

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-538-1773. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. 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**

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## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for February 2010 Medicaid Rate Changes**

Effective February 1, 2010, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

**End of the Special Notices Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 16, 2009, 12:00 a.m., and December 31, 2009, 11:59 p.m. are included in this, the January 15, 2010 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 between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least February 15, 2010. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through May 15, 2010, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses 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 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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

**Capitol Preservation Board (State),  
Administration  
R131-14  
Parking on Capitol Hill**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 33298

FILED: 12/31/2009

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to define and implement Board policy regarding parking at the Utah State Capitol Hill Complex.

**SUMMARY OF THE RULE OR CHANGE:** This proposed rule defines and implements parking assignments on the Capitol Hill Complex. Parking assignments on Capitol Hill is the responsibility of the Capitol Preservation Board's Executive Director or designee. This proposed rule identifies the process to assign parking spaces and this process is necessary to be in compliance with the Americans with Disabilities Act and state statute, Section 63C-9-301, and meet the statutory requirements as set forth in H.B. 317 of the 2007 Legislative Session, "Capitol Hill Complex Legislative Space." (DAR NOTE: H.B. 317 (2007) is found at Chapter 131, Laws of Utah 2007, and was effective 04/30/2007.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63C-9-301

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** It is not anticipated this proposed rule will result in either an anticipated cost or savings to the state budget. This proposed rule only defines and implements the process to assign parking spaces on the Capitol Hill Complex. There are no costs associated with the parking space assignments. This proposed rule is only to establish a process for parking space assignments.

◆ **LOCAL GOVERNMENTS:** It is not anticipated this proposed rule will result in either an anticipated cost or savings to the local government because there is no cost associated with the parking space assignments. This proposed rule is only to establish a process for parking space assignments.

◆ **SMALL BUSINESSES:** It is not anticipated this proposed rule will result in either an anticipated cost or savings to small businesses because there is no cost associated with the parking space assignments. This proposed rule is only to establish a process for parking space assignments.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated this proposed rule will result in either an anticipated cost or savings to persons other than small businesses, businesses, or local government entities because there is no cost associated with the parking space assignments. This proposed rule is only to establish a process for parking space assignments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** It is not anticipated this proposed rule will result in compliance costs for affected persons because there is no cost associated with the parking space assignments. This proposed rule is only to establish a process for parking space assignments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule will have no fiscal impact on businesses. This proposed rule is only to establish a process for parking space assignments in accordance with and to be in compliance with the Americans with Disabilities Act and state statute, Section 63C-9-301, and meet the statutory requirements as set forth in H.B. 317 of the 2007 Legislative Session, "Capitol Hill Complex Legislative Space."

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

CAPITOL PRESERVATION BOARD (STATE)  
ADMINISTRATION  
ROOM E110 EAST BUILDING  
420 N STATE ST  
SALT LAKE CITY, UT 84114-2110  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov  
◆ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov  
◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: David Hart, AIA, Executive Director

**R131. Capitol Preservation Board (State), Administration.**

**R131-14. Parking on Capitol Hill.**

**R131-14-1. Purpose and Authority.**

(1) The purpose of this rule is to define and implement Board policy regarding parking at the Utah State Capitol Hill Complex.



(2) This rule is promulgated pursuant to Section 63C-9-301, Utah Code.

**R131-14-2. Parking Assignments.**

(1) Parking assignments on Capitol Hill is the responsibility of the Capitol Preservation Board's (CPB) Executive Director or designee.

(2) The identification and assignment of reserved parking spaces shall:

(a) meet the statutory requirements of Section 36-5-1 and any delegation by the Legislative Management Committee; and

(b) all remaining parking shall be distributed between all other Elected Officials, their staff and departments with preference going to the Elected Officials and their staff.

**R131-14-3. Disabled Parking Assignments.**

(1) The Capitol Preservation Board maintains accessible parking spaces as specified by the Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines (ADAAG). The number and placement of public, reserved and accessible parking spaces were established in agreement with the Utah State Building Official. All provisions of this rule shall be interpreted consistent with the ADA and applicable Federal law. In case of conflict, the provisions of the ADA and applicable Federal law shall supersede the provisions of this rule.

(2) Due to the limited number of available spaces, the assignment of reserved accessible spaces shall be made as follows:

(a) Agencies shall give first priority to individuals who have qualified for a parking accommodation pursuant to the Americans with Disabilities Act.

(b) Agencies shall give second priority to individuals who have a "permanent disabled parking placard" from the Utah State Tax Commission Division of Motor Vehicles.

(c) Agencies shall give third priority to individuals with "temporary disabled parking placards" from the Utah State Tax Commission Division of Motor Vehicles for the duration of their temporary condition as determined by their healthcare provider, if a space is available.

(d) Individuals who have disabled parking placards and do not receive a reserved accessible parking space may park in available non-assigned accessible parking spaces located on the East side of the Capitol Hill Grounds.

(e) Unassigned, reserved accessible spaces in the underground parking plaza may be assigned to non-disabled Elected Officials or employees; however, when a request for an accessible space is made by an Elected Official or employee with a disabled parking placard, any available accessible parking space shall be relinquished to the Elected Official or employee with an accessible parking placard in accordance with the above-described priorities.

(f) In the event an accessible space is not available, employees may request individualized accommodations through their ADA coordinator who will conduct a confidential individualized assessment with the employee and/or Elected Official. If a parking accommodation is not granted at the agency level, parking accommodation appeals shall be directed to the ADA

coordinator within the Division of Risk Management (801.538.9560), who will review the assessment with the employee and/or Elected Official and work with the CPB to implement reasonable accommodations if appropriate.

**R131-14-4. Assignment Process and Procedures.**

(1) Subject to Section 36-5-1, the CPB Executive Director will oversee and approve the number of parking spaces assigned to the legislature, executive and judicial branches of government. The CPB Executive Director may assign and designate areas of parking by departments, divisions or agencies of the executive and judicial branches. The CPB Executive Director shall provide space numbers to employees/Elected Officials of the legislative, executive and judicial branches, issue parking tags, personal data sheets and written agreements for each assigned individual to fill out and return to the CPB. The CPB Executive Director may require those assigned a parking space to execute a legal agreement protecting the State of Utah and the CPB, in accordance with a form reviewed by the Utah Attorney General's Office and the Division of Risk Management. The identification of persons with particular spaces shall be kept confidential by the CPB, the Department of Public Safety and any other State officials that receive such information in the course of State business, because the release of such information creates security and property risks.

(2) Upon the completion and signature of the personal data sheet and the written agreement, the space will be assigned and parking privileges will be added to the employee or official's access card. Those with disabilities assigned to an accessible space will need to provide a copy of the placard to the CPB Executive Director.

(3) Because of a limited number of parking spaces on the Capitol Hill Complex, it is necessary to transition parking for both Legislative Sessions and Interim Legislative Sessions. Notices to employees may be sent out from the CPB as a courtesy. However, it is the responsibility of the individual to know which days they may and may not have a reserved parking space as identified in their signed agreement.

(4) Any executive or judicial branch employee who intentionally violates their signed parking agreement may lose the privilege to park in the space identified in the parking agreement as well as have any entrance card or device deactivated, as determined by the CPB Executive Director. Any determination by the CPB Executive Director may be appealed to the Chair of the Board Operations and Budget Development Subcommittee. However, such determination by the Chair shall be final. The designation of a parking space in the Capitol Hill Complex is a privilege and not a right.

(5) Any violation of this rule may also be prosecuted under Section 63C-9-301(3), Utah Code.

**KEY: parking spaces Capitol Hill Complex**

**Date of Enactment or Last Substantive Amendment: 2010**

**Authorizing, Implemented, or Interpreted Law: 63C-9-301**

**Commerce, Occupational and  
Professional Licensing  
R156-47b  
Massage Therapy Practice Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33293

FILED: 12/29/2009

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule filing is to update and clarify curriculum requirements and equivalent education qualifications for licensure as a result of changes in national standards. The filing also includes other technical corrections and clarifications.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-47b-102, the definition of "COMTA" is being deleted and replaced with a more inclusive definition of "accrediting agency". The definition of "direct supervision" is being updated to reflect the definition referenced in Subsection R156-1-201a(4)(a). Definitions for "clinic", "FSMTB", "massage client services", and "recognized school" are being added. Section R156-47b-302a is being changed to Section R156-47b-302. Curriculum requirements for massage schools contained in Section R156-47b-302 are updated to include specific areas of instruction to ensure competency. A new Section R156-47b-302a is being added to provide guidelines for equivalent education and training that would qualify an applicant for licensure. In Section R156-47b-302b, an additional licensure examination option, the National Examination for State Licensure (NESL), is being added. In Section R156-47b-302c, the training under massage apprenticeship has been updated to more closely reflect the massage school curriculum to include specific areas of instruction to ensure competency. Subsection R156-47b-302d(1)(a) is updated to change "shall" to "may" to allow the Division and Board more flexibility when considering applicants with a criminal conviction. Various statute citations have been updated throughout the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-47b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**TITLE OF MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) Content Outline, published by NCETMB, 01/01/2010
- ◆ Adds National Certification Examination for Therapeutic Massage (NCETM) Content Outline, published by NCETMB, 01/01/2010

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed massage therapists and massage apprentices and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments apply to licensed massage therapists and massage apprentices and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business. The proposed amendments would also apply to massage therapy schools, which may qualify as a small business, and licensed massage therapists who supervise massage apprenticeships. There may be some unknown increase in costs to adjust the massage therapy school and apprenticeship curriculums to the updated standards. The Division is not able to determine an exact cost due to a varying degree of circumstances.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply to licensed massage therapists and massage apprentices and applicants for licensure in those classifications. The proposed amendments would also apply to massage therapy schools and licensed massage therapists who supervise massage apprenticeships. There may be some unknown increase in costs to adjust the massage therapy school and apprenticeship curriculums to the updated standards. The Division is not able to determine an exact cost due to a varying degree of circumstances.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendments apply to licensed massage therapists and massage apprentices and applicants for licensure in those classifications. The proposed amendments would also apply to massage therapy schools and licensed massage therapists who supervise massage apprenticeships. There may be some unknown increase in costs to adjust the massage therapy school and apprenticeship curriculums to the updated standards. The Division is not able to determine an exact cost due to a varying degree of circumstances.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact to businesses is anticipated with this rule filing, which updates curriculum requirements and equivalent education qualifications, makes technical changes and clarifies the "good moral character" requirement.

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

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL  
LICENSING

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Sally Stewart by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at sstewart@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010**

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:**

♦ 01/19/2010 09:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

**THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010**

**AUTHORIZED BY: Mark Steinagel, Director**

**R156. Commerce, Occupational and Professional Licensing.**

**R156-47b. Massage Therapy Practice Act Rule.**

**R156-47b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or this rule:

(1) ~~["COMFTA" means the Commission on Massage Therapy Accreditation.]"Accrediting agency" means an organization, association or commission nationally recognized by the United States Department of Education as a reliable authority in assessing the quality of education or training provided by the school or institution.~~

(2) ~~"Clinic" means performing the techniques and skills learned under the curriculum of an accredited school while in a supervised student setting.~~

(~~2~~)<sup>3</sup> "Direct supervision" as used in Subsection 58-47b-302(3)(~~d~~)<sup>e</sup> means that the apprentice supervisor, acting within the scope of the supervising licensee's license, is in the facility where massage is being performed and ~~is immediately available to the apprentice for advice, direction and consultation~~ directs the work of an apprentice pursuant to this chapter under Subsection R156-1-201a(4)(a) while the apprentice is engaged in performing massage.

(4) ~~"FSMTB" means the Federation of State Massage Therapy Boards.~~

(~~3~~)<sup>5</sup> "Lymphatic massage" ~~[as used in Subsections 58-47b-302(4) and 58-47b-304(1)(i)]~~ means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

(6) ~~"Massage client services" means practicing the techniques and skills learned as an apprentice on the public in training under direct supervision.~~

(~~4~~)<sup>7</sup> "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(8) ~~"Recognized school" means a school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that~~

jurisdiction.

(~~5~~)<sup>9</sup> "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(~~5~~)<sup>1</sup>(e) in Section R156-47b-502.

**R156-47b-302[a]. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards[~~— Equivalent Education and Training~~].**

(1) In accordance with Subsection 58-47b-302(2)(e)(i) (A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the following standards:

(a) Curricula must be registered with the Utah Department of Commerce, Division of Consumer Protection or an accrediting agency recognized by the United States Department of Education.

(b) Curricula shall be a minimum of 600 hours and shall include the following:

(i) anatomy, physiology and ~~[pathology]~~kinesiology - ~~[450]~~<sup>125</sup> hours;

(ii) ~~pathology~~ - 40 hours;

(iii) massage theory including the five basic ~~Swedish massage~~ strokes - ~~[300]~~<sup>285</sup> hours;

(~~iii~~)<sup>iv</sup> professional standards, ethics and business practices - 35 hours;

(~~iv~~)<sup>v</sup> ~~[safety and]~~sanitation and universal precautions including CPR and first aid - 15 hours;

(vi) clinic ~~or practicum~~ - 100 hours; and

(vii) other related massage subjects as approved by the Division in collaboration with the Board.

