus points, including a bonus point for the current year as if a permit had not been drawn, if applicable;

(b) reinstating the number of preference points, including a preference point for the current year as if a permit had not been drawn, if applicable; or

(c) purchasing a reallocated permit or any other permit available for which the person is eligible.

(3) A CWMU permit must be surrendered ~~[before the following dates]~~ prior to the applicable season opening date provided by the CWMU operator, except as provided in Section R657-42-11]:

~~(a) the opening date for the respective general archery season for buck deer, bull elk or spike bull elk;~~

~~(b) September 1 for pronghorn and moose;~~

~~(c) August 15 for antlerless deer and elk;~~

~~(d) prior to the applicable season date for small game and waterfowl; and~~

~~(e) prior to the applicable season date of any variance approved by the Wildlife Board in accordance with Rules R657-21 and R657-37].~~

(4) Dedicated hunter participants must surrender their permits prior to the general archery deer season, except as provided in Section R657-38-6.

(5) The division may not issue a refund, except as provided in Section R657-42-5.

R657-42-11. Surrender of Cooperative Wildlife Management Unit or Limited Entry Landowner Permits.

(1) A person who has obtained a CWMU or limited entry landowner permit may surrender the permit after the ~~[deadlines]~~ deadline provided in ~~[Subsections]~~ Subsection R657-42-4(3) ~~(a), (b), and (c)]~~ for CWMU permits and after the season opening date for limited entry landowner permits for the purpose of:

(a) death in accordance with Section 23-19-38, Subsection (2) and Section R657-42-5(4);

(b) injury or illness in accordance with Section 23-19-38 and Subsection (2);

(c) deployment or mobilization in the interest of national defense or national emergency in accordance with Section 23-19-38.2 and Subsection (2); or

(d) an error occurring in issuing the permit in accordance with Subsection (2) and Rule R657-50.

(2)(a) The permittee and the landowner association operator must sign an affidavit stating that the permittee has not participated in any hunting activity.

(b) The permittee and landowner association operator signatures must be notarized.

(c) The affidavit and unused permit must be submitted to the division.

(3)(a) The division may reissue a voucher to a landowner association operator, or reallocate a surrendered permit in accordance with Section 23-19-38 and as provided in Subsections (b) and (c).

(b) The division may reallocate a surrendered permit:

(i) originally issued by the division through the big game drawing process in accordance with Section R657-42-6; or

(ii) originally issued by the division through a voucher redemption in the form of a new voucher issued to the landowner association operator.

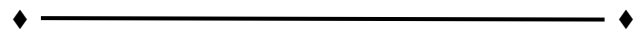
(c) Reissuance of vouchers or reallocation of permits under this section may only occur in the year in which the surrendered permit was valid.

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: ~~January 18, 2006~~ 2007

Notice of Continuation: May 14, 2003

Authorizing, and Implemented or Interpreted Law: 23-19-1; 23-19-38; 23-19-38.2



Natural Resources, Wildlife Resources **R657-49** Big Game Conservation Easements on Former School Trust Lands

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 29349

FILED: 12/15/2006, 15:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was created to establish how the Division of Wildlife Resources (DWR) would use legislative appropriations specified for big game conservation easements on lands disposed of by the Utah School and Institutional Trust Lands Administration. Because there have not been any such appropriations in recent years, and because DWR does not foresee and such appropriations in the near future, the administrative rule is not necessary at this time. DWR wishes to repeal Rule R657-49.

SUMMARY OF THE RULE OR CHANGE: This rule was created to establish how DWR would use legislative appropriations specified for big game conservation easements on lands disposed of by the Utah School and Institutional Trust Lands Administration. Because there have not been any such appropriations in recent years, and because DWR does not foresee and such appropriations in the near future, the administrative rule is not necessary at this time. This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The rule has served this purpose and is no longer needed. DWR determines that there are no cost or savings impacts to the state budget or DWR's budget associated with repealing this rule.

❖ **LOCAL GOVERNMENTS:** The repealing of this rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This rule was created to establish how DWR would use legislative appropriations specified for big game conservation easements on lands disposed of by the Utah School and Institutional Trust Lands Administration. The rule has served this purpose and is no longer needed, resulting in the repeal of this rule. The repealing of this rule does not impose any requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule was created to establish how DWR would use legislative appropriations specified for big game conservation easements on lands disposed of by the Utah School and Institutional Trust Lands Administration. The rule has served this purpose and is no longer needed, resulting in the repeal of this rule. DWR determines that there are no compliance costs associated with repealing this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Repealing this rule will not create an impact on business. Michael R. Styler, Executive Director

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:

Robin Thomas at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at robinthomas@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**~~R657-49. Big Game Conservation Easements on Former School Trust Lands.~~****~~R657-49-1. Purpose and Authority.~~**

~~— This rule establishes how the Division of Wildlife Resources shall use Legislative appropriations specified for big game conservation easements on lands disposed of after July 1, 2001, by the School and Institutional Trust Lands Administration.~~

~~R657-49-2. Definitions.~~

~~— (1) "Big game habitat interest" means land and habitat of sufficient big game management value that the Division may work to secure a conservation easement on the property, using funds appropriated specifically for this purpose.~~

~~— (2)(a) "Conservation easement" means a recorded deed conveying partial property rights, as defined in the Land Conservation Easement Act, Section 57-18-1 through Section 57-18-7.~~

~~— (b) For the purposes of this rule, conservation easements shall convey or restrict one or more rights, including but not limited to:~~

~~— (i) grazing management;~~

~~— (ii) range management;~~

~~— (iii) timber management;~~

~~— (iv) building and development;~~

~~— (v) aquatic and terrestrial habitat restoration or improvement;~~

~~— (vi) surface disturbance;~~

~~— (vii) hunting and fishing;~~

~~— (viii) commercial activities;~~

~~— (ix) game farming;~~

~~— (x) public access; or~~

~~— (xi) alternative land uses.~~

~~— (e) The Division or its designee shall hold the easement.~~

~~— (3) "Criteria" mean the specific attributes by which the Division will rank competing proposals for the same tract of property, if more than one qualifying proposal is submitted for that tract, which the Division identifies as a priority big game habitat interest.~~

~~— (4) "Proposal" means a printed document, signed by the proponent, in which the tax paying private party identifies specific tracts they would purchase at a proposed price, if the Division were to secure a big game conservation easement on those tracts.~~

~~— (5) "SITLA" means School and Institutional Trust Lands Administration.~~

~~R657-49-3. Public Notification and Request for Partnership Proposals.~~

~~— (1) The Division may seek partnerships with parties that, as the owner of the fee interest in qualifying lands encumbered by a Conservation Easement under this rule, shall be subject to real estate property tax.~~

~~— (2) A broadly distributed legal notice inviting proposals shall be published in newspapers of general circulation throughout the state.~~