(c) In addition to the curriculum requirements of Subsection R156-47b-302a(1)(b), new curricula shall include the major content areas, but are not required to meet the percentage weights of the National Certification ~~[Board of]~~Examination for Therapeutic Massage and Bodywork (NCBTMB)~~], National Certification Examination~~ Content Outline, published ~~[July 2003]~~January 2010, and the National Certification Examination for Therapeutic Massage (NCETM) Content Outline, published January 2010 which ~~[is]~~are adopted and incorporated by reference.

(~~2~~)<sup>2</sup> ~~In accordance with Subsection 58-47b-302(2)(e)(i) (B), an applicant who completes equivalent education and training must document that the education and training was approved by NCBTMB as evidenced by current NCBTMB certification.~~

**R156-47b-302a. Qualifications for Licensure - Equivalent Education and Training.**

(1) In accordance with Subsection 58-47b-302(2)(e)(i) (B), an applicant who completes equivalent education and training must provide documentation of:

(a)(i) graduation from a licensed or recognized school outside the state of Utah with a minimum of 500 hours;

(ii) completion of the examination requirements; and

(iii) practice as a licensed massage therapist for a minimum of 2,000 hours; or

(b)(i) foreign education and training approval by NCBTMB as evidenced by current NCBTMB certification; and

(ii) practice as a licensed massage therapist for a minimum of 2,000 hours; or

(c)(i) completion of an equivalent apprenticeship

program outside the state of Utah;

- (ii) completion of the examination requirements; and  
(iii) practice as a licensed massage therapist for a  
minimum of 4,000 hours.

**R156-47b-302b. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsections 58-47b-302(2)(f) and 58-47b-302(3)(f), the examination requirements for licensure are defined, clarified, or established as follows:

- (1) Applicants for licensure as a massage therapist shall:
- (a) pass the Utah Massage Law and Rule Examination; and
- (b) pass one of the following examinations:
- (i) the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB);
- (ii) the National Certification Examination for Therapeutic Massage (NCETM);~~[-or]~~
- (iii) the National Examination for State Licensure (NESL); or
- ~~[(iii)]~~(iv) the Federation of State Massage Therapy Boards (FSMTB) Massage and Bodywork Licensing Examination (MBLEx).
- (2) Applicants for licensure as a massage therapist who have completed a "Utah Massage Apprenticeship" shall pass the FSMTB MBLEx.
- (3) Applicants for licensure as a massage apprentice shall pass the Utah Massage Law and Rule Examination.

**R156-47b-302c. Apprenticeship Standards for a Supervisor.**

In accordance with Subsection 58-47b-302(2)(e)(ii), an apprentice supervisor shall:

- (1) not begin an apprenticeship program until:
- (a) the apprentice is licensed; and
- (b) the supervisor is approved by the division;
- (2) not begin a new apprenticeship program until:
- (a) the apprentice being supervised passes the FSMTB MBLEx and becomes licensed as a massage therapist, unless otherwise approved by the division in collaboration with the board; and
- (b) the supervisor complies with subsection (1);
- (3) if an apprentice being supervised fails the FSMTB MBLEx three times:
- (a) together with the apprentice being supervised, meet with the Board at the next appropriate Board meeting;
- (b) explain to the Board why the apprentice is not able to pass the examination;
- (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination; and
- (d) upon successful completion of the review as provided in Subsection (3)(c), the apprentice shall again be eligible to take the FSMTB MBLEx;
- (4) supervise not more than two apprentices at one time, unless otherwise approved by the division in collaboration with the board;
- (5) train the massage apprentice in the areas of:
- (a) anatomy, physiology and kinesiology - 125 hours;  
(b) pathology - 40 hours;

- ~~\_\_\_\_\_~~([a]c) massage theory - 50 hours;  
(d) massage techniques including the five basic Swedish  
massage strokes - 120 hours;  
~~\_\_\_\_\_~~([b]e) massage client service - 300 hours;  
([e]f) hands on instruction - [325]310 hours;[  
~~\_\_\_\_\_~~(d) massage techniques - 120 hours;  
~~\_\_\_\_\_~~(e) anatomy, physiology and pathology - 150 hours;]  
([f]g) professional standards, ethics and business  
practices - [25]40 hours; and  
~~\_\_\_\_\_~~([g) ethics - 15 hours; and  
~~\_\_\_\_\_~~(h) [safety and]-sanitation and universal precautions  
including CPR and first aid - 15 hours;  
 (6) submit a curriculum content outline with the apprentice application, including a list of the resource materials to be used;
- (7) display a conspicuous sign near the work station of the apprentice stating "Apprentice in Training";
- (8) keep a daily record which shall include the hours of instruction and training completed, the hours of client services performed, and the number of hours of training completed;
- (9) make available to the division upon request, the apprentice's training records;
- (10) verify the completion of the apprenticeship program on forms available from the division;
- (11) notify the division within ten working days if the apprenticeship program is terminated;
- (12) must not have been disciplined for any unprofessional or unlawful conduct within five years of the start of any apprenticeship program; and
- (13) ensure that the massage client services required in Subsection (5)([b]d) only be performed on the public; all other hands on instruction or practice must be performed by ~~[an]~~the apprentice on an apprentice or supervisor.

**R156-47b-302d. Good Moral Character - Disqualifying Convictions.**

- (1) When reviewing an application to determine the good moral character of an applicant as set forth in Subsection 58-47b-302(2)(c) and whether the applicant has been involved in unprofessional conduct as set forth in Subsections 58-1-501(2)(c), the Division and the Board shall consider the applicant's criminal record as follows:
- (a) a criminal conviction for a sex offense as defined in Title 76, Chapter 5, Part 4 and Chapter 5a, and Title 76, Chapter 10, Parts 12 and 13, ~~[shall]~~may disqualify an applicant from becoming licensed; or
- (b) a criminal conviction for the following crimes may disqualify an applicant for becoming licensed:
- (i) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2 and 3;
- (ii) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;
- (iii) any offense involving controlled dangerous substances; or
- (iv) conspiracy to commit or any attempt to commit any of the above offenses.
- (2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole,

probation, judicial proceeding or date of incident, whichever is later.

(3) An applicant who has a criminal conviction for a felony involving a controlled substance may be considered ineligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may be considered ineligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.

(5) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

**R156-47b-601. Standards for Animal Massage Training.**

In accordance with Subsection 58-28-[8]307(12)(c), a massage therapist practicing animal massage shall have received 60 hours of training in the following areas:

- (1) quadruped anatomy;
- (2) the theory of quadruped massage; and
- (3) supervised quadruped massage experience.

**KEY:** licensing, massage therapy

**Date of Enactment or Last Substantive Amendment:** ~~February 21, 2008~~2010

**Notice of Continuation:** January 31, 2006

**Authorizing, Implemented, or Interpreted Law:** 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

Health, Health Systems Improvement,  
Licensing  
**R432-31**  
Transferable Physician Order for Life-Sustaining Treatment

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)  
DAR FILE NO.: 33282  
FILED: 12/16/2009

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In January 2008, the State Legislature passed the new Advance Directives Act (S.B. 161) affecting Section 75-2a-106. This law made changes to the Physician Orders for Life Sustaining Treatment (POLST). This rule amendment is to repeal the old POLST rule and reenact the new rule in order to reflect the requirements of Section 75-2a-106. The Health Facility Committee assigned a subcommittee to research and develop a draft rule for the Life With Dignity Order. The Health Facility Committee reviewed and approved

this draft on 11/18/2009. (DAR NOTE: S.B. 161 (2008) is found at Chapter 107, Laws of Utah 2008, and was effective 05/05/2008.)

**SUMMARY OF THE RULE OR CHANGE:** This rule replaces the previous POLST rule. The rule adds elements to meet the new Advance Directives Act, including: changing the name of the order to "Life With Dignity Order", defining which types of health facilities are required to offer Life With Dignity Orders, what types of health professionals may sign an order, defining what policies and procedures health facilities may develop to meet the rule, training required for facility staff, transferability of orders between health facilities, EMS personnel responsibilities, Do Not Resuscitate orders with bracelets and necklaces, requirements to update old forms, where to place orders for in-home patients, and how health personnel must respond to prior orders. The items carried over from the old rule include: the circumstances in which a person may use a Life With Dignity Order in a health facility and details of how it should be offered to patients, how the order must be placed in a prominent part of the patient's chart, the requirement for facilities to review the order with patients, and the option for a legal representative to act in place of the resident.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 75-2a-106 and Title 26, Chapter 21

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This rule amendment will have no fiscal impact on state budgets. No additional requirements are given for state agencies to initiate this rule. The rule has been in effect prior to this time and will not take additional work to continue.
- ◆ **LOCAL GOVERNMENTS:** This rule amendment will not affect local government budgets. No new requirements are given that will require changes to local government.
- ◆ **SMALL BUSINESSES:** This rule amendment may affect small business budgets. The requirement to assist resident/patients to update all old POLST forms may require enhanced staff time to complete. Some health facilities are considered small businesses. However, this requirement still rests upon the wishes of the patient/resident, so calculation of staff time is impossible. One year is given to make the updates, so this may be an issue that can be taken care of with existing assessment reviews already scheduled by the facilities.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule amendment may affect health care facility budgets. The requirement to assist resident/patients to update all old POLST forms may require enhanced staff time to complete. However, this requirement still rests upon the wishes of the patient/resident, so calculation of staff time is impossible. One year is given to make the updates, so this may be an issue that can be taken care of with existing assessment reviews already scheduled by the facilities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There

may be some compliance costs for health facilities that are required to offer Life With Dignity Orders to patients/residents. These facilities must assist patients to update all old forms that existed before the new rule change and the new form were made available. Patients may decline the change, so calculation of staff time to update the new forms is impossible to calculate. Currently, facilities also review patient information yearly, so updates may be done on a scheduled basis with little or no additional staff time costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Respecting wishes regarding care at the end of life is critical to the dignity of that person. Any fiscal impact is expected to be minimal. Advising persons of this right is already a federal mandate. This rule will not add to that burden.

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT, LICENSING  
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:

◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov  
◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

**R432. Health, Health Systems Improvement, Licensing.**

**~~[R432-31. Transferable Physician Order for Life-Sustaining Treatment.~~**

**~~R432-31-1. Legal Authority.~~**

~~————— This rule is adopted pursuant to Title 26, Chapter 21.~~

**~~R432-31-2. Purpose.~~**

~~————— This rule provides for the orderly communication and transfer of physician orders that outline individual preferences for life-sustaining treatment when an individual transfers from one licensed health care facility to another.~~

**~~R432-31-3. Definitions.~~**

~~————— "Advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law relating to the provision of health care when an individual is incapacitated.~~

**~~R432-31-4. Transferable Physician Order.~~**

~~————— (1) A physician may enter a individual's preferences and the physician's orders for life-sustaining treatment on a transferable physician order form. The Department shall, in consultation with the Health Facility Committee, design a uniform transferable physician order for life-sustaining treatment form that may be used by physicians and health care facilities.~~

~~————— (2) Upon admission to a health care facility or acceptance to a home health agency, the facility or agency shall make a good faith effort to determine whether the individual's physician has completed a transferable physician order for life-sustaining treatment.~~

~~————— (a) Health care facilities shall inform each individual, or if the individual does not have the capacity to act, the individual's family or legal representative, about transferable physician orders for life-sustaining treatment in the same manner as required for providing information about advance directives.~~

~~————— (b) The facility shall offer each individual an opportunity to complete a transferable physician order for life-sustaining treatment upon admission to the facility.~~

~~————— (c) The facility shall place the transferable physician order for life-sustaining treatment in a prominent part of the individual's current medical record.~~

~~————— (3) A physician or licensed practitioner, as defined in R432-1-3(69), must sign the transferable physician order for life-sustaining treatment.~~

~~————— (4) A health care facility or its employee that makes a good faith effort to follow the instructions in a transferable physician order for life-sustaining treatment is not subject to any Department sanction as a result of those good faith efforts.~~

~~————— (5) The facility shall review the transferable physician order for life-sustaining treatment with the individual, or if the individual does not have the capacity to act, the individual's family or legal representative, when any of the following occur:~~

~~————— (a) there is a substantial, permanent change in the individual's health status;~~

~~————— (b) the individual is transferred from one care setting to another; and~~

~~————— (c) the individual's treatment preferences change.~~

~~————— (6) The transferable physician order for life-sustaining treatment is fully transferable between all licensed health care facilities.~~

~~————— (7) A transferring licensed health care facility shall send the physician order for life-sustaining treatment, if it exists, with the individual to the receiving facility. The receiving facility and health care providers at the receiving facility shall honor the physician order for life-sustaining treatment until it has been properly changed or voided. ]~~

**R432-31. Life with Dignity Order.**

**R432-31-1. Authority and Purpose.**

————— (1) This rule is adopted pursuant to Utah Code Title 26, Chapter 21, and Section 75-2a-106.

————— (2) This rule establishes the forms and systems for Life with Dignity Orders.

**R432-31-2. Definitions.**

————— The definitions found in Sections UCA 26-21-2 and 75-2a apply to this rule. In addition, "licensed health care facility" means

a facility or entity licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

**R432-31-3. Life with Dignity Order Forms.**

(1) An individual who desires to execute a Life with Dignity Order must use a form created by the Department. The form may not be altered in layout or style, including font style and size, without the express written permission of the Department.

(2) Any person, health care provider or health care facility may obtain a form from the Department and, if made available by the Department, from a website established for that purpose.

(3) A health care provider, licensed health care facility, or EMS provider may act upon a copy of a Life with Dignity Order as if it were the original.