~~— (3) To further advertise this opportunity to benefit from public funds, the notice may be presented once annually at a Wildlife Board meeting.~~

~~R657-49-4. Division Determination of Big Game Habitat Interests.~~

~~— The Division shall determine and evaluate as provided in Section R657-49-6, within the Division's budget, big game habitat~~

~~interests on lands disposed of, or to be disposed of, by SITLA. Nothing in this rule affects any authority held by SITLA or their Board of Trustees.~~

~~R657-49-5. Specific Properties – Habitat Council Review – Director's Approval.~~

~~— (1) In the event the Division determines a big game habitat interest on lands disposed of by SITLA, the Division shall evaluate the potential to use specific appropriations for conservation easements.~~

~~— (2) The Division may seek Habitat Council review and recommendation prior to the Director's decision of whether to pursue a particular conservation easement.~~

~~R657-49-6. Criteria – Basis for Award.~~

~~— (1) In the event two or more applicants submit qualifying proposals for the same tract holding big game habitat interests, the criteria provided in Subsection (a) through Subsection (f) shall be used to evaluate which, if any, proposal may be accepted:~~

~~— (a) demonstrated conservation ethic by proponent;~~

~~— (b) demonstrated experience managing rangeland to benefit wildlife;~~

~~— (c) ownership of adjacent or adjoining rangelands;~~

~~— (d) acceptance of easement restrictions and conditions that offer the greatest habitat protection and enhancement opportunities for big game and other wildlife species;~~

~~— (e) acceptance of easement conditions that afford public access to the property for outdoor recreational opportunities;~~

~~— (f) cost of acquiring the easement; and~~

~~— (g) resource conflicts or benefits associated with surrounding landowners.~~

~~R657-49-7. Basis of Valuation – Handling of Payments.~~

~~— (1) For purposes of this rule, the Division shall buy and sell property on the basis of privately prepared, market based, self-contained appraisal reports, which meet Uniform Standards of Professional Appraisal Practice guidelines and are subject to professional appraisal review by a second private appraiser.~~

~~— (2) The Division typically shall not purchase a conservation easement pursuant to this rule at a value in excess of its appraised value, except as that appraised value may be adjusted by the original appraiser following appraisal review. The Wildlife Board may approve exceptions to this practice in special circumstances where sufficient rationale is provided.~~

~~— (3) In the event the proponent bids and pays a sum in excess of the negotiated purchase price for the entire fee simple estate, without the conservation easement encumbrance, the excess funds will be transferred to SITLA at closing.~~

~~R657-49-8. Reporting of Results.~~

~~— The Division may report annual partnership program success to the Wildlife Board during the meeting at which public notice is given of the subsequent year's request for proposals.~~

KEY: wildlife, big game conservation easements

Date of Enactment or Last Substantive Amendment: February 26, 2002

Authorizing, and Implemented or Interpreted Law: 23-14-19; 57-18-2]

◆ ————— ◆

Tax Commission, Administration
R861-1A-19
Definition of Bond Pursuant to Utah
Code Ann. Section 59-1-505

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29324
 FILED: 12/14/2006, 15:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: 2005 legislation (S.B. 170) repealed Section 59-1-505 and placed all bond requirements in other sections of the tax code. (DAR NOTE: S.B. 170 is found at Chapter 198, Laws of Utah 2005, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This section is proposed to be deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-505

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: S.B. 170 (2005) made statutory changes to bonding provisions for sales, withholding, and fuels taxes licenses. Any impacts would have been taken into account in that legislation.
- ❖ LOCAL GOVERNMENTS: S.B. 170 (2005) made statutory changes to bonding provisions for sales, withholding, and fuels taxes licenses. Any impacts would have been taken into account in that legislation.
- ❖ OTHER PERSONS: S.B. 170 (2005) made statutory changes to bonding provisions for sales, withholding, and fuels taxes licenses. Any impacts would have been taken into account in that legislation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed deletion of this section has no impact since all provisions relating to bonding for sales, withholding, and fuels tax licenses were codified in 2005.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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 clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.

~~[R861-1A-19. Definition of Bond Pursuant to Utah Code Ann. Section 59-1-505.~~

~~A. The bond that a taxpayer may deposit with the Tax Commission pursuant to Section 59-1-505 shall consist of one of the following:~~

- ~~1. a surety bond;~~
- ~~2. an assignment of savings account; or~~
- ~~3. an assignment of certificate of deposit.~~

]KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: [September 15, 2006]2007

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: [59-1-505]



Tax Commission, Auditing
R865-6F-30
Higher Education Savings Incentive
Program Tax Deduction Pursuant to
Utah Code Ann. Sections 53B-8a-112,
59-7-105, and 59-7-106

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29323
 FILED: 12/14/2006, 12:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent legislation has changed terminology, and the rule is brought into line with practice.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment replaces terms that have been updated by statute; and repeals a requirement to include income earned on the account owner's contribution to the trust on the form since that has never been on the form.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 53B-8a-112; 59-7-105

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed amendment makes no substantive changes to current practice.
- ❖ LOCAL GOVERNMENTS: None--The proposed amendment makes no substantive changes to current practice.
- ❖ OTHER PERSONS: None--The proposed amendment makes no substantive changes to current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment does not impact current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs.
D'Arcy Dixon, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.**R865-6F. Franchise Tax.****R865-6F-30. Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112, 59-7-105, and 59-7-106.**

~~[A-](1)~~ "Trust" means the Utah Educational Savings Plan Trust created pursuant to Section 53B-8a-103.

~~[B-](2)~~ The trustee of the trust shall file a form TC-675H, Statement of Account with the Utah Educational Savings Plan Trust, with the commission, for each trust ~~[participant]~~ account owner. The TC-675H shall contain the following information for the calendar year:

~~[1-](a)~~ the amount contributed to the trust by the ~~[participant]~~ account owner; and

~~[2- the income earned on the participant's contributions to the trust; and~~

~~— [3-](b)~~ the amount ~~[refunded]~~ disbursed to the ~~[participant]~~ account owner pursuant to Section 53B-8a-109.

~~[C-](3)~~ The trustee of the trust shall file form TC-675H with the commission on or before January 31 of the year following the calendar year on which the forms are based.

~~[D-](4)~~ The trustee of the trust shall provide each trust ~~[participant]~~ account owner with a copy of the form TC-675H on or

before January 31 of the year following the calendar year on which the TC-675H is based.

~~[E-](5)~~ The trustee of the trust shall maintain original records supporting the amounts listed on the TC-675H for the current year filing and the three previous year filings.]

~~— F. Trust participants must attach a copy of the TC-675H to their state tax return to qualify for the deduction allowed under Section 59-7-106.]~~

KEY: taxation, franchises, historic preservation, trucking industries

Date of Enactment or Last Substantive Amendment: ~~[November 17, 2006]~~ 2007

Notice of Continuation: April 3, 2002

Authorizing, and Implemented or Interpreted Law: 53B-8a-112, 59-7-105, and 59-7-106



Tax Commission, Auditing **R865-9I-32**

Confidentiality of Return Information, Penalties, and Exchange of Information With the Internal Revenue Service or Governmental Units Pursuant to Utah Code Ann. Section 59-10-545

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29320

FILED: 12/13/2006, 16:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: 2006 legislation (S.B. 171) repealed Section 59-10-545; in addition the repealed language is currently embodied in Section 59-1-403. (DAR NOTE: S.B. 171 is found at Chapter 55, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: This subsection is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-545

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--S.B. 171 (2006) deleted tax return confidentiality language that was embodied in Section 59-1-403.
- ❖ LOCAL GOVERNMENTS: None--S.B. 171 (2006) deleted tax return confidentiality language that was embodied in Section 59-1-403.
- ❖ OTHER PERSONS: None--S.B. 171 (2006) deleted tax return confidentiality language that was embodied in Section 59-1-403.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no impact since the repealed rule language currently resides in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.

R865-91. Income Tax.

~~**[R865-91-32. Confidentiality of Return Information, Penalties, and Exchange of Information With The Internal Revenue Service or Governmental Units Pursuant to Utah Code Ann. Section 59-10-545.**~~

~~— A. The amount of income and other particulars disclosed by a taxpayer on his return or report required under the act is strictly confidential and except in accordance with proper judicial order, or as otherwise provided by law, may not be divulged.~~

~~— B. A taxpayer, properly identified, may inspect his own return. He may also authorize to the satisfaction of the Tax Commission, an agent to represent him and inspect his returns. Such authorization must be in writing and may be limited or of a continuing nature as specified. A fee may be charged for furnishing copies of returns or reports by the Tax Commission.~~

~~— C. Officers of the United States Internal Revenue Service, upon being properly identified as such, may be granted permission to inspect the returns or reports on file under this chapter for the purpose of administering the federal tax law. All information, so obtained, must be used in the strictest confidence for tax administration only.~~

[KEY: historic preservation, income tax, tax returns, enterprise zones

Date of Enactment or Last Substantive Amendment: [July 20, 2005]2007

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: [59-10-545]

◆ ————— ◆

Tax Commission, Auditing
R865-91-49

**Higher Education Savings Incentive
Program Tax Deduction Pursuant to
Utah Code Ann. Sections 53B-8a-112
and 59-10-114**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29315

FILED: 12/13/2006, 15:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent legislation has changed terminology, and the rule is brought into line with practice.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment replaces terms that have been updated by statute; and repeals a requirement to include income earned on the account owner's contribution to the trust on the form since this has never been on the form.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53B-8a-112 and 59-10-114

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed amendment makes no substantive changes to current practice.
- ❖ LOCAL GOVERNMENTS: None--The proposed amendment makes no substantive changes to current practice.
- ❖ OTHER PERSONS: None--The proposed amendment makes no substantive changes to current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment does not impact current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs. D'Arcy Dixon, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.

R865-91. Income Tax.

R865-91-49. Higher Education Savings Incentive Program Tax Deduction Pursuant to Utah Code Ann. Sections 53B-8a-112 and 59-10-114.

~~[A-](1)~~ "Trust" means the Utah Educational Savings Plan Trust created pursuant to Section 53B-8a-103.

~~[B-](2)~~ The trustee of the trust shall file a form TC-675H, Statement of Account with the Utah Educational Savings Plan Trust, with the commission, for each trust ~~[participant]~~ account owner. The TC-675H shall contain the following information for the calendar year:

~~[+](a)~~ the amount contributed to the trust by the ~~[participant]~~ account owner; and

~~[2-]~~ ~~the income earned on the participant's contributions to the trust; and~~

~~3-](b)~~ the amount ~~[refunded]~~ disbursed to the ~~[participant]~~ account owner pursuant to Section 53B-8a-109.

~~[C-](3)~~ The trustee of the trust shall file form TC-675H with the commission on or before January 31 of the year following the calendar year on which the forms are based.

~~[D-](4)~~ The trustee of the trust shall provide each trust ~~[participant]~~ account owner with a copy of the form TC-675H on or before January 31 of the year following the calendar year on which the TC-675H is based.

~~[E-](5)~~ The trustee of the trust shall maintain original records supporting the amounts listed on the TC-675H for the current year filing and the three previous year filings.

KEY: historic preservation, income tax, tax returns, enterprise zones

Date of Enactment or Last Substantive Amendment: ~~[July 20, 2005]~~ 2007

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: 53B-8a-112; 59-10-114



Tax Commission, Auditing

R865-91-52

Subtractions For Health Care Insurance and For Premiums for Long-term Care Insurance Pursuant to Utah Code Ann. Section 59-10-114

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29314

FILED: 12/13/2006, 14:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Income tax deductions for health care and long-term care insurance may be deducted only to the extent the amounts were included in federal adjusted gross income. Since these two deductions are aggregated with other amounts and the aggregate must reach a certain level before a federal deduction is allowed, it is unclear what amounts are included in federal adjusted gross income.

SUMMARY OF THE RULE OR CHANGE: The proposed change indicates that the income tax deductions for health care insurance and long-term care insurance shall be calculated in a manner to maximize the deduction.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-114

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed rule mirrors Tax Commission practice.
- ❖ LOCAL GOVERNMENTS: None--The proposed rule mirrors Tax Commission practice.
- ❖ OTHER PERSONS: None--The proposed rule mirrors Tax Commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed rule, which mirrors Tax Commission practice, ensures that taxpayers will receive the maximum income tax deduction for the health care insurance and long-term care insurance deductions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner



R865. Tax Commission, Auditing.**R865-91. Income Tax.****R865-91-52. Subtractions For Health Care Insurance and For Premiums For Long-Term Care Insurance Pursuant to Utah Code Ann. Section 59-10-114.**

A subtraction from federal taxable income under Subsection 59-10-114(2) for health care insurance and for premiums for long-term care insurance shall be determined in the manner that provides the greatest possible subtraction under Subsection 59-10-114(2).

KEY: historic preservation, income tax, tax returns, enterprise zones

Date of Enactment or Last Substantive Amendment: ~~July 20, 2005~~ 2007

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: 59-10-114



Tax Commission, Auditing
R865-20T-12
 Definition of Counterfeit Tax Stamp
 Pursuant to Utah Code Ann. Section
 59-14-102

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29325

FILED: 12/14/2006, 15:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment defines a currently undefined statutory term.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides that a re-used cigarette stamp is a counterfeit stamp.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-14-102

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The proposed amendment clarifies current practice.
- ❖ **LOCAL GOVERNMENTS:** None--The proposed amendment clarifies current practice.
- ❖ **OTHER PERSONS:** None--The proposed amendment clarifies current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment clarifies current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs.
 D'Arcy Dixon, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.****R865-20T. Tobacco Tax.****R865-20T-12. Definition of Counterfeit Tax Stamp Pursuant to Utah Code Ann. Section 59-14-102.**

"Counterfeit tax stamp." for purposes of the definition of a counterfeit cigarette in Section 59-14-102, includes a cigarette stamp that has previously been affixed to a pack of cigarettes.