**R432-31-4. Facilities That Must Offer Life with Dignity Orders-Policies and Procedures.**

(1) The following health care facilities must comply with Subsection (2):

- (a) a general acute hospital licensed under R432-100;
- (b) a long-term acute care hospital licensed under R432-104;
- (c) a nursing care facility licensed under R432-150;
- (d) a mental disease facility licensed under R432-151;
- (e) a mental retardation facility licensed under R432-152;
- (f) a small health care facility (four to sixteen beds) licensed under R432-200;
- (g) an assisted living facility licensed under R432-270;
- (h) a small health care facility - type N licensed under R432-300;
- (i) a hospice agency licensed under R432-700-750, whether inpatient or home-based;
- (j) a critical access hospital licensed under R432-106; and
- (k) a home health agency licensed under R432-700.

(2) Each facility described in Subsection (1) shall establish and follow policies and procedures that conform to Section 75-2a-106 and that assure that:

- (a) the facility determines upon admission whether each individual has a Life with Dignity Order;
- (b) the facility determines which of those individuals who do not have a Life With Dignity Order should be offered the opportunity to complete a Life with Dignity Order;
- (c) the facility identifies circumstances under which the facility shall review for changes or amendments the Life with Dignity Order for each individual who has one;
- (d) the facility maintains the Life with Dignity Order in a prominent location in the individual's medical record for each individual who has a Life with Dignity Order; and
- (e) the facility identifies circumstances under which it would not follow a Life With Dignity Order.

**R432-31-5. Facilities Not Required to Offer Life with Dignity Orders-Policies and Procedures.**

(1) The following health care facilities must comply with Subsection (2):

- (a) a specialty hospital - psychiatric licensed under R432-101;

(b) a specialty hospital - chemical dependency/substance abuse licensed under R432-102

a freestanding ambulatory surgical center licensed under R432-500;

(c) a specialty hospital - rehabilitation licensed under R432-103;

(d) an orthopedic hospital licensed under R432-105;

(e) a birthing center licensed under R432-550;

(f) an abortion clinic licensed under R432-600; and

(g) an end stage renal disease facility licensed under R432-650.

(2) Each facility described in Subsection (1) shall establish and follow policies and procedures that conform to Section 75-2a-106 and that assure that:

(a) the facility determines upon admission whether each individual has a Life with Dignity Order;

(b) the facility maintains the Life with Dignity Order in a prominent location in the individual's medical record for each individual who has a Life with Dignity Order; and

**R432-31-6. Training.**

Each licensed health care facility shall appropriately train relevant health care, quality improvement, and record keeping staff on the requirements of Title 75, Chapter 2a, the Advance Health Care Directive Act; this rule; and the facility's policies and procedures established pursuant to this rule.

**R432-31-7. Transferability of Life with Dignity Orders.**

(1)(a) A Life with Dignity Order is fully transferable between all health care facilities.

(b) The health care providers assuming the individual's care at the receiving licensed health care facility shall read the Life with Dignity Order.

(c) The receiving provider must have policies and procedures to address the circumstances under which the provider will not follow the instructions contained in the Life With Dignity Order.

(2)(a) A licensed health care facility that discharges, but does not transfer to another licensed health care facility, an individual who has a Life with Dignity Order, shall provide a copy of the individual's Life with Dignity Order to the individual or, if the individual lacks the capacity to make a health care decision, as defined in section 75-2a-104, to the individual's surrogate.

(b) A licensed health care facility that transfers an individual with a Life with Dignity Order to another licensed health care facility shall provide a copy of the Life with Dignity Order to the receiving licensed health care facility.

(3) A licensed health care facility shall allow an individual to complete, amend, or revoke a Life with Dignity Order at any time upon request.

**R432-31-8. Presentation of Life with Dignity Orders to EMS Personnel.**

(1) Except for home health agencies and home-based hospice, a licensed health care facility in possession of a Life with Dignity Order must present the individual's Life with Dignity Order to EMS personnel upon the arrival of EMS personnel who are present to treat or transport the individual; and

(2) For an individual who resides at home, if home health agency or home-based hospice personnel are present when EMS personnel arrive at the home, the personnel must present the individual's Life with Dignity Order, upon the arrival of the EMS personnel who are present to treat or transport the individual.

**R432-31-9. Home Placement of Life with Dignity Orders**

(1) If an individual under the care of a home health agency or a hospice agency possesses a Life with Dignity Order, the agency must ensure that a copy of the Life with Dignity Order is left at the individual's place of residence.

(2) For an individual adult who resides at home, including an emancipated minor, it is recommended that a copy of the Life with Dignity Order be posted on the front of the refrigerator or over the individual's bed.

(3) For a minor who resides at home, it is recommended that a copy of the Life with Dignity Order be placed in a tube and placed on the top shelf of the door of the refrigerator.

**R432-31-10. Life with Dignity Bracelets and Necklaces.**

(1) The Department may contract with a vendor or vendors to provide an approved Life with Dignity bracelet or necklace.

(2) An individual with a Life with Dignity Order may obtain an approved Life with Dignity bracelet or necklace from a vendor approved by the Department. The approved Life with Dignity bracelet or necklace identifies the individual to EMS or other health care providers as possessing a Life with Dignity Order.

**R432-31-11. Prior Orders and Out of State Orders.**

(1) EMS and other health care providers may recognize as valid all POLST, Life With Dignity and EMS/DNR orders, including bracelets and necklaces, unless superseded by a subsequent Life with Dignity Order or POLST.

(2) Licensed health care facilities must ensure that all individuals receiving services who have current POLST/Life With Dignity Orders, receive assistance to complete new orders to comply with current rule requirements by January 31, 2011.

(3) Physicians may complete and sign new Life With Dignity Orders for individuals with prior forms who no longer have capacity to complete new orders, and who do not have a surrogate/guardian to authorize the new order. The physician must indicate on the new order that the individual's preferences from the prior order are still applicable.

(4) A form that an individual executed while in another state may be honored as if it were executed in compliance with this rule and Section 75-2a-106 if it:

(a) is substantially similar to a Life with Dignity Order or a Physician's Order for Life Sustaining Treatment; and

(b) was executed according to the laws of that state.

**KEY: ~~[health facilities]~~POLST, do not resuscitate, Life with Dignity Order**

**Date of Enactment or Last Substantive Amendment: ~~[April 13, 2006]~~2010**

**Notice of Continuation: November 21, 2007**

**Authorizing, and Implemented or Interpreted Law: 26-21, 75-2a-106**

**Insurance, Administration  
R590-220  
Submission of Accident and Health  
Insurance Filings**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33297

FILED: 12/30/2009

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of these changes is to update the rule to comply with rate and form filing procedures used throughout the United States and to clarify language.

**SUMMARY OF THE RULE OR CHANGE:** The changes update the rule to comply with rate and form filing procedures; update incorporated documents; eliminate the reference to SIRCON; change the time required to make filing corrections from 30 to 15 days; and require that the intent of the filing and purpose of each document be included with each filing.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201.1 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2) and Subsection 31A-22-605(4) and Subsection 31A-22-620(3)(f) and Subsections 31A-30-106(1)(i) and (k)

**TITLE OF MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Removes NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions), published by National Association of Insurance Commissioners, 03/01/2007
- ◆ Adds NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions), published by National Association of Insurance Commissioners, 03/01/2007
- ◆ Removes NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix, published by National Association of Insurance Commissioners, 03/01/2007
- ◆ Removes Utah Accident and Health Insurance Filing Certification, published by Utah Insurance Department, 07/01/2007
- ◆ Adds NAIC Uniform Life, Accident and Health, Annuity, and Credit Coding Matrix, published by National Association of Insurance Commissioners, 07/01/2009



- ◆ Removes Utah Accident and Health Insurance Group Questionnaire, published by Utah Insurance Department, 07/01/2007

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** These changes will have no fiscal impact on the department. The changes will not create a change in the filings or fees coming into the department and will in no way create a change to employee work load.
- ◆ **LOCAL GOVERNMENTS:** The changes to this rule will have no impact on local governments since the rule deals with the relationship between the department and its licensees, which in this case includes around 550 health insurance companies.
- ◆ **SMALL BUSINESSES:** This rule affects health insurance companies, few; if any, would be considered small businesses. The changes to this rule update the filing procedures of the department to comply with national standards being used by most states. The only fiscal impact may be the reduction in rejected filings, as a result of language clarifications. This would result in reduced filing fees paid by insurers to the contracted organization processing these filings, not the department.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule affects health insurance companies, most are large businesses. The changes to this rule update the filing procedures of the department to comply with national standards being used by most states. The only fiscal impact may be the reduction in rejected filings, as a result of language clarifications. This would result in reduced filing fees paid by insurers to the contracted organization processing these filings, not the department. Consumers will likely not be impacted financially by these changes since health insurers will have little, if any, fiscal impact on them.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule affects health insurance companies. The changes update the procedures of the department to comply with national standards being used by most states. The only fiscal impact may be the reduction in rejected filings resulting from clarified language. This would reduce filing fees paid by insurers to the contracted organization processing these filings, not the department.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to this rule will have little, if any, fiscal impact on businesses in Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 02/09/2010 09:00 AM, Room 3112, State Office Building (behind the Capitol), Salt Lake City, UT 84114

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-220. Submission of Accident and Health Insurance Filings.**

**R590-220-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

(a) accident and health filings required by Section 31A-21-201;

(b) individual accident and health filings in accordance with Section 31A-22-605 and Rule R590-85;

(c) Medicare supplement filings in accordance with Sections 31A-22-605 and 31A-22-620, and Rules R590-85 and R590-146;

(d) long term care filings required by Section 31A-22-1404 and Rule R590-148;

(e) basic health care plan filings required by Section 31A-22-613.5 and Rule R590-175; and

(f) health benefit plan filings required by Title[Chapter] 31A, Chapter [-]30, Individual, Small Employer, and Group Health Insurance Act, and Rule R590-167.

(2) This rule applies to:

(a) all types of accident and health insurance products; and

(b) group accident and health contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

**R590-220-3. Documents Incorporated by Reference.**

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The "NAIC Uniform Life, Accident and Health, Annuity, and Credit Coding Matrix," effective July 1, 2009, is[following filing documents are] hereby incorporated by reference and is[are] available on the department's web site, [www.insurance.utah.gov](http://www.insurance.utah.gov)[:]

- ~~(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007;~~  
~~(b) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007;~~  
~~(c) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007;~~  
~~(d) "Utah Accident and Health Insurance Filing Certification," dated July 1, 2007;~~  
~~(e) "Utah Accident and Health Insurance Group Questionnaire," dated July 1, 2007; and~~  
~~(f) "Utah Accident and Health Insurance Request for Discretionary Group Authorization," dated July 1, 2007].~~

**R590-220-4. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purposes of this rule.

- (1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.
- (2) "Discretionary group" means a group that has been specifically authorized by the commissioner under Subsection 31A-22-701(1)(b).
- (3) "Electronic filing" means a[~~:-~~  
~~(a)-] filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF[~~,-system; or~~  
~~(b) filing submitted via the Internet by using the Sireon system].~~~~
- (4) "Eligible group" means a group that meets the definition in Subsection 31A-22-701(1)(a).
- (5) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.
- (6) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.
- (7) "File For Acceptance" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was accepted.
- (8) "File for Approval" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was approved.
- (9) "Filer" means a person [~~or entity-~~]who submits a filing.
- (10) "Filing," when used as a noun, means an item required to be filed with the department including:
- (a) a policy;
  - (b) a rate, rate manual, or rate methodologies;
  - (c) a form;
  - (d) a document;
  - (e) a plan;
  - (f) a manual;
  - (g) an application;
  - (h) a report;
  - (i) a certificate;
  - (j) an endorsement or rider;
  - (k) an actuarial memorandum, demonstration, and certification;
  - (l) a licensee annual statement;
  - (m) a licensee renewal application; or
  - (n) an advertisement.

(11) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction of non-compliant items, may request clarification or additional information pertaining to the filing.

(12) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(13) "Letter of authorization" means a letter signed by an officer of the licensee[~~insurer~~] on whose behalf the filing is submitted that designates filing authority to the filer.

(14) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(15) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(16) "Rating methodology change" for the purpose of a health benefit plan means a:

(a) change in the number of case characteristics used by a covered licensee[~~carrier~~] to determine premium rates for health benefit plans in a class of business;

(b) change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;

(c) change in the method of allocating expenses among health benefit plans in a class of business; or

(d) change in a rating factor, with respect to any case characteristic, if the change would produce a change in premium for any individual or small employer that exceeds 10%. A change in a rating factor shall mean the cumulative change with respect to such factor considered over a 12-month period. If a covered licensee[~~carrier~~] changes rating factors with respect to more than one case characteristic in a 12-month period, the licensee[~~carrier~~] shall consider the cumulative effect of all such changes in applying the 10% test.

(17) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(18) "Type of insurance" means a specific accident and health product including dental, health benefit plan, long-term care, Medicare supplement, income replacement, specified disease, or vision.

(19) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department, that indicates a filing has been accepted[ ~~pursuant to Subsections 4, 5, 6 or 7~~].

**R590-220-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) A Licensee[~~An insurer~~] and filer are responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

- (a) is not considered filed with the department;
- (b) must be submitted as a new filing; and
- (c) will not be reopened for purposes of resubmission.

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) A filing may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order to Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing correction.

(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. ~~The filer must reference the original filing.~~ The filer shall include a description of the filing corrections.

(c) A new filing is required if a filing correction is made more than 15 days after the date the original filing was submitted to the department. The filer must reference the original filing in the filing description and include a description of the filing corrections.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to Section R590-220-16 ~~[R590-220-15]~~ for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

#### **R590-220-6. Filing Submission Requirements.**

(1) All filings must be submitted as an electronic filing.

(2) A filing must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance, or request filing for more than one ~~insurer~~ licensee.

(4)(a) ~~SERFF Filings.~~

~~(a)]~~ Filing Description. Do not submit a cover letter. On the General ~~general~~ Information ~~information~~ tab, complete the Filing Description section with the following information, presented in the order shown below.

(i) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

(C) includes documents ~~forms~~ for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(iv) Explain any change in benefits or premiums that may occur while the contract is in force.

(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The Utah Accident and Health Insurance Filing Certification must be properly completed, signed, and attached to the Supporting ~~supporting~~ Documentation ~~documentation~~ tab. A false certification may subject the licensee ~~insurer or filer~~ to administrative action.

(c) Domiciliary Approval and Filing Status Information. All filings for a foreign licensee ~~insurer~~ must include on the Supporting ~~supporting~~ Documentation ~~documentation~~ tab:

(i) copy of domicile approval for the exact same filing;

(ii) filing status information which includes:

(A) a list of the states to which the filing was submitted;

(B) the date submitted; and

(C) summary of the states' actions and their responses; or

(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(d) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the Supporting ~~supporting~~ Documentation ~~documentation~~ tab either a:

(i) signed and fully completed Utah Accident and Health Insurance Group Questionnaire; or

(ii) copy of the Utah Accident and Health Insurance Discretionary Group Authorization letter.

(e) Letter of Authorization.

(i) When the filer is not the ~~insurer~~ licensee, a letter of authorization from the ~~insurer~~ licensee must be attached to the Supporting ~~supplementary~~ Documentation ~~documentation~~ tab.

(ii) The ~~insurer~~ licensee remains responsible for the filing being in compliance with Utah laws and rules.

(f) Variable data.

(i) A statement of variability must be attached to the Supporting Documentation tab and certify:

(A) the final form will not contain brackets denoting variable data;

(B) the use of variable data will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination;

(C) the variable data included in this statement will be used on the referenced forms;

(D) any changes to variable data will be submitted prior to implementation.

(ii) Variable data are denoted in brackets and are defined, either by imbedding in the form, or by a separate form identified by its own form number and edition date. Variable data submitted as a separate form must be in a manner that follows the construction of the form, by page and paragraph, or page and footnote.

~~(iii) Variable data must be reasonable, appropriate and compliant.~~

~~(iv) Use of unauthorized variable data is prohibited.~~

~~(g) Utah Accident and Health Insurance Intake Survey.~~

~~(i) The intake survey must be properly completed, signed and attached to the Supporting Documentation tab for filings submitted with the type of insurance of "H15G," "H15I," "H16G," "H16I," "HOrg02G," or "HOrg02I."~~

~~(ii) If the intake survey is incomplete or not attached, the filing will be rejected.~~

~~(h)(f) Items being submitted for filing.~~

~~(i) [Any]All forms must be attached to the Form[form] Schedule[schedule] tab.~~

~~(ii) [Any]All rating documentation, including actuarial memorandums and rate schedules, must be attached to the Rate/Rule[rate/rule] Schedule[schedule].~~

~~(i) Reports are exempt from the filing submission requirement listed in Subsections R590-220-6(4)(c), (d), (f) and (g).~~

~~(5) Sireon Filings:~~

~~(a) Transmittal. The NAIC Life, Accident and Health, Annuity, Credit Transmittal Document, as provided in R590-220-3, must be properly completed:~~

~~(i) Complete the transmittal by using the following:~~

~~(A) NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions); and~~

~~(B) NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix.~~

~~(ii) Do not submit the document described in sections (a) (i)(A) and (B) with the filing.~~

~~(b) Filing Description. Do not submit a cover letter. In Section 15 of the transmittal, complete the Filing Description with the following information presented in the order shown below:~~

~~(i) Provide a description of the filing.~~

~~(ii) Indicate if the filing:~~

~~(A) is new;~~

~~(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;~~

~~(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or~~

~~(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.~~

~~(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.~~

~~(iv) Explain any change in benefits or premiums that may occur while the contract is in force.~~

~~(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.~~

~~(e) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The Utah Accident and Health Insurance Filing Certification must be properly completed and signed. A false certification may subject the insurer or filer to administrative action.~~

~~(d) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:~~

~~(i) copy of domicile approval for the exact same filing;~~

~~(ii) filing status information which includes:~~

~~(A) a list of the states to which the filing was submitted;~~

~~(B) the date submitted; and~~

~~(C) summary of the states' actions and their responses; or~~

~~(iii) if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

~~(e) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach either a:~~

~~(i) signed and fully completed Utah Accident and Health Insurance Group Questionnaire; or~~

~~(ii) copy of the Utah Accident and Health Insurance Discretionary Group Authorization letter.~~

~~(f) Letter of Authorization.~~

~~(i) When the filer is not the insurer, a letter of authorization from the insurer must be included.~~

~~(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.~~

~~(g) Items being submitted for filing. Any form or rate items submitted for filing must be attached to the product forms tab.~~

~~(6) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and reports.~~

#### **R590-220-7. Procedures for Form Filings.**

(1) Forms in General.

(a) Forms are File and Use filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

~~(d) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.~~

~~(e) Blank spaces within the forms must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.~~

(2) Application Filing.

(a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.

(b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

(3) Policy Filing.

(a) Each type of insurance must be filed separately.

(b) A policy filing consists of one policy form, including its related forms, such as the application, outline of coverage, certificate, rider, or endorsement, and an actuarial memorandum.

(c) Only one policy filing for a single type of insurance may be filed, except as stated in Subsection [subsection] R590-220-7(3)(d).

(d) A Medicare supplement filing may include more than one policy filing but each filing is limited to only one of each of the Medicare supplement plans A through [E].

(4) Rider or Endorsement Only Filing.

(a) Up to three related riders or endorsements may be filed together.

(b) A single rider or endorsement that affects multiple forms may be filed if the Filing Description references all affected forms.

(c) The filing must include:

(i) A listing of all base policy form numbers, title and Utah Filed Dates; and

(ii) a description of how each filed rider or endorsement affects the base policy.

(d) Unrelated riders or endorsements may not be filed together.

(5) Outline of Coverage. If an outline of coverage is required to be issued with a policy, rider, or an endorsement, the outline of coverage must be filed when the policy, rider or endorsement is filed.

#### **R590-220-8. Additional Procedures for Individual Accident and Health Market Filings.**

(1) A filer submitting an individual accident and health filing is advised to review:

(a) Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(b) Title 31A, Chapter 22, Part 6, Accident and Health Insurance; and

(c) Rules R590-85, R590-126, R590-131, and R590-192.

(2) This section does not apply to filings for individual health benefit plans that are subject to Title 31A, Chapter [-]30, Individual, Small Employer, and Group Health Insurance Act, and Rule R590-167. Individual health benefit plan filings are discussed in Section R590-220-10.

(3)[(2)] Rate and rate documentation filings.

(a) Rates and rate documentation submitted with a new form filing are a File and Use filing.

(b) A rate revision filing is a File for Acceptance filing.

(4)[(3)] A filer submitting an individual accident and health filing is advised to review Chapter 31A-22-Part 6, and Rules R590-85, R590-126, and R590-131.

(4)] Every individual accident and health policy, rider, or endorsement affecting benefits shall be accompanied by a rate filing with an actuarial memorandum signed by a qualified actuary.

(a) A rate filing need not be submitted if the filing does not require a change in premiums, however the reason why there is not a change in premium must be explained in the Filing Description.

(b) Rates must be filed in accordance with the requirements of Section 31A-22-602, Rules[Rule] R590-85, and R590-220[this rule].

(5) A filer submitting a long term care filing, including an endorsement or rider attached to a life insurance policy, is advised to review Title[Chapter] 31A, Chapter [-]22, Part 14, Long Term Care Insurance Standards[01—1414], Rule R590-148, and Sections[Rule] R590-220-12 and 13.

(6) A filer submitting a Medicare supplement filing is advised to review Section 31A-22-620, Rule R590-146, and Section R590-220-11.

#### **R590-220-9. Additional Procedures for Group Market Form Filings.**

(1) A filer submitting a group accident and health filing is advised to review;

(a) Title 31A, Chapter [-]8, Health Maintenance Organizations and Limited Health Plans;

(b) Title 31A, Chapter [-]22, Parts 6[~~V4~~] and 7[~~VH~~];

(c) Title 31A, Chapter [-]30, Individual, Small Employer, and Group Health Insurance Act; and

(d) Rules R590-76, R590-126, R590-131, R590-146, R590-148, R590-192,[and] R590-233, and Section R590-220-10. [—A filer submitting a group health benefit plan filing should also review R590-220-10 in addition to this section.]

(2)[(1)] Determine whether the group is an eligible group or a discretionary group.

(a)[(2)] Eligible Group. A filing for an eligible group must include a completed Utah Accident and Health Insurance Group Questionnaire.

(i)[(a)] A questionnaire must be completed for each eligible group under Sections 31A-22-503 through 507, and Subsection 31A-22-701(2).

(ii)[(b)] When a filing applies to multiple employee-employer groups under Section 31A-22-502, only one questionnaire is required to be completed.

(b)[(3)] Discretionary Group. If the group is not an eligible group, then specific discretionary group authorization must be obtained prior to filing.

(i)[(a)] To obtain discretionary group authorization a Utah Accident and Health Insurance Request for Discretionary Group Authorization must be submitted and include all required information.

(ii)[(b)] Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

(A)[(i)] the existence of a verifiable group;

(B)[(ii)] that granting permission is not contrary to public policy;

(C)[(iii)] the proposed group would be actuarially sound;

(D)[(iv)] the group would result in economies of acquisition and administration which justify a group rate; and

(E)[(v)] the group would not present hazards of adverse selection.

(iii)[(e)] A discretionary group filing that does not provide authorization documentation will be rejected.

(iv)[(f)] A change to an authorized discretionary group, such as change of name, trustee or domicile state, must be submitted to the department within 30 days of the change.

(v)[(g)] Adding additional types of insurance products to be offered, requires that the discretionary group be reauthorized. The discretionary group authorization will specify the types of products that a discretionary group may offer.

(vi)[(h)] The commissioner may periodically re-evaluate the group's authorization.

(vii)[(4)] A filer may not submit a rate or form filing prior to receiving discretionary group authorization. If a rate or form filing is submitted without discretionary group authorization, the filing will be rejected.

(3)[(5)] A filer submitting a long-term care filing, including a long-term care endorsement or rider attached to a life insurance policy, is advised to review Title[Chapter] 31A, Chapter [-]22, Part 14, Long Term Care Insurance Standards[1401-1414], Rule R590-148, and Sections R590-220-12 and 13[—of this rule].

~~(4)(6)~~ A filer submitting a Medicare supplement filing is advised to review Section 31A-22-620, Rule R590-146, and Section R590-220-11.

**R590-220-10. Additional Procedures for Individual, Small Employer, and Group Health Benefit Plan Filings.**

This section contains instructions for filings subject to Title 31A, Chapter [-]30, Individual, Small Employer, and Group Health Insurance Act.

(1) A filer submitting health benefit plan filings that are subject to Title 31A, Chapter [-]30, is advised to review:

~~(a) Title 31A, Chapter [-]8, Health Maintenance Organization and Limited Health Plans;~~

~~(b) Title 31A, Chapter [31A-]22, Parts 6 and 7[;];~~

~~(c) Title 31A, Chapter [31A-]30[;]; and~~

~~(d) Rules R590-76, R590-131, R590-167, R590-175, R590-176, [and] R590-233, and R590-247.~~

~~(2)(a)(1) General requirements.~~

~~(a) Letter of Intent. A filing must include a copy of the letter filed with the commissioner declaring the carrier's intention as required by R590-167-10.~~

~~(b) Class of Business. The Filing Description must describe the class of business, as provided in Section 31A-30-105.~~

~~(c) Form Filing [Rate Manual]. (i) A health benefit plan form filing must include a rate manual.~~

~~(ii) If the rate manual was previously filed, provide documentation indicating the department's receipt.~~

~~(b)(2) Rate Manual Filing.~~

~~(i)(a) A rate manual that does not request a change in rating methodology is a File Before Use filing.~~

~~(ii)(b) A change in rating methodology filing is a File for Approval filing.~~

~~(iii)(c) A new and revised rate manual must:~~

~~(A)(1) include an actuarial certification signed by a qualified actuary;~~

~~(B)(2) be filed 30 days prior to use;~~

~~(C)(3) list the case characteristics and rate factors to be used;~~

~~(D)(4) be applied in the same manner for all health benefit plans in a class;~~

~~(E)(5) contain specific area factor and industry factors applicable in Utah;~~

~~(F)(6) include the method of calculating the risk load, including the method used to determine any experience factors; [and]~~

~~(G)(7) include how the overall rate is reviewed for compliance with the rate restrictions; and~~

~~(H) include detailed description of all classes of business, as provided in Section 31A-30-105.~~

~~(iv)(8) Any case characteristic not listed in Subsection 31A-30-106(1)(h) requires prior approval of the commissioner.~~

~~(3) Health Benefit Plan Reports.~~

~~(a) Actuarial Certification.~~

~~(i) All individual and small employer licensees [carriers] must file an actuarial certification as described in Section 31A-30-106 and Subsection [Rule] R590-167-11(1)(a).~~

~~(ii) The report is due April 1 each year.~~

~~(b) Small Employer Index Rates Report.~~

All small employer licensees [carriers] must file their index rates as of January 1 of the current year and preceding year, as required by Subsection 31A-29-117(2).