KEY: taxation, tobacco products

Date of Enactment or Last Substantive Amendment: ~~September 4, 2002~~ 2007

Notice of Continuation: April 17, 2002

Authorizing, and Implemented or Interpreted Law: 59-14-102



Transportation, Motor Carrier
R909-1-1
 Adoption of Federal Regulations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29338

FILED: 12/15/2006, 12:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to correct a citation of 380.203(2) to read 380.203(a)(2); and to adopt 395.1(n) allowing utility service drivers to restart the 60/70 hour rule after having 24 consecutive hours off.

SUMMARY OF THE RULE OR CHANGE: This amendment corrects a citation of 380.203(2) to read 380.203(a)(2); and adopts 395.1(n) allowing utility service drivers to restart the 60/70 hour rule after having 24 consecutive hours off.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-9-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR 350 through 399 and Part 40, except for Parts 391.11(b)(1), 391.49, 395.1(k), 395.1(l), and 395.1(m) (October 1, 2006)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The state will not have to take any additional measures in order to carry out this rule; therefore, there should be no cost or savings.
- ❖ LOCAL GOVERNMENTS: This rule does not apply to local governments; therefore, they will have no costs or savings.
- ❖ OTHER PERSONS: Utility service companies will save money because the 60/70 hour rule change will keep them from having to hire more drivers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Utility service companies will save money because the 60/70 hour rule change will keep them from having to hire more drivers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Utility service companies will save money because the 60/70 hour rule change will keep them from having to hire more drivers. Otherwise, there will be no effect on business. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: John R. Njord, Executive Director

**R909. Transportation, Motor Carrier.
R909-1. Safety Regulations for Motor Carriers.
R909-1-1. Adoption of Federal Regulations.**

(1) Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 399 and Part 40, ~~as contained in the April 1, 2005~~ as contained in the October 1, 2006 Code of Federal Regulations, is incorporated by reference, except for Parts 391.11(b)(1), 391.49, 395.1(k), 395.1(l), and 395.1(m), ~~and 395.1(n).~~ These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5, excluding

commercial motor vehicles which are designed or used to transport more than 8 and less than 15 passengers (including the driver) for compensation and UCA 72-9-102(2) engaged in commerce. [

~~(2) In the instance of a driver who is used primarily in the transportation of construction materials and equipment, as defined under 395.2, to and from an active construction site, any period of 7 or 8 consecutive days may end with the beginning of any off duty period of 34 or more successive hours.]~~

~~(3)2~~ Intrastate trucking operations in which the carriers operate double trailer combinations only are not required to comply with 49 CFR Part 380.203(a)(2).

~~(4)3~~ Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, UCA 53-3-303.5 for intrastate drivers under R708-34.

~~(5)4~~ Drivers involved wholly in intrastate commerce shall be at least 18 years old. However, if they are transporting placarded amounts of hazardous materials or carrying 16 or more passengers, including the driver, they must be 21 years old. [

~~(6) Drivers involved in interstate commerce shall be at least 21 years old.]~~

KEY: trucks, transportation safety, implements of husbandry
Date of Enactment or Last Substantive Amendment: ~~November 4, 2005~~2007
Notice of Continuation: November 29, 2006
Authorizing, and Implemented or Interpreted Law: 72-9-103; 72-9-104; 72-9-101; 72-9-301



Transportation, Motor Carrier
R909-19
Safety Regulations for Tow Truck
Operations - Tow Truck Requirements
for Equipment, Operation, and
Certification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 29341
FILED: 12/15/2006, 13:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify definitions, insurance requirements on stored vehicles, update websites, add fuel surcharges, and establish types of lights on towing vehicles.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies definitions and insurance requirements on stored vehicles, updates websites, adds fuel surcharges, and establishes types of lights on towing vehicles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-9-603

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There should be no cost to the state since the rule will not cause an increase in regulatory oversight.
- ❖ LOCAL GOVERNMENTS: The rule does not apply to local governments, so there will be no costs to them.
- ❖ OTHER PERSONS: Due to the overall increase in fuel costs, a fuel surcharge is allowed. This increase will cost the consumer an additional 10% for every \$0.50 above \$2.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Due to the overall increase in fuel costs, a fuel surcharge is allowed. This increase will cost the consumer an additional 10% for every \$0.50 above \$2. Additionally, the industry may face additional costs if they need to increase insurance requirements or use different lights. It is impossible to estimate how much this might cost each individual company.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The additional fuel surcharge is justified due to the general increase in fuel costs over the last several months. Also, the insurance and lighting requirements are needed to increase public safety. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: John R. Njord, Executive Director

R909. Transportation, Motor Carrier.**R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification.**
R909-19-1. Authority.

This rule is enacted under the authority of Sections ~~[72-9-601, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, 41-6-102, Utah Code.~~

R909-19-2. Applicability.

All tow trucks motor carriers and employees must comply and observe all rules, regulations, traffic laws and guidelines as prescribed by State Law and 49 CFR Part 350 - 399, hereby incorporated by

reference in accordance with Sections 41-6-101, 41-6-102, 41-6-104, 72-9-301, 72-9-303, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, 72-9-703, and 72-9-703, Utah Code.]

~~— (3) The automatic certifications of drivers and Tow Truck Motor Carriers and Equipment expire either when the biannual certification is issued or when the Department issues a notice to the Tow Truck Motor Carrier that it is not eligible for a biannual certification due to violations of any law, any permits issued by the Department, or materials incorporated with those permits.]~~

R909-19-3. Definitions.

(1) "Consent Tow" means any tow truck service that is done at the vehicle, vessel, or outboard motor owner's, or it's legal operator's, knowledge and/or approved.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(5) "Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(6) "Non-Consent ~~[Public]Police Generated~~ Tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102.

(7) "Non-consent ~~[Private]Non Police Generated~~ Tow" means towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(8) "Recovery Operation" means a towing service that may require charges in addition to the normal one-truck/one-driver towing service requirements. The additional charges may include charges for manpower, extra equipment, traffic control, and special recovery equipment and supplies.

(9) "Tow Truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damage[s]d, disabled, abandoned, seized, repossessed or impounded vehicles from highway or other place ~~[an]~~by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(10) "Tow Truck Certification Program" means a program to authorize and approve tow truck motor carrier owners, ~~and~~ operators, and vehicles is the process by which the Department, acting under Section 72-9-602, Utah Code, shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(11) "Tow Truck Motor Carrier" means any company that provides for-hire, private, salvage, or repo towing services. It includes the company's agents, officers, and representatives as well as employees responsible for hiring, training, supervisory, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance o[~~f~~] equipment and/or accessories.