(i) The report must include:

(A) the actual index rates; and

(B) calculate the percentage change in these rates between the two years.

(ii) The report is due February 1 each year.

(c) Each report must be filed separately and be properly identified.

~~(d)(i) All health benefit plan reports must be filed with SERFF using a type of insurance of "H16I" or "H16G," and a filing type of "Report."~~

~~(ii) A Health Maintenance Organization must use "HOrg02I" or "HOrg02G" as the type of insurance and the filing type of "Report."~~

**R590-220-11. Additional Procedures for Medicare Supplement Filings.**

A filer submitting Medicare supplement filings is advised to review Section 31A-22-620 and Rule R590-146. A Medicare supplement form filing that affects rates must be filed with all required rating documentation.

(1)(a) A licensee [An insurer] must file its Medicare Supplement Buyers Guide.

(b) If previously filed, indicate the filed date in the filing description.

(2) Rates.

(a) Rates and rate documentation submitted with a new form filing are a File and Use filing.

(b) A rate revision filing is a File for Acceptance filing.

(c) Medicare supplement rates must comply with Section 31A-22-602, and Rules R590-146 and R590-85.

(d) A licensee [An insurer] shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed.

(e) A rate revision request may not be used to satisfy the annual filing requirements of Subsection [Rule] R590-146-14.C.

(3) Annual Medicare Supplement Reports.

(a) Medicare supplement reports are File and Use filings.

(b) Reports are due May 31 each year.

(c) Report of Multiple Policies.

(i) As required by Section R590-146-22, an issuer of Medicare supplement policies shall annually submit a report of multiple policies the licensee [insurer] has issued to a single insured.

(ii) The report is required each year listing each insured with multiple policies or must state "NO MULTIPLE POLICIES WERE ISSUED." [stating that no multiple policies were issued.]

(d) Annual Filing of Rates and Supporting Documentation.

(i) An issuer of Medicare supplement policies and certificates shall file annually its rates, rating schedule and supporting documentation, including ratios of incurred losses to earned premiums by policy duration, in accordance with Subsection R590-146-14.C.

(ii) The NAIC Medicare Supplement Insurance Model Regulations Manual details what should be included in the annual rate filing.

(iii) Annual reports submitted with a request or any type of reference to a rate revision will be rejected.

(e) Refund Calculation and Benchmark Ratio. An issuer shall file the Medicare Supplement Refund Calculation Form and Reporting Form for the Calculation of Benchmark Ratio Since Inception for Group Policies reports according to Subsection R590-146-14.B.

(f) ~~Each report must be filed separately and be properly identified.~~ Reports for Pre-Standardized Medicare supplement benefit plans and 1990 Standardized Medicare supplement benefit plans must be submitted together as one filing with SERFF using a type of insurance of "MS06," and a filing type of "Report."

(g) Reports for 2010 Standardized Medicare supplement benefit plans must be submitted together as one filing with SERFF using a type of insurance of "MS09," and a filing type of "Report."

(h) If Medicare supplement reports are not submitted as one filing, the filing is considered incomplete and will be rejected.

**R590-220-12. Additional Procedures for Combination Policies or Endorsements and Riders Providing Life and Accident and Health Benefits.**

A filer submitting health and life combination policies, or health endorsements or riders, to life policies, is advised to review Rule R590-226.

(1) A combination filing is a policy, rider, or endorsement, which creates a product that provides both life and accident and health insurance benefits.

(a) The two types of acceptable combination filings are; an endorsement or rider, or an integrated policy.

(b) Combination filings take considerable time to process, and will be processed by both the Health Insurance Division, and the Life Section of the Life, Property and Casualty Insurance Division.

(2) A combination filing must be submitted separately to both the Health Insurance Division and the Life Section of the Life, Property and Casualty Insurance Division.

(3)(a) For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.

(b) For an endorsement or rider, the filing must be submitted to the appropriate division based on benefits provided in the endorsement or rider.

(4) The Filing Description must identify the filing as having a combination of insurance types, such as:

(a) term life policy with a long-term care benefit rider; or

(b) major medical health policy that includes a life insurance benefit.

**R590-220-13. Additional Procedures for Long Term Care Products.**

(1) A filer submitting long-term care product filings is advised to review:

(a) Title[Section] 31A, Chapter [-]22, Part [-]14[00], Long Term Care Insurance Standards;

(b) Rule R590-148[-]; and

(c) Section R590-220-12[section 12 of this rule].

(2) A long-term care form filing that affects rates must be filed with all required rating documentation.

(3)[(+)] Rates.

(a) Rates and rate documentation submitted with a new form filing are a File and Use filing.

(b) A rate revision filing is a File for Acceptance filing.

(c) Long-term care rates must comply with Rules R590-148 and R590-85.

(d) A licensee[An insurer] shall not use or change premium rates for a long-term care policy or certificate unless the rates, rating schedule and supporting documentation have been filed.

(4)[(2)] Annual Long-term Care Reports.

(a) All four long-term care reports required by Section[Rule]-R590-148-25 must be submitted together as one filing.

(b) If all four reports are not submitted as one filing, the filing is considered incomplete and will be rejected.

(c) If there is no information to report, the reporting form must state indicate] "NONE."

(d) Reports are due June 30 each year.

(e) The four reports shown below are required by Section R590-148-25.

(i) Replacement and Lapse Reporting Form.

(ii) Claims Denial Reporting Form.

(iii) Rescission Reporting Form.

(iv) Suitability Report Form.

(f) All long term care reports must be filed with SERFF using a type of insurance of "LTC06," and a filing type of "Report."

**R590-220-14. Criteria for Adding or Terminating Participating Providers.**

(1) Criteria for adding or terminating participating providers must be submitted electronically via SERFF using a type of insurance of "H21" and a filing type of "Report."

(2) The Filing Description must state "Preferred Provider Agreement," as required by Subsection 31A-22-617.1(1)(c).

**R590-220-15[14]. Correspondence and Status Checks.**

(1) Correspondence. When corresponding with the department, ~~a filer must~~ provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing;

(c) form numbers; and

(d) ~~submission method,~~ SERFF ~~or Sireon;~~ and

~~tracking number.~~

(2) Status Checks.

(a) A complete filing is usually processed within 45 days of receipt.

(b) A filer can request the status of its filing ~~by telephone or email~~ 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

**R590-220-16[15]. Responses.**

(1) Response to a Filing Objection Letter. When responding to a[A response to a] Filing Objection Letter a filer must ~~include~~:

(a) provide an explanation[a cover letter] identifying all changes made;

(b) include an underline and strikeout version for each revised document;~~revised documents with all changes highlighted; and]~~

(c) a final version of revised documents that incorporates all changes; ~~and [revised documents incorporating all changes without highlights.]~~

(d) attach the documents in Subsections R590-220-16(1) (b) and (c) to the appropriate Form Schedule or Rate/Rule Schedule tabs.

(2) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing not later than 15 days after the date of the Order.

(d) A new filing is required if the licensee[company] chooses to make the requested changes[change] addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

#### **R590-220-17[16]. Penalties.**

A person found~~[, after a hearing or other regulatory process;]~~ to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

#### **R590-220-18[17]. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule ~~[30 days]~~ 15 days from the effective date of this rule.

#### **R590-220-19[18]. Severability.**

If any provision of this rule or its[the] application[-of it] to any person or situation[~~circumstance~~] is ~~[for any reason]~~ held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable~~[the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected by it].~~

#### **KEY: health insurance filings**

**Date of Enactment or Last Substantive Amendment:** ~~[July 12, 2007]~~ **2010**

**Notice of Continuation:** March 12, 2009

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-22-605; 31A-22-620; 31A-30-106

Labor Commission, Occupational  
Safety and Health  
**R614-7-1**  
Roofing, Tar-Asphalt Operations

## **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33279

FILED: 12/16/2009

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule was developed before federal OSHA established Fall Protection standards in 29 CFR 1926 Sub-part M. Currently Subsection R614-7-1(A) "Roofing" is outdated and in conflict with the federal standards that Utah incorporates by reference and enforces. Subsection R614-7-1(A) is confusing to employers. It contains many contradicting fall protection rules that are not compliant with the Federal Rule for fall protection. It allows the use of "safety belts" and toe boards in roofing, which have been outlawed for some years now. In addition, it allows workers to carry up to 100 pounds when using a ladder, which is obviously not acceptable and against the federal rules. Subsection R614-7-1(A) if followed would lead to citations based on the 29 CFR 1926 Sub-part M, Fall Protection standards. Subsections R614-7-1(B) "Hot Roofing" and R614-7-1(C) "Asphalt mixing plants" are still valid as they address areas that are not covered by the federal standards but are renumbered.

**SUMMARY OF THE RULE OR CHANGE:** This rule change removes Subsection R614-7-1(A) of the existing rule and renumbers the remaining the subsections. The safeguards being removed are already covered by the federal standard which is incorporated by reference in Section R614-4-1.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 34A, Chapter 6

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no cost or savings to the state budget because the standards being removed are already replaced by federal standards already incorporated in Section R614-4-1.

♦ **LOCAL GOVERNMENTS:** There is no cost or savings to local governments because the standards being removed are already replaced by federal standards already incorporated in Section R614-4-1.

♦ **SMALL BUSINESSES:** There is no cost or savings to small businesses because the standards being removed are already replaced by federal standards already incorporated in Section R614-4-1.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no cost or savings to persons other than small businesses, businesses, or local government entities because the standards being removed are already replaced by federal standards already incorporated in Section R614-4-1.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons, because they



should already be complying with federal standards which are incorporated by reference in Section R614-4-1.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on businesses because they should already be complying with federal standards which are incorporated by reference in Section R614-4-1.

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

LABOR COMMISSION  
 OCCUPATIONAL SAFETY AND HEALTH  
 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:  
 ♦ William Adams by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R614. Labor Commission, Occupational Safety and Health.  
 R614-7. Construction Standards.  
 R614-7-1. Roofing, Tar-Asphalt Operations.**

~~[A. Roofing~~

- ~~1. Roofing employees shall be protected by adequate provisions from falling from roofs. These provisions may include:~~
- ~~2. When work is done on roofs which are more than sixteen (16) feet from the ground to the eaves, and where there is no parapet wall at the eaves, and such roof has a slope greater than four (4) inches in one (1) foot, a substantial catch platform or scaffold platform of sufficient width to extend at least two (2) feet beyond the outer edge of the eaves' projection shall be used.~~
- ~~3. As an alternative to such a platform, each person working on the roof shall be provided with a safety belt and life line securely fastened to a safe anchorage.~~
- ~~4. Roofs between six (6) and fifteen (15) feet from the ground to eaves and meeting other provisions above may be protected by a 2 x 4 or larger toeboard securely held at the work position or adequate roof jacks provided the slope does not exceed 12 inches in one (1) foot.~~
- ~~5. Roof ladders may also be used.~~
- ~~6. Workers on roofs having a slope greater than 12/12-pitch shall be protected with safety harnesses and life lines or by substantial roof ladders or other methods providing positive protection.~~
- ~~7. On oval shaped (dome) roofs a rope type of roof ladders is recommended. When the slope is greater than 2 to 1 (24 x 12) the employee shall be protected by life line or a fixed scaffold.~~

- ~~8. Roofing material and workers shall be distributed over the roof structure so as to prevent localized overloading.~~
- ~~9. Employees shall not carry loads exceeding 100 pounds on ladders, roofs or other elevated areas.~~
- ~~10. Employees shall not work on sloped roofs which are snow or ice covered except for the purpose of making same safe.~~
- ~~B]A. Hot roofing.~~
  - 1. Protective clothing and equipment.
    - a. Roofers handling hot roofing materials shall be fully clothed including long sleeved shirts buttoned at the wrists. Other employees may wear no less than "T" shirts over their upper body.
    - b. Substantial shoes no less than six (6) inches in height, fully laced or secured shall be worn.
    - c. No gauntlet gloves shall be permitted. Wrist length gloves shall be worn.
    - d. Employees subjected to the possibility of splashing hot materials shall wear face shields or goggles.
  - 2. Heating equipment.
    - a. All heating kettles shall be equipped with a temperature measuring device in operating condition and the asphalt shall not be heated in excess of 50 degrees below the Flash Point.
    - b. Toxic and combustible vapors are given off during heating of asphalt and tar materials. Employees working with these materials shall be instructed in safety precautions and in the proper methods of handling.
    - c. Attendants shall be within 100 feet of the kettle at all times while the burner flame is on.
    - d. Kettle heating equipment shall be installed and maintained in conformity with the American National Standards Institute Requirements for the fuel being used.
    - e. A fire extinguisher no smaller than 10 B-C rating shall be installed in close proximity to heating kettles.
    - f. During melting and heating operations, care shall be taken to prevent moisture from getting into the hot mix.
  - 3. Material handling.
    - a. Pump lines handling hot asphalt shall be positioned securely and equipped with a shut-off valve on each of a coupler which may be opened when lines are full.
    - b. Pump lines shall not be subjected to pressures in excess of the safe working pressure of the lines being used.
    - c. Hot asphalt shall not be carried up ladders but shall be pumped or hoisted.
    - d. Hoisting frames and equipment shall be installed in a safe manner, properly secured and positioned so that the operator has access to the bucket or container without subjecting himself to hazard.
    - e. Every tar bucket used by roofers or workers in similar trades shall be made of No. 24 gauge or heavier sheet steel and shall have a metal bail of no less than 1/4 inch diameter material. The bail shall be fastened to offset ears or the equivalent which have been riveted, welded or otherwise securely attached to the bucket. Soldered bail sockets are not permissible. Most paint buckets will not comply with these regulations.
    - f. Extreme caution shall be taken when working near sky lights or other roof holes.
    - g. Employees shall be positioned in such a manner that they cannot be struck by a bucket or other roofing material which may accidentally fall either while being hoisted, lowered or used in the roofing operation.

4. Flammable liquid with a flash point below 100 degrees F. (gasoline and similar products) shall not be used for cleaning purposes.

5. Workers shall not ride on top of loaded trucks or on running boards but shall be seated inside the cab of the vehicle.

6. Provisions of 29 CFR 1926.451 and 1926.1050 shall be complied with as applicable, covering scaffolds and ladders.

[C]B. Asphalt mixing plants.

1. Toxic and combustible vapors are given off during heating of asphalt and tar materials. Employees working with these materials shall be instructed in necessary precautions and in the proper methods of handling.

2. Suitable clothing and protective devices shall be worn by employees handling or applying asphalt and tar materials.

3. Positive care shall be taken to prevent heating materials above the flashpoint. Mixing operations shall be performed at the lowest practicable temperature.

4. Drums or other containers in which liquid bituminous materials are stored shall be kept tightly closed when not in use and shall be protected from sources of excess heat, sparks, and open flames.

5. A 10 B.C. fire extinguisher shall be provided at locations where heating devices or melting kettles are in use.

6. Asphalt or tar heating kettles when in use shall not be left unattended and shall be securely fastened to prevent accidental tipping. They shall be provided with a lid and thermometer.

7. During melting and heating operations, care shall be taken to prevent moisture from getting into the hot mix. The use of gasoline or similar volatile materials as thinners is prohibited.

8. Where natural ventilation is insufficient at enclosed areas in which hot tar, asphalt, etc., are being heated or applied, an approved method of mechanical ventilation shall be provided. In addition, respirators shall be furnished to workers where required.

9. Heating, pumping, and application operations shall not be left unattended and an operator shall be stationed near the equipment to cut off flow or care for other emergencies.

10. Spraymen handling hot asphalt or tar shall not be allowed to work under hoses supplying hot materials to the sprays. Only flexible metallic hoses fitted with insulated handles shall be used in hand-spraying operations.

11. Form pins having mushroomed or split heads shall be discarded or effectively repaired.

12. Pipe lines which contain hot oil or asphalt shall be equipped with a shut-off valve on each side of a coupler which may be opened when lines are full.

**KEY: safety**

**Date of Enactment or Last Substantive Amendment:** ~~July 2, 2005~~ **2010**

**Notice of Continuation:** November 2, 2007

**Authorizing, and Implemented or Interpreted Law:** 34A-6

## Natural Resources, Wildlife Resources R657-20 Falconry

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33287

FILED: 12/21/2009

### 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 regularly for taking public input and reviewing the Division of Wildlife's rule pursuant to falconry.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule make it consistent with new guidelines issued by the Federal Fish and Wildlife Service.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-17-7

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments clarify the rules that regulate the possession and use of raptors for falconry. Therefore, the Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since the amendments clarify the rules that regulate the possession and use of raptors for falconry, 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.

◆ **SMALL BUSINESSES:** These amendments clarify the rules that regulate the possession and use of raptors for falconry. Therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to other small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments clarify the rules that regulate the possession and use of raptors for falconry. 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 the 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.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: James Karpowitz, Director

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

### **R657-20. Falconry.**

#### **R657-20-1. Purpose and Authority.**

(1) Under authority of Section 23-17-7 and in accordance with 50 CFR [21, 2000 ed.,]21 and 22, which is incorporated by reference, [this rule provides the requirements and procedures for possessing and using raptors for falconry.]the Wildlife Board has established this rule for the practice of falconry in the state of Utah.

#### **R657-20-2. Possession of Raptors.**

(2) Take of any raptor species for the practice of falconry must be in compliance with these regulations.

(3) Raptor species possessed under the authority of this rule must be trained in the pursuit of wild game and used in hunting, unless specifically noted otherwise in special provisions granted under this rule.

(4) A federal falconry permit is no longer required for practicing the sport of falconry in the state of Utah.

(5) The Federal Migratory Bird Treaty Act prohibits any person from taking, possessing, purchasing, bartering, selling, or offering to purchase, barter, or sell, among other things, raptors listed in Section 10.13 of 50 CFR 21, unless the activities are allowed under provisions of this rule, or are permitted by other applicable state or Federal regulations.

(a) This rule covers all avian species in the Order Falconiformes (i.e., vultures, kites, eagles, hawks, caracaras, and falcons) and all avian species in the Order Strigiformes such as owls

and hybrids thereof, and applies to any person who possesses one or more wild-caught, captive-bred, or hybrid raptors to use in falconry.

(b) The Bald and Golden Eagle Protection Act in 16 U.S.C. 668-668d and 54 Stat. 250) provides for the taking of golden eagles from the wild to use in falconry, and specifies that the only golden eagles that may be used for falconry are those that would be taken because of depredations on livestock or wildlife (16 U.S.C. 668a).

(6) Specific season dates, possession limits, open and closed areas, number of permits or CORs, and other administrative regulations for practicing falconry are published in the Utah falconry Guidebook which is available by contacting the Division of Wildlife Resources office in Salt Lake City or online at <http://wildlife.utah.gov>.

([+]) Possession of any raptor, raptor egg, shell fragment, semen, or any raptor part without a [federal falconry permit and a valid Falconry Certificate of Registration, license or Form 3-186A]valid and applicable state COR or Federal permit is prima facie evidence that the raptor, raptor egg, shell fragment, semen, or any raptor part was illegally taken and is illegally held in possession.

(2) The only species of raptor that may be possessed, transported, or used for falconry are:

(a) raptors of the subfamily Accipitrinae, other than the Bald Eagle (*Haliaeetus leucocephalus*);

(b) raptors of the subfamily Falconinae; and

(c) Great Horned Owl (*Bubo virginianus*) and captive-bred Eurasian Eagle-owl (*Bubo bubo*) of the family Strigidae.

(8) Pursuant to Utah Code Section 23-19-9, the Division has the authority to suspend or revoke any or all of the privileges granted under this rule.

(a) Upon request, a permittee whose COR has been suspended may reapply for a falconry COR, pursuant to the application procedures in this rule, at the end of the suspension period.

(9) Nothing in this rule shall be construed to allow the intentional taking of protected wildlife in violation of federal or state laws, rules, regulations, or guidebooks.

#### **[R657-20-3.]R657-20-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2 and [Rule]R657-[6-]6-2.

(2) In addition:

[(a) "Bird Banding Laboratory band" means a permanent, numbered, silver, aluminum band.](a) "Abatement activities" means use of trained raptors to flush, haze or take birds (or other wildlife where allowed) to mitigate depredation problems, including threats to human health and safety.

(b) "Aerie" refers to the nest of any raptor.

(c) "Bate" refers to a hawk or falcon that attempts to fly while being tethered to the falconer's fist, a block or other form of perch, whether from wildness, or for exercise, or in an attempt to chase.

(d) "Business Day" refers to any day the Division is open for business

(e) "Captive-bred" refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

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

~~(g) "COR" for purposes of this rule means a Certificate of Registration (permit) issued by the Division authorizing an individual to participate in the sport of falconry.~~

~~([b]h) "Eyas" means a young raptor not yet capable of sustained flight such as a nestling or fledgling.~~

~~[(e) "Falconry" means the sport of taking quarry by means of a trained raptor.](i) "Division" means the Utah Division of Wildlife Resources.~~

~~(j) "falconry" means, for the purposes of this rule, caring for and training raptors for pursuit of wild game, and hunting wild game with raptors. falconry includes the taking of raptors from the wild to use in the sport of falconry; and caring for, training, and transporting raptors held for falconry.~~

~~(k) "Fledged" means the stage in a young raptor's life when the feathers and wing muscles are sufficiently developed for flight. A young raptor that has recently fledged but is still dependent upon parental care and feeding is called a fledgling.~~

~~[(d)l] "Form 3-186A" means the Migratory Bird Acquisition and Disposition Report form.~~

~~(m) "Hacking" means the temporary or permanent release of a raptor held for falconry to the wild so that it may survive on its own.~~

~~(n) "Haggard" means a wild adult raptor.~~

~~(o) "Humane treatment" for purposes of this rule means to maintain raptors in accordance with accepted standards for practicing falconry, including care and treatment of a raptor so that it is physically healthy and maintaining raptors under conditions that are known to prevent predictable illness or injury.~~

~~(p) "Hybrid" means offspring of birds listed as two or more distinct species including but not limited to those listed in Section 10.13 of Subchapter B of 50 CFR 21, or offspring of birds recognized by ornithological authorities as two or more distinct species including but not limited to those listed in Section 10.13 of Subchapter B of 50 CFR 21.~~

~~[(e)q] "Imping" means to graft new or additional feathers to existing feather shafts on a raptor's wing(s) or tail to repair damage or to increase flying capacity.~~

~~(r) "Imprint", for the purposes of falconry, means a bird that is hand-raised in isolation from the sight of other raptors from 2 weeks of age until it has fully feathered. An imprinted bird is considered to be so for its entire lifetime.~~

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

~~(t) "Livestock depredation area" means a specific geographic location in which depredation on livestock by golden eagles has been recognized.~~

~~[(f)u] "Marker or band" means a numbered band issued by the Service which, when affixed to a raptor's leg, identifies an individual raptor.~~

~~[(g)v] "Meet" means, for purposes of this rule, an organized falconry event where protected wildlife may be taken and for which a 5 day non-resident meet hunting license is approved by the Wildlife Board.~~

~~[(h) "Passage bird]w) "Mews" refers to indoor facilities where raptors are kept for falconry purposes.~~

~~(x) "Migratory game bird" means, for the purposes of this rule, ducks, geese, swans, snipe, coot, Mourning Dove, White-winged Dove, Band-tailed Pigeon, and Sandhill Crane.~~

~~(y) "Nest" refers to the structure or place where a raptor lays eggs and shelters its young.~~

~~(z) "Passage raptor" means a first-year raptor capable of sustained flight[-] that is no longer dependent upon parental care and/or feeding~~

~~[(i) "Quarry" means any live animal.]aa) "Raptor" means any bird of the Order Falconiformes or the Order Strigiformes and hybrids thereof unless defined otherwise in this rule.~~

~~[(j) "Raptor" means a bird of the families Accipitridae, Falconidae, Tytonidae, or Strigidae.~~

~~[(bb) "Reasonable time of day" for inspections, or other business, at a falconers facilities refers to hours the Division is open for business, or some other prearranged time between the falconer and the Division representative.~~

~~[(k)cc) "Service" means the U.S. Fish and Wildlife Service.~~

~~[(l) "State Forms" means annual reports and completed Raptor Capture permits.][(m)-]dd) "Take" means to: [(i)-]hunt, pursue, harass, catch, capture, possess, angle, seine, trap or kill any protected wildlife; or [(ii)-]attempt any such action[-referred to in Subsection (i)].~~

~~[(n)-]ee) "Transport" means to ship, carry, export, import, receive or deliver for shipment, conveyance, carriage, exportation or importation.~~

~~(ff) "Trial" means, for purposes of this rule, an organized falconry event where[-only coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon,] European Starling (*Sturnella neglecta*), House Sparrow (*Passer domesticus*), [or-]Rock [Pigeon]Dove/feral pigeon (*Columba livia*), pen-reared game birds, and lawfully possessed, domestic birds may be taken.~~

~~(gg) "Upland game" means, for purposes of this rule, pheasant, quail, Chukar Partridge, Hungarian Partridge, Sage-grouse, Ruffed Grouse, Dusky ("Blue") Grouse, Sharp-tailed Grouse, cottontail rabbit, snowshoe hare, and White-tailed Ptarmigan.~~

~~(hh) "Weathering Area" refers to a protected outdoor facility where raptors are kept for falconry purposes.~~

~~(ii) "Wild" refers to an animal in its original natural state of existence; not domesticated nor cultivated.~~

~~(jj) "Year" refers to a normal calendar year of January 1 to December 31, unless defined otherwise in this rule.~~

### **R657-20-3. Minimum Age Requirement.**

~~(1) A person who wishes to practice the sport of falconry in Utah must be at least 14 years of age.~~

### **R657-20-4. [Federal Requirements]Falconry COR, Permits, and Licenses.**

~~(1) [A federal falconry permit is required before any person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter raptors for falconry purposes.]The division may deny issuing a COR or permit to any applicant, if:~~

~~(a) the applicant has violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and~~

responsibilities of practicing the sport of falconry bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities:

(b) the applicant misrepresented or failed to disclose material information required in connection with the application; or

(c) holding raptors at the proposed location violates federal, state, or local laws.