(12) "Tow Truck Service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(a) Tow Truck Service, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Tow Vehicle Classifications will be used when determining authorized fees. Information regarding the (GVWR) to determine classification category of towed vehicle can be found on the identification plate on the vehicle driver side doorframe. Towed vehicle classifications are as follows:

(1) "Light Duty" means any towed vehicle with a (GVWR) 10,000 pounds or less;

(2) "Medium Duty" means any towed vehicle with a (GVWR) between 10,001 and 26,000 pounds;

(3) "Heavy Duty" means any towed vehicle with a (GVWR) or (GCWR) 26,001 pounds and greater.

(13) "Tow Truck Motor Carrier Steering Committee" means a committee established by the Motor Carrier Division [~~Administrator~~] and will include enforcement personnel, industry representatives and other persons as deemed necessary.

R909-19-5. Insurance.

All tow trucks will be required to carry at least \$750,000 of insurance minimum liability plus the MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers. Evidence of required insurance will be maintained at the principal place of business and made available to the Department and/or investigator upon request and prior to tow truck carrier certification. The Tax Commission requires all Tow Yards to carry insurance on stored vehicles.

R909-19-9. Certification.

There are three (3) required certification requirements required by the Department, they are as follows:

(1) Tow Truck Driver Certification:

(a) Effective July 1, 2004 all tow truck drivers will be tested and certified in accordance with National Driver Certification Procedure (NDCP) standards. These standards of conduct and proficiency may be tested and certified through:

(i) Towing and Recovery Association of America (TRAA) Testing Program;

(ii) Wreckmaster Certification Program;

(iii) AAA Certification Program

(iv) Other driver testing certification programs may be approved by the Department to meet certification requirements however; the Tow Truck Motor Carrier must obtain prior approval in writing from the Motor Carrier Division Administrator or Division representative by calling (801) 965-4559.

(b) Information on the above mentioned certification programs may be obtained by contacting the Motor Carrier Division at (801) 965-4559.

(c) Tow Truck Motor Carriers shall ensure that all driver's are:

(i) Properly trained to operate tow truck equipment;

(ii) Licensed, as required under UCA 53-3-101, Uniform Driver License Act; and

(iii) Property certified.

(2) Tow Truck Vehicle Certification:

(a) All tow trucks shall be inspected and certified biannually;

(b) All tow trucks must be equipped with required safety equipment. Safety Equipment List can be found at <http://www.udot.utah.gov/poe/laws/safetysafetyequipment> <http://www.udot.utah.gov/index.php/m=c/tid=396> or by calling 801-965-3871.

(c) Upon certification of vehicle a UDOT safety sticker will be issued and shall be affixed on the driver's side rear window.

(d) Documentation of UDOT vehicles inspection certification shall be kept in the vehicle file and available upon request by Department personnel.

(3) Tow Truck Motor Carrier Certification:

(a) Tow Truck Motor Carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, and local laws where applicable.

R909-19-12. Maximum Towing Rates. [~~Public~~]-Non-Consent Tows.

(1) \$110 per hour, per unit, when towing a "Light Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(2) \$200 per hour, per unit, when towing a "Medium Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(3) \$250 per hour, per unit, when towing a "Heavy Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F and the tow truck operator is hazardous material certified as outlined in the Utah Regulations for Towing Operations and Certification Manual.

(4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will therefore be in possession of the vehicle.

(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, which is in question, is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.

(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, which is in question, is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(5) As fuel increases .50 per gallon from the base rate of \$2.00, a surcharge shall be allowed of 10% of the base rate. Conversely, if prices drop, they will decrease by the same amount.

TABLE

(a) Fuel Surcharge	
Fuel Cost	Surcharge
\$2	0%
\$2.50	10%
\$3	20%
\$3.50	30%
\$4	40%
\$4.5	50%
\$5	60%
etc.	

(6[5]) Recovery charges, as defined by R909-19-3, shall be coordinated with the towed vehicle owner prior to initiating the additional charges relating the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the tow vehicle owner and Tow Truck Motor Carrier.

(7[6]) Pursuant to Utah Code Ann. Section 72-9-603(3), it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(8[7]) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances. Tow Truck Lighting 41-6a-161. Strobe lights are not allowed on Tow Trucks. The acceptable light colors are orange and yellow.

R909-19-13. Maximum [Private-]Non-Consent Impoundment Rates.

- (1) The maximum rate for a "Light Duty" vehicle is \$110.
- (2) The maximum rate for a "Medium Duty" vehicles is \$200.
- (3) The maximum rate for a "Heavy Duty" vehicle is \$250.
- (4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will therefore be in possession of the vehicle.

(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, which is in question, is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.

(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, which is in question, is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(5) Pursuant to Utah Code Ann. Section 72-9-603(3), it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(6) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances.

R909-19-14. Maximum Storage Rates. [Public/Private-]Non-Consent Tows.

(1) \$15 Maximum per day, per unit, for outside storage of "Light Duty" vehicles;

(2) \$20 Maximum per day, per unit may be charged for inside storage of "Light Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(3) \$35 Maximum per day, per unit for outside storage of "Medium/Heavy Duty" vehicles;

(4) \$70 Maximum per day, per unit may be charged for inside storage of "Medium/Heavy Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(5) \$100 Maximum per day, per unit for outside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(6) \$150 Maximum per day, per unit may be charged for inside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F, only at the owner's request, or at the order of a law enforcement agency or highway authority.

(7) Pursuant to Utah Code Ann. Section 72-9-603(3), it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(8) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.

KEY: safety regulations, trucks, towing, certifications

Date of Enactment or Last Substantive Amendment: [September 3, 2003]2007

Notice of Continuation: September 25, 2006

Authorizing, and Implemented or Interpreted Law: 41-6-101; 41-6-102; 41-6-104; 53-1-106; 53-8-105; 63-38-3.2; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703



Transportation, Motor Carrier **R909-75** Adoption of Federal Regulations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29339

FILED: 12/15/2006, 13:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the incorporation to the October 2006 version of the Code of Federal Regulations (CFR).

SUMMARY OF THE RULE OR CHANGE: The incorporation contains clarified definitions, corrections to the hazmat table, and amendments of references.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-91-103

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 49 CFR Subchapter C, Parts 100 through 180 (October 1, 2006)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The changes in the federal regulation that are incorporated here are not expected to lead to additional activity for the state; therefore, there should be no increase in costs or a savings.

❖ LOCAL GOVERNMENTS: This rule does not apply to local governments; therefore, there will be no costs or savings to them.

❖ OTHER PERSONS: The changes will not affect the regulation of industries in Utah to a point that will increase or decrease costs of the industry or others.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes will not affect the regulation of industries in Utah to a point that will increase or decrease costs of the industry or others.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes will not affect the regulation of industries in Utah to a point that will increase or decrease costs of the industry or others. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: John R. Njord, Executive Director

R909. Transportation, Motor Carrier.

R909-75. Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes.

R909-75-1. Adoption of Federal Regulations.

Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes, 49 CFR, Sub-Chapter C, Parts 100 through 180, ~~of the October 1, 2006 edition~~ ~~[of the April 1, 2005 edition]~~ of the Code of Federal Regulations, are incorporated by reference. These changes apply to all private, common, and contract carriers by highway in commerce.

KEY: hazardous materials transportation, hazardous substances, hazardous waste, safety regulations

Date of Enactment or Last Substantive Amendment: ~~November 4, 2005~~ **2007**

Notice of Continuation: November 29, 2006

Authorizing, and Implemented or Interpreted Law: 72-9-103; 72-9-104

◆ ————— ◆

Transportation, Operations, Traffic and Safety

R920-50-1

Utah Ropeway Rules for Passenger Ropeways

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29340

FILED: 12/15/2006, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the incorporation of standards and update internal references.

SUMMARY OF THE RULE OR CHANGE: This rule amendment updates the incorporation of national standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-11-201

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ANSI B77.1 (2006)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The rule will not increase the costs for the state's regulatory program as it only updates references and incorporated standards.

❖ LOCAL GOVERNMENTS: This rule does not apply to local governments; therefore, they should have no costs.

❖ OTHER PERSONS: The rule should not increase costs for other persons because it is only an update of references and standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule should not increase costs for other persons because it is only an update of references and standards.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule should not increase costs for other persons because it is only an update of references and standards. John R. Njord, Executive Director

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@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 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: John R. Njord, Executive Director

R920. Transportation, Operations, Traffic and Safety.

R920-50. Ropeway Operation Safety Rules.

R920-50-1. Utah Ropeway Rules for Passenger Ropeways.

A. Introduction

These rules are issued pursuant to Utah Code Annotated, Section 72-11-210 to implement the Passenger Ropeway Safety Act, Utah Code Ann., Sections 72-11-201 et seq.

B. Governing Standard

1. The governing standards in Utah are the standards entitled "ANSI B-77.1, [~~1999~~2006]" and "ANSI B77.2, 2004" as modified by rule of the Committee. The standards are published by the American National Standards Institute, 1430 Broadway, New York, New York 10018. The ANSI B77.1 was approved by ANSI on [~~March 11, 1999~~April 17, 2006], and the ANSI B77.2 was approved by ANSI on December 31, 2003. Use of these standards are authorized by Section 72-11-201.

2. The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

C. Classification of Ropeways and Applicable Standards

1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1-D.1.b;

b. Existing ropeways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

c. Ropeway modifications shall meet the requirements of R920-50-2.F and R920-50-8.

2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

D. Inspections of Ropeways

1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

a. An annual general or pre-operational inspection of each passenger ropeway shall be made by a Ropeway Inspector prior to approval of any application for licensure. An operational inspection of each passenger ropeway may be made by a Ropeway Inspector at least once a year during the high-use season. For each passenger ropeway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report or request an exception from the Governing Standard and applicable Utah Ropeway Operations Safety Rules. In addition to the annual general, pre-operational, and

operational inspections, the Committee may order other inspections in accordance with Section 72-11-211;

b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

2. Requirement for one device that senses the position of the rope shall be installed on each sheave unit, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;

3. Requirements for audible warning devices, as specified by ANSI B77.1, 2.1.1.12, 3.1.1.12. These requirements shall be effective November 1, 2001;

4. Section 4.1.1.12 of the Governing Standard is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the ropeway. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the ropeway begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level. These requirements shall be effective November 1, 2001;

5. "Qualified personnel" as used in X.1.1.11 means a qualified engineer approved by the Committee. A "aerial tramway specialist" as used in 2.3.4, "aerial lift specialist" as used in 3.3.4 and 4.3.4, "surface lift specialist" as used in 5.3.4, and a "tow specialist" as used in 6.3.4 means a ropeway inspector approved by the Committee.

c. Grips, clips, hangars, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection c.

1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

2. Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

d. Wire rope inspection shall be performed according to [~~Section 7-4-1~~Annex A.4.1] of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.[4].

~~[E. Fire Detection~~

~~—All machine rooms that are in an enclosed structure located adjacent to the rope of the ropeway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.~~

~~[F]E. Conveyors Standards~~

1. Section [8] of the ANSI B77.1-[1999]2006 is modified by the following requirement:

a. ~~[Modifying the maximum conveyor speed requirements stated in 8.1.1.5, that maximum speed is 160 feet/minute.~~

~~—b.]~~ Loading and unloading areas requirements of [8.1.1.9]7.1.1.9 shall also accommodate the use of adaptive devices.

[e]b. "Qualified personnel" as used in [8.1.1.11]7.1.1.11 means a qualified engineer approved by the Committee. A "conveyor specialist" as used in [8.3.4]7.3.4 means a ropeway inspector approved by the Committee.

[d]c. Power units referred to in [8.1.2.1]7.1.2.1 may not have reverse capability.

[e]d. "Power supply cords" referred to in [8.2.1.5.5]7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

[f]e. The belt transition entry stop device referred to in [8.1.2.11.2]7.2.3.3 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

~~[g. A single operator, as referred to in 8.3.2.2 may not operate more than one conveyor.~~

~~—h. No bypass of circuits, as referred to in 8.3.2.5.9 is allowed.~~

~~[G]E. Dynamic Testing~~

1. Section X.3.3.1 is replaced with:

Foundations and structural, mechanical and electrical components shall be inspected regularly and kept in a state of good repair. The maintenance requirements of the designer or a Qualified Engineer (see X.1.6.2) shall be followed. Maintenance and testing logs shall be kept (see X.3.5.3).

2. Section X.3.3.1.2 is replaced with:

A written schedule for systematic dynamic testing shall be developed and followed. The schedule shall establish specific

frequencies and conditions for periodic testing. The owner shall provide Experienced personnel to develop and conduct the dynamic test. The testing shall simulate or duplicate inertial loadings. The test load shall be equivalent to the design live load. Dynamic testing shall be performed at intervals not exceeding 7 years. The testing requirements shall include, but not be limited to the following:

- a) braking systems;
- b) auxiliary power units;
- c) tension systems; and
- d) electrical systems.