(2) A COR is not transferrable.

(3) CORs do not provide the holder with any rights of succession.

(4) Any COR issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer.

(5) A resident must possess a valid COR issued by the Division to take, possess, hunt with, or transport raptors for the purpose of practicing the sport of falconry in Utah.

[(2) Applications for a federal falconry permit may be obtained from, and submitted to the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 25486, Denver Federal Center (60154), Denver, CO. 80225-0486.

[(3)(a) A federal falconry permit issued or renewed under 50 CFR 21.28 expires on the date designated on the face of the permit unless amended or revoked, but the term of permit shall not exceed three years from the date of issuance or renewal.

[(b) Applicants for renewal of a federal falconry permit must submit a written application at least 30 days prior to the expiration date of the permit.](a) A falconry COR requires up to a 30-business day processing time from the date an application is received.

(b) A falconry COR is valid at the Apprentice Class level for a 3-year period from date of issuance.

(c) A falconry COR is valid at the General and Master Class level for a 5-year period from date of issuance.

(6) The falconer must have a falconry COR or a legible copy of it in their immediate possession when not at the location of their falconry facilities and is trapping, transporting, working with, or flying raptors in falconry.

(7) A falconer must obtain a Raptor Capture Permit prior to capturing or attempting to capture any raptor from the wild in Utah. A valid falconry COR is required for a Utah resident in order to obtain a Raptor Capture Permit.

(8) The falconry COR allows a resident falconer to use a raptor for unrestricted take of unprotected wildlife including coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European Starling, House Sparrow, and rock dove or feral pigeon; no other license or permit is required other than the falconry COR for take of these species.

(a) A non-resident falconer is required to have a current falconry license or permit from his/her state of residence and a valid federal falconry permit, if applicable.

(9) With a falconry bird, a falconer may take any species for which a federal Depredation Order is in place under parts 21.43, 44, 45, or 46 of 50 CFR 21, at any time in accordance with the conditions of the applicable depredation order, as long as the falconer is not paid for doing so.

(10) A falconer releasing a raptor for the purpose of hunting protected wildlife, not held in private ownership, must first obtain the appropriate licenses, permits, tags, CORs and stamps as

provided in the applicable rules and guide books of the Wildlife Board.

(a) The hunting of upland game shall be done in accordance with the rule and guide book of the Wildlife Board for taking upland game species.

(b) The hunting of migratory game birds shall be done in accordance with the rule and guide book of the Wildlife Board for taking migratory game species.

(c) A hunting license is not required to take pen-reared game birds with a trained raptor.

#### **R657-20-5. [Resident Certificate of Registration] Application for a Resident or Nonresident Falconry COR.**

##### (1) Resident Applications

(a) A resident applying for or renewing a [F]falconry [Certificate of Registration]COR shall:

[(a)i] [s]Submit a completed falconry application to the [d]Division; and

[(b)ii] [i]Include the [e]certificate of registration fee.]appropriate COR fee.

[(2)b] At the time of renewal, the current [F]falconry [Certificate of Registration and a federal falconry permit]COR number must be [submitted]included on the falconry COR renewal application.

#### **R657-20-6. Apprentice Class Falconer.**

(1) An apprentice class falconer shall be:

(a) 14 years of age or older; and

(b) sponsored by a general or master class falconer for the first two years of apprenticeship.

(2) An apprentice obtaining their first Falconry Certificate of Registration must answer correctly at least 80 percent of the questions on a supervised examination provided and administered by the division, relating to basic biology, care and handling of raptors, literature, laws, rules, regulations, and other appropriate subject matter.

(3) If necessary, the examination may be taken again after a 14-calendar-day waiting period.

(4) A person may not take the falconry exam earlier than two months before that person's 14th birthday.

(5) The sponsor shall provide advice for facilities and equipment construction, trapping the first season, training the raptor, and all other activities that will promote adequate care and good health for the raptor and safety for the apprentice. A sponsor may not have more than three apprentices at one time.

(6) In the event sponsorship is terminated, the holder of an apprentice Falconry Certificate of Registration must obtain a new sponsor within 30-calendar days of termination.

(7) The division must be notified in writing concerning the change in sponsor. The sponsor's name, state, Falconry Certificate of Registration and federal falconry permit number must be included in the notification.

(8) An apprentice may not:

(a) possess more than one raptor for falconry; and

(b) obtain more than one raptor for replacement during any 12-month period from the date of the first capture.

(9) An apprentice may possess only an American Kestrel (Falco sparverius) or a Red-tailed Hawk (Buteo jamaicensis), which

must be taken from the wild as a passage bird by the apprentice during the passage season.

~~(10) Re-examination and facilities inspection will be required of any applicant who has not held a Falconry Certificate of Registration or license for two consecutive years.~~

~~(11)(a) Requests for class upgrades must be submitted to the division in writing.~~

~~(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.~~

**R657-20-7. General Class Falconer.**

~~(1) A general class falconer shall:~~

~~(a) be 18 years of age or older;~~

~~(b) show proof of having a valid Falconry Certificate of Registration for at least 24 months; and~~

~~(c) have at least two years of sponsor-verified experience caring for, training, or hunting with raptors at the apprentice level or its equivalent;~~

~~(i) For purposes of this section, "two years of experience" means at least four months caring for, training, or hunting with raptors in each of two different 12-month periods.~~

~~(2) Evidence that the applicant has had a valid raptor license or permit in another state for at least 24 consecutive months may be substituted for the apprentice Falconry Certificate of Registration requirement.~~

~~(3)(a) Verification of the two-year experience requires a letter from the sponsor that details the applicant's progress in falconry and qualifications for upgrade; and~~

~~(b) the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.~~

~~(4) A general class falconer may not:~~

~~(a) possess more than two raptors for falconry; and~~

~~(b) obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or~~

~~(c) take, transport, or possess a Golden Eagle (*Aquila chrysaetos*) or any species listed as threatened or endangered in 50 CFR 17.~~

~~(5)(a) Facilities inspection will be required of any applicant who has not held a Falconry Certificate of Registration or license for two consecutive years.~~

~~(b) Re-examination will be required of any applicant who has not held a Falconry Certificate of Registration or license for five consecutive years.~~

~~(6)(a) Requests for class upgrades must be submitted to the division in writing.~~

~~(b) Failure to comply with the rules and regulations of the Wildlife Board may result in the denial of an upgrade.~~

**R657-20-8. Master Class Falconer.**

~~(1) A master class falconer shall:~~

~~(a) show proof of having a valid general class Falconry Certificate of Registration for at least 60 months; and~~

~~(b) have at least five years experience caring for, training, or hunting with raptors at the general class level or its equivalent.~~

~~(i) For purposes of this section, "five years of experience" means at least four months caring for, training, or hunting with raptors in each of five different 12-month periods.~~

~~(2) Verification of the five-year experience requires the appropriate federal Form 3-186A and state forms indicating experience caring for raptors.~~

~~(3) A master class falconer may not:~~

~~(a) possess more than three raptors for falconry;~~

~~(b) obtain more than two raptors taken from the wild for replacement birds during any 12-month period from the date of first capture; or~~

~~(c) take from the wild:~~

~~(i) more than one raptor listed as threatened in 50 CFR 17, in any 12-month period, as part of the three bird limitation, and then only in accordance with 50 CFR 17; or~~

~~(ii) any species listed as endangered in 50 CFR 17, but may transport or possess such species in accordance with 50 CFR 17.~~

~~(4) A master class falconer may not take from the wild, transport, or possess a Golden Eagle for falconry purposes unless authorized in writing under 50 CFR 22.24.~~

~~(5) A master class falconer may possess one Golden Eagle for falconry purposes pursuant to 50 CFR 22.24, Eagle Permits, and as provided in Subsections (i) through (ii).~~

~~(i) The registrant may not obtain or possess more than one Golden Eagle during a 12-month period; and~~

~~(ii) the Golden Eagle held by the registrant shall be included in the three-bird limitation of the master class falconer in accordance with 50 CFR 17.~~

**R657-20-9. Facilities and Equipment.**

~~(1) Before a person may obtain a Falconry Certificate of Registration, the raptor housing facilities and equipment shall be inspected by a division representative and must be certified as meeting the requirements of this section.~~

~~(2)(a) The primary consideration for raptor housing facilities whether indoor mews or outdoor weathering area is protection from the environment, predators, and undue disturbance.~~

~~(b) A person may not possess a raptor without either an indoor facility or an outdoor facility as provided in Section R657-20-10 and R657-20-11.~~

**R657-20-10. Indoor Facilities.**

~~(1) An indoor facility or mews must be large enough to allow easy access for caring for the raptor housed in the facility.~~

~~(2) If more than one raptor is to be kept in the mews, the raptors must be tethered or separated by partitions and the area for each raptor must be large enough to allow the raptor to fully extend its wings.~~

~~(3) There must be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a secure door that can be easily closed.~~

~~(4) The floor of the mews must allow for easy cleaning and be well drained.~~

~~(5) Adequate perches must be provided to ensure the health, safety and protection of the raptor.~~

**R657-20-11. Outdoor Facilities.**

~~(1) Outdoor facilities or weathering areas must be fenced and covered with netting or wire, or roofed to protect the raptor from disturbance and attack by predators.~~

~~\_\_\_\_\_ (2) The enclosed area must be large enough to ensure the raptor cannot strike the fence when flying from the perch.~~

~~\_\_\_\_\_ (3) Protection from excessive sun, wind, and inclement weather must be provided for each raptor.~~

~~\_\_\_\_\_ (4) Adequate perches must be provided to ensure the health, safety and protection of the raptor.~~

**R657-20-12. Equipment.**

~~\_\_\_\_\_ The following items shall be in the possession of the applicant before a federal falconry permit or Falconry Certificate of Registration may be obtained:~~

~~\_\_\_\_\_ (1)(a) At least one pair of Aylmeri jesses or similar type constructed of pliable, high quality leather or suitable synthetic material to be used when any raptor is flown free.~~

~~\_\_\_\_\_ (b) Traditional one-piece jesses may be used on raptors when not being flown.~~

~~\_\_\_\_\_ (2) At least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design.~~

~~\_\_\_\_\_ (3) At least one suitable container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each raptor.~~

~~\_\_\_\_\_ (4) At least one weathering area perch of an acceptable design for each raptor.~~

~~\_\_\_\_\_ (5) A reliable scale or balance suitable for weighing the raptor held and graduated to increments of not more than one-half ounce.~~

**R657-20-13. Federal Form 3-186A.**

~~\_\_\_\_\_ A falconer may not take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless the falconer completes a federal Form 3-186A. The blue (State) copy of each completed Form 3-186 should be sent to the division within five calendar days of the transaction; the white copies (USFWS Original and USFWS Copy) should be sent to the Service within five calendar days of the transaction; the falconer should keep the pink (Permittee) copy.~~

**R657-20-14. Temporary Possession For Care.**

~~\_\_\_\_\_ (1)(a) A raptor possessed under authority of a Falconry Certificate of Registration may be temporarily held by a person other than the possessor of record for maintenance and care for a period not to exceed 30 calendar days.~~

~~\_\_\_\_\_ (b) The raptor must be accompanied at all times by a copy of the properly completed federal Form 3-186A or copy designating the falconer as the possessor of record and by a signed, dated statement from the falconer authorizing temporary possession.~~

~~\_\_\_\_\_ (c) The temporary possessor must hold a valid Falconry Certificate of Registration in the appropriate class designation and have adequate facilities.~~

**R657-20-15. Permanent Transfer.**

~~\_\_\_\_\_ A falconer may permanently transfer a raptor to:~~

~~\_\_\_\_\_ (1) another falconer of appropriate class designation with a valid Falconry Certificate of Registration and adequate facilities; or~~

~~\_\_\_\_\_ (2) a raptor propagator or special purpose possession permittee who has the appropriate certificates, licenses, permits and Form 3-186A.~~

**R657-20-16. Purchase or Sale of Captive-Bred Raptors.**

~~\_\_\_\_\_ (1) Only general and master class falconers may purchase or sell captive-bred raptors.~~

~~\_\_\_\_\_ (2) Before a captive-bred raptor is purchased or sold, bartered or gifted it shall be properly banded.~~

**R657-20-17. Importation Requirements for Residents and Nonresidents.**

~~\_\_\_\_\_ (1)(a) A person is not required to obtain an importation certificate of registration to possess a raptor brought into Utah from another state when the raptor is to be used for falconry purposes.~~

~~\_\_\_\_\_ (b) A raptor used for any purpose other than falconry is governed by Rule R657-3.~~

~~\_\_\_\_\_ (2) If any raptor is brought into the state on a permanent basis, the band number must be presented to the division within five business days of the arrival of the raptor into the state.~~

~~\_\_\_\_\_ (3) A raptor brought into the state for any purpose is governed by Rule R58-1-4.~~

**R657-20-18. Nonresidents Establishing Residency.**

~~\_\_\_\_\_ (c) A falconer claiming residency[~~(4)~~ A falconer] in Utah may not claim residency in[~~more than one state~~], or possess a resident falconry license or [F]falconry [Certificate of Registration from more than one]permit from another state.~~

~~\_\_\_\_\_ (2) [A-n]Nonresident Applications~~

~~\_\_\_\_\_ (a) A six-month domicile period is required for a nonresident falconer entering [the state]Utah to establish residency.~~

~~\_\_\_\_\_ (b) A nonresident falconer entering Utah to establish residency may possess legally obtained raptors that were acquired prior to entering Utah during the six-month domicile period while establishing residency.~~

~~\_\_\_\_\_ ([3]i) If the raptors are to be flown or exercised during the six-month domicile period, the following permits must be in possession:~~

~~\_\_\_\_\_ (A) a valid falconry license from the previous state; and~~

~~\_\_\_\_\_ (B) a valid federal falconry permit when required under federal law.~~

~~\_\_\_\_\_ (ii) If the raptor(s) is to be used for falconry during the six-month domicile period, the falconer must purchase all applicable Utah non-resident hunting licenses and/or permits.~~

~~\_\_\_\_\_ (c) A copy of the previous state's valid falconry license indicating class designation, a current federal falconry permit number, if applicable, a valid health certificate, the number and species of raptors with the band number (if banded) of [the]each raptor held in possession, and an import authorization number obtained from the Utah Department of Agriculture must be presented to the [d]Division [~~upon~~]within 5 business days after entering [the state.]Utah.~~

~~\_\_\_\_\_ ([4]d) [The]A non-resident falconer establishing residency must [have the]maintain proper facilities and equipment.~~

~~\_\_\_\_\_ (i) A facilities inspection is required and must be requested from the Division by the non-resident falconer no later than 120 days of establishing domicile in the state.~~

~~\_\_\_\_\_ ([5) If the raptor is to be flown or exercised during the six-month domicile period, a valid falconry license from the previous state and a current federal falconry permit are required.~~

~~\_\_\_\_\_ (6) If the raptor is to be used for falconry during the six-month domicile period, a valid falconry license from the previous~~

state, a current federal falconry permit number and the appropriate nonresident game license are required:

~~\_\_\_\_\_](A) Requests may be made in writing or via email at falconry@utah.gov.~~

~~\_\_\_\_\_](ii) A facilities inspection will be completed by the Division within 30 business days of the date the request for an inspection is received.~~

~~\_\_\_\_\_](iii) A non-resident falconer establishing residency may temporarily house raptors prior to their initial facilities inspection (see Section R657-20-20).~~

~~\_\_\_\_\_](7) Upon completion of the residency requirement]e) At the conclusion of the six-month domicile period, a new resident applying for a [F]falconry [Certificate of Registration]COR must submit the following to the [d]Division:~~

~~\_\_\_\_\_](a)i) [a]A completed falconry application indicating class designation;~~

~~\_\_\_\_\_](b) the certificate of registration fee;~~

~~\_\_\_\_\_](e)ii) [a]A copy of a valid falconry license from the former state of residency indicating class designation;[and]~~

~~\_\_\_\_\_](d) their]iii) A valid federal falconry permit number[-], if applicable;~~

#### **~~R657-20-19. Facilities for Raptors in Transit.~~**

~~\_\_\_\_\_]To ensure the health, safety and protection of any raptor being transported or held, temporary facilities must be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 calendar days.~~

#### **~~R657-20-20. Change of Address.~~**

~~\_\_\_\_\_]Any falconer who possesses a raptor and moves or changes the address of where the raptor is being held must notify the division in writing of the change of address within five business days. An inspection of facilities may be required at the new location.~~

#### **~~R657-20-21. Release to the Wild.~~**

~~\_\_\_\_\_]Prior to releasing any raptor to the wild:~~

~~\_\_\_\_\_](1) the falconry shall be removed by a division representative; and~~

~~\_\_\_\_\_](2) a numbered aluminum Bird Banding Laboratory band shall be attached to the raptor by a division representative. Banding is by appointment only.~~

#### **~~R657-20-22. Escape or Death.~~**

~~\_\_\_\_\_](1) The division must be notified upon escape or death of a raptor.~~

~~\_\_\_\_\_](2) Within five business days of the escape or death of any raptor, the appropriate copies of the federal Form 3-186A must be provided to the division and the Service.~~

~~\_\_\_\_\_](3) Within five business days, the band from a raptor that dies must be presented to a division representative with the corresponding federal Form 3-186A.~~

#### **~~R657-20-23. Feathers.~~**

~~\_\_\_\_\_]Feathers that are molted or feathers from raptors held in captivity that die may be retained and exchanged for imping purposes by falconers with a valid Falconry Certificate of Registration.](iv) Proof that the applicant has passed the falconry~~

~~test administered by the state, tribe, or territory where legal residence was maintained, or proof that the applicant previously held a falconry permit at the class level being requested; or:~~

~~\_\_\_\_\_](A) Correctly answer at least 80 percent of the questions on an examination administered by the Division.~~

~~\_\_\_\_\_](B) If the applicant passes the examination, the Division will decide which level of falconry permit to be issued, consistent with the class requirements outlined in Sections R657-20-16, R657-20-17, and R657-20-18 of this rule; and~~

~~\_\_\_\_\_](v) Submit the appropriate COR fee.~~

~~\_\_\_\_\_](f) A non-resident falconer entering Utah to establish residency that holds raptors in possession and fails to apply for a falconry COR within 30 days of qualifying for residency will be in violation of the law for unlawful captivity of protected wildlife under Sections 23-13-4 and 23-20-3 and may be denied a falconry COR, and any raptors in their possession may be subject to seizure.~~

~~\_\_\_\_\_](g) At the conclusion of the six-month domicile period outlined in Section R657-20-5, a falconer may apply for a resident Utah falconry COR.~~

#### **~~R657-20-24. Certificate of Registration]6. COR Renewal and Annual Report Forms.~~**

~~\_\_\_\_\_](1) Resident falconers wishing to renew a valid [F]falconry [Certificate of Registration]COR must submit a completed [F]falconry [Certificate of Registration]COR renewal form to the [d]Division upon or before the expiration date specified on the current [F]falconry [Certificate of Registration]COR.~~

~~\_\_\_\_\_](a) falconry COR Renewals require up to a 30-day processing time for completion.~~

~~\_\_\_\_\_](2) All Resident falconers holding a valid [F]falconry [Certificate of Registration]COR must submit a completed falconry [a]Annual [r]Report [form]to the [d]Division by January 31 of each year, as follows:~~

~~\_\_\_\_\_](a) By December 31 of each year, the Division will provide each resident falconer with an annual summary report of their falconry activities that are on file.~~

~~\_\_\_\_\_](b) Each resident falconer must verify the annual summary report for accuracy and return the report to the Division by the following January 31.~~

~~\_\_\_\_\_](3) Residents who do not hold a valid [F]falconry [Certificate of Registration]COR or do not submit a [ertificate of registration]COR renewal form by the date [specified on the certificate of registration and]their current COR lapses and who maintain raptors in possession are in violation of unlawful captivity of protected wildlife under [Section]Sections 23-13-[4]-4 and 23-20-3.~~

~~\_\_\_\_\_](4) Any raptor not listed on the falconry annual report or federal Form 3-186A may be seized.~~

~~\_\_\_\_\_](5) Failure to submit [the appropriate]required records and timely, accurate, or valid reports may result in [revocation, suspension or denial of a Falconry Certificate of Registration or upgrade.]administrative action by the Division.~~

#### **~~R657-20-25. Inspection of Raptors, Facilities, Certificates of Registration, and Documents.~~**

~~\_\_\_\_\_]As a condition of obtaining a Falconry Certificate of Registration, the falconer agrees to reasonable administrative inspections of raptors, facilities equipment, appropriate permits, licenses, certificates of registration and forms.~~



**R657-20-26. Taking Raptors from the Wild.**

- ~~\_\_\_\_\_ (1) A person may not take any raptor from the wild without first obtaining a Raptor Capture Permit from the division.~~
- ~~\_\_\_\_\_ (2)(a) A raptor may be taken by traps or nets that are humane in their operation and use.~~
- ~~\_\_\_\_\_ (b) Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, and bow net traps.~~
- ~~\_\_\_\_\_ (c) Trapping devices must be constantly attended while in use.~~
- ~~\_\_\_\_\_ (d) Protected wildlife may not be used to capture raptors.~~

**R657-20-27. Capture Permits.**

- ~~\_\_\_\_\_ (1) A person must possess a valid Falconry Certificate of Registration and federal falconry permit prior to obtaining a Raptor Capture Permit.~~
- ~~\_\_\_\_\_ (2)(a) Prior to capturing or attempting to capture any raptor a falconer must obtain a Raptor Capture Permit from a division office.~~
- ~~\_\_\_\_\_ (b) The Raptor Capture Permit, federal falconry permit and Falconry Certificate of Registration must be in possession while pursuing, capturing or attempting to capture a raptor.~~
- ~~\_\_\_\_\_ (3) An apprentice class Raptor Capture Permit is valid for the passage season capture of~~  
~~\_\_\_\_\_ (a) Administrative action that may be taken by the Division include:~~
  - ~~\_\_\_\_\_ (a) one American Kestrel; or~~
  - ~~\_\_\_\_\_ (b) one passage Red-tailed Hawk.~~
- ~~\_\_\_\_\_ (4) A general or master class Raptor Capture Permit is valid for one eyas or one passage raptor listed in Subsection (10) or (11), respectively in accordance with the restrictions and limitations of this rule.~~
- ~~\_\_\_\_\_ (5) Raptor Capture permits are non-transferable and non-assignable and can only be used by the person specified on the permit. Raptor Capture permits are valid only for the season specified on the permit.~~
- ~~\_\_\_\_\_ (6)(a) Nonresidents wishing to purchase a Raptor Capture Permit and not participating in the sport of falconry in the state are not required to purchase a Utah Falconry Certificate of Registration or license.~~
- ~~\_\_\_\_\_ (b) However, nonresidents must show proof of a valid federal falconry permit and falconry license issued by their state of residency.~~
- ~~\_\_\_\_\_ (7) Falconers shall not retain and transport more than one captured raptor per capture permit.~~
- ~~\_\_\_\_\_ (8) Any person who captures a raptor must have it banded in accordance with Section R657-20-31.~~
- ~~\_\_\_\_\_ (9) Capture of eyas raptors is allowed only for the following species:~~
  - ~~\_\_\_\_\_ (a) Northern Harrier (*Circus cyaneus*);~~
  - ~~\_\_\_\_\_ (b) Sharp-shinned Hawk (*Accipiter striatus*);~~
  - ~~\_\_\_\_\_ (c) Cooper's Hawk (*Accipiter cooperii*);~~
  - ~~\_\_\_\_\_ (d) Northern Goshawk (*Accipiter gentilis*);~~
  - ~~\_\_\_\_\_ (e) Swainson's Hawk (*Buteo swainsoni*);~~
  - ~~\_\_\_\_\_ (f) Red-tailed Hawk (*Buteo jamaicensis*);~~
  - ~~\_\_\_\_\_ (g) Ferruginous Hawk (*Buteo regalis*);~~
  - ~~\_\_\_\_\_ (h) Golden Eagle;~~
  - ~~\_\_\_\_\_ (i) American Kestrel;~~
  - ~~\_\_\_\_\_ (j) Peregrine Falcon (*Falco peregrinus*);~~
  - ~~\_\_\_\_\_ (k) Prairie Falcon (*Falco mexicanus*); and~~

- ~~\_\_\_\_\_ (l) Great Horned Owl;~~
- ~~\_\_\_\_\_ (10) Capture of passage raptors is allowed only for the following species:~~
  - ~~\_\_\_\_\_ (a) Northern Harrier;~~
  - ~~\_\_\_\_\_ (b) Sharp-shinned Hawk;~~
  - ~~\_\_\_\_\_ (c) Cooper's Hawk;~~
  - ~~\_\_\_\_\_ (d) Northern Goshawk;~~
  - ~~\_\_\_\_\_ (e) Harris's Hawk (*Parabuteo unicinctus*);~~
  - ~~\_\_\_\_\_ (f) Swainson's Hawk;~~
  - ~~\_\_\_\_\_ (g) Red-tailed Hawk;~~
  - ~~\_\_\_\_\_ (h) Ferruginous Hawk;~~
  - ~~\_\_\_\_\_ (i) Rough-legged Hawk;~~
  - ~~\_\_\_\_\_ (j) Golden Eagle;~~
  - ~~\_\_\_\_\_ (k) American Kestrel;~~
  - ~~\_\_\_\_\_ (l) Merlin (*Falco columbarius*);~~
  - ~~\_\_\_\_\_ (m) Gyrfalcon (*Falco rusticolus*);~~
  - ~~\_\_\_\_\_ (n) Prairie Falcon; and~~
  - ~~\_\_\_\_\_ (o) Great Horned Owl.~~

**R657-20-28. Legal Birds.**

- ~~\_\_\_\_\_ (1)(a) Eyasses may be taken from the wild only by general and master class falconers as provided in Subsections (a) through (d):~~
  - ~~\_\_\_\_\_ (b) Eyasses, except Great Horned Owls and Peregrine Falcons, may be taken from May 13, unless May 13 is a Sunday, in which case the season shall begin the following day through July 15 and during the third weekend in July.~~
  - ~~\_\_\_\_\_ (c) Great Horned Owl eyasses may be taken from the wild during the first two Saturdays of April and from May 13, unless May 13 is a Sunday, in which case the season shall begin the following day through July 15 and during the third weekend in July.~~
  - ~~\_\_\_\_\_ (d) Peregrine Falcon eyasses may be taken in accordance with R657-20-29(4).~~
  - ~~\_\_\_\_\_ (