~~[H]G. Tows.~~

[+] Section [6.1.2.11.2]6.2.3.2.b) is replaced with:

~~[Automatic stop device(s) shall be installed at each terminal and beyond each unloading area to stop the tow if actuated by a person's passage. For actuating devices of the suspended type, the suspended portion shall be strong enough to cause release of the actuating devices in use under the most adverse conditions, and each side shall be detachable and shall interrupt the operating circuit when detached. The device shall be in accordance with the following as applicable:~~

~~—(a) Intermediate unloading areas: Required only when passengers are not permitted beyond the intermediate unloading area;~~

~~—(b)—]Terminal areas: Installed on the incoming side so that the distance from the stop gate to the first obstruction is more than 150% of the distance required to stop the empty tow operating at maximum speed. The stop device shall extend across the tow beneath the incoming and outgoing rope;~~

~~[(c) Fiber rope tows: Additionally, at unloading areas a device shall encircle the incoming fiber rope.~~

~~[I]H. Air Space Requirements~~

ANSI B77.1 Section 2.1.1.[2]3, 3.1.1.[2]3, 4.1.1.[2]3, 5.1.1.[2]3, and 6.1.1.[2]3 and ANSI B77.2 section 2.1.1.2 shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the ropeway. These requirements are effective for ropeways or structures built after November 1, 2006.

KEY: transportation safety, tramways, ropeways, tramway permits

Date of Enactment or Last Substantive Amendment: [September 21, 2006]2007

Notice of Continuation: December 13, 2002

Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216; 63-46b-1 et seq.

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End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

Commerce, Real Estate **R162-202** Initial Application

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29316
FILED: 12/13/2006, 15:40

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-2c-103(3)(a) requires the Division of Real Estate to make rules for the administration of the chapter, including licensing procedures to individuals and entities and the establishment of branch offices by an entity.

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: Subsection 61-2c-103(3)(a) requires the Division to make rules on licensure procedures. The Division does not have the option of not having rules establishing licensure procedures. Therefore, this rule should be continued.

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

COMMERCE
REAL ESTATE
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:
Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 12/13/2006



Commerce, Real Estate **R162-203** Changes to Residential Mortgage Licensure Statement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29317
FILED: 12/13/2006, 15:40

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-2c-205 requires licensees to notify the Division of certain changes in their licensure. Subsection 61-2c-103(3)(a) requires the Division of Real Estate to make rules for the administration of the chapter, including licensing procedures for individuals and entities. Rule R162-203 provides procedures for reporting that various types of licensure changes to the Division.

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 Division is required by Subsection 61-2c-103(3)(a) to make rules for the administration of the chapter, including licensure procedures for individuals and entities. This rule helps to carry out that mandate. Therefore, this rule should be continued.

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

COMMERCE
 REAL ESTATE
 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:
 Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 12/13/2006



Commerce, Real Estate
R162-204
 Residential Mortgage Record Keeping Requirements

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29318
 FILED: 12/13/2006, 15:41

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-2c-103(3)(c) requires the Division of Real Estate to make rules for the administration of the chapter, including record-keeping requirements for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In early 2006, the Division received a comment suggesting that the entity licensee, as opposed to the individual licensee, should have the responsibility to maintain the business records for the statutorily required period. The Division agreed, and changed the rule accordingly, effective 04/05/2006.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Real Estate

is statutorily required to make rules including the record-keeping requirements for licensees. Therefore, this rule should be continued.

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

COMMERCE
 REAL ESTATE
 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:
 Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 12/13/2006



Commerce, Real Estate
R162-205
 Residential Mortgage Unprofessional Conduct

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29319
 FILED: 12/13/2006, 15:42

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 61-2c-103(3)(a)(d) requires the Division of Real Estate to make rules for the administration of the chapter, including standards of conduct for licensees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the process of amending Rule R162-205 to enact standards of conduct for mortgage loan officers who assist in real estate transactions other than by providing the mortgage loan, a number of comments were received. These comments ranged from those who felt that mortgage licensees should not be able to furnish any additional services at all to those who felt that mortgage licensees should be allowed to perform all of the services furnished by licensed real estate sales agents. The Division carefully considered these comments, held public hearings, and ultimately enacted standards of conduct that define what mortgage loan officers are permitted to do in the areas of providing comparative market analysis or helping a buyer to determine a purchase price, representing parties in

the negotiation of the transaction, and advertising properties for sale.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Real Estate is statutorily required to make rules for the administration of the licensing chapter, including the standards of conduct for licensees. Therefore, this rule should be continued.

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

AUTHORIZED BY: Derek Miller, Director

EFFECTIVE: 12/13/2006

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**Human Resource Management,
Administration
R477-14
Substance Abuse and Drug-Free
Workplace**

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

DAR FILE NO.: 29309
FILED: 12/06/2006, 09:46

**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 implements five sections of Utah Code that govern illegal activity concerning controlled substances and alcohol among state employees. Section 67-19-33 states that an employee: may not manufacture, dispense, possess, use, distribute or be under the influence of controlled substances or alcohol at work or on state property; engage in this activity if it prevents the state from receiving federal grants or contracts of \$25,000 or more; be impaired at work because of this activity; or refuse to submit to a drug or alcohol test. Section 67-19-35 requires an employee who is convicted for activity with controlled substances or alcohol to report the conviction to his supervisor

within 5 days and for the stage agency director to report this to the federal grantor agency within 10 days of receiving the notice of conviction. Section 67-19-36 provides for a state employee to be tested if there is reasonable suspicion that the employee is using a controlled substance during work hours. Sections 67-19-37 and 67-19-38 provide that an employee is subject to discipline for violations of these sections.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In the previous five years, one written comment was received concerning this rule. In 2006, the Department of Human Services (DHS) submitted a written request to amend the corrective action and discipline provision of this rule found at Subsection R477-14-1(15). In order to speed up due process on matters concerning the illegal use of controlled substances, DHS requested that the corrective action provision of this section be removed. They argued that the violations listed in the code warranted discipline rather than the milder corrective action. The Department of Human Resource Management (DHRM) leadership team agreed and appropriate amendments were filed and made effective on 07/01/2006.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 67-19-33 requires DHRM to make rules governing: the discipline of employees for violations of the substance abuse sections; the testing of employees for suspected use of controlled substances; the confidentiality of testing results; and the minimum blood levels for work effectiveness of employees. Beyond the Utah Code, the rule is necessary in order to comply with the federal Drug Free Workplace Act of 1988 which requires the reporting of convictions of employees for substance abuse. This rule also incorporates the same cutoff levels for positive blood and alcohol tests as the federal government found in the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. Therefore, this rule should be continued.

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

HUMAN RESOURCE MANAGEMENT
ADMINISTRATION
Room 2120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Almond at the above address, by phone at 801-538-3391, by FAX at 801538-3081, or by Internet E-mail at lalmond@utah.gov

AUTHORIZED BY: Jeff Herring, Executive Director

EFFECTIVE: 12/06/2006

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School and Institutional Trust Lands,
Administration
R850-41
Rights-of-Entry

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

DAR FILE NO.: 29312
FILED: 12/12/2006, 09:18

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) in general, and Subsection 53C-4-101(1) specifically, authorize the Director of the School and Institutional Trust Lands Administration to make "rules for the sale, exchange, lease or other disposition or conveyance of trust lands, including procedures for determining fair market value of those lands." The right to enter upon trust lands and conduct nondisturbing, short-term activities is a profitable use of the lands, and is one of the activities covered by the "other disposition or conveyance" authorization in the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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: Without the authorization to issue rights-of-entry on trust lands, the respective permanent school and institutional trust funds would forego the opportunity to receive revenues which have averaged \$100,000 per year for the last several years. This rule provides a mechanism for nondisturbing activities to be conducted on trust lands, thereby benefiting education and other trust land institutions while allowing others the opportunity to conduct business on trust lands throughout the state. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 12/12/2006

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Technology Services, Administration
R895-8
State Privacy Policy and Agency
Privacy Policies

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

DAR FILE NO.: 29308
FILED: 12/04/2006, 11:51

**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 adopted pursuant to the rulewriting authority granted to this agency under Section 63F-1-206 and pursuant to the Utah Administrative Rulemaking Act, Section 63-46a-3, which requires that an agency enact a rule whenever requiring another agency to execute an action.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Technology Services has not received any comments for this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes procedures for executive agencies to follow when using an Internet-based application and/or website to collect personal information. This rule also requires executive branch agencies to provide a notification whenever private information is being gathered.

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

TECHNOLOGY SERVICES
ADMINISTRATION
Room 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Shiflett at the above address, by phone at 801-538-3548, by FAX at 801-538-9787, or by Internet E-mail at williams@utah.gov

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 12/04/2006

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). 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).

Environmental Quality

Air Quality

No. 29321: R307-121. General Requirements: Eligibility of Expenditures for Purchase of Vehicles that Use Cleaner Burning Fuels for Corporate and Individual Income Tax Credits.
ENACTED OR LAST REVIEWED: 03/26/2002 (No. 24641, 5YR, filed 03/26/2002 at 3:36 p.m., published 04/15/2002).
EXTENDED DUE DATE: 07/24/2007

No. 29322: R307-122. General Requirements: Eligibility of Expenditures for Purchase and Installation Costs of Fireplaces and Wood Stoves that Use Cleaner Burning Fuels.
ENACTED OR LAST REVIEWED: 03/26/2002 (No. 24642, 5YR, filed 03/26/2002 at 3:39 p.m., published 04/15/2002).
EXTENDED DUE DATE: 07/24/2007

Radiation Control

No. 29310: R313-35. Requirements for X-Ray Equipment Used for Non-Medical Applications.
ENACTED OR LAST REVIEWED: 01/02/2002 (No. 24360, 5YR, filed 01/02/2002 at 2:28 p.m., published 02/01/2002).
EXTENDED DUE DATE: 05/02/2007

Public Safety

Administration

No. 293: R698-100. Possession of Firearms, Ammunition, Dangerous Weapons, Explosives, Chemical and Incendiary Devices in Olympic Venue Secure Areas.
ENACTED OR LAST REVIEWED: 12/19/2001 (No. 24179, NEW, filed 11/01/2001 at 12:11 p.m., published 11/15/2001).
EXTENDED DUE DATE: 04/18/2007

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*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

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

Capitol Preservation Board (State)

Administration

No. 28935 (R&R): R131-2. Capitol Hill Facility Use.
Published: September 1, 2006
Effective: December 13, 2006

No. 28935 (CPR): R131-2. Capitol Hill Facility Use.
Published: November 1, 2006
Effective: December 13, 2006

No. 28934 (NEW): R131-10. Solicitations.
Published: September 1, 2006
Effective: December 13, 2006

No. 28934 (CPR): R131-10. Solicitations.
Published: November 1, 2006
Effective: December 13, 2006

No. 28933 (NEW): R131-11. Free Speech Activities.
Published: September 1, 2006
Effective: December 13, 2006

No. 28933 (CPR): R131-11. Free Speech Activities.
Published: November 1, 2006
Effective: December 13, 2006

Commerce

Consumer Protection

No. 29109 (AMD): R152-39. Child Protection Registry Rules.
Published: November 1, 2006
Effective: December 11, 2006

Community and Culture

Housing and Community Development

No. 29070 (AMD): R199-8-4. Board Review Procedures.
Published: October 15, 2006
Effective: December 11, 2006

No. 29071 (AMD): R199-8-5. Local Capital Improvement Lists.
Published: October 15, 2006
Effective: December 11, 2006

Education

Administration

No. 29131 (NEW): R277-701. Robert C. Byrd Honors Scholarship Program.
Published: November 1, 2006
Effective: December 11, 2006

No. 29132 (AMD): R277-705. Secondary School Completion and Diplomas.
Published: November 1, 2006
Effective: December 11, 2006

No. 29133 (AMD): R277-911. Secondary Applied Technology Education.
Published: November 1, 2006
Effective: December 11, 2006

Insurance

Title and Escrow Commission

No. 29130 (AMD): R592-2. Title Insurance Administrative Hearings and Penalty Imposition.
Published: November 1, 2006
Effective: December 13, 2006

Natural Resources

Water Rights

No. 29096 (AMD): R655-14. Administrative Procedures for Enforcement Proceedings Before the Division of Water Rights.
Published: October 15, 2006
Effective: December 15, 2006

Wildlife Resources

No. 29114 (AMD): R657-3-11. Certificate of Registration Required.
Published: November 1, 2006
Effective: December 12, 2006

No. 29115 (AMD): R657-13. Taking Fish and Crayfish.
Published: November 1, 2006
Effective: December 12, 2006

No. 29113 (AMD): R657-52-3. Certificate of Registration Required.
Published: November 1, 2006
Effective: December 12, 2006

No. 29112 (AMD): R657-54. Taking Wild Turkey.
Published: November 1, 2006
Effective: December 12, 2006

Tax Commission

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No. 29111 (AMD): R884-24P-24. Form for Notice of Property Valuations and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924.

Published: November 1, 2006

Effective: December 15, 2006

No. 29129 (AMD): R884-24P-53. 2006 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

Published: November 1, 2006

Effective: December 15, 2006

No. 29110 (AMD): R884-24P-64. Determination and Application of Taxable Value for Purposes of the Property Tax Exemptions for Disabled Veterans and the Blind Pursuant to Utah Code Ann. Sections 59-2-1104 and 59-2-1106.

Published: November 1, 2006

Effective: December 15, 2006

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No. 28932 (AMD): R907-67. Suspension of Contractors from Work on Department Projects - Reasons.

Published: September 1, 2006

Effective: December 8, 2006

End of the Notices of Rule Effective Dates Section

**2007 RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective January 1, 2007. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

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NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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R156-56-711	Statewide Amendments to the IRC	29075	AMD	01/01/2007	2006-20/13
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R15-4	Administrative Rulemaking Procedures	29189	AMD	12/25/2006	2006-22/9
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R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33
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R27-3	Vehicle Use Standards	28280	EXT	01/30/2006 (see 5YR DAR No. 28477)	Not Printed
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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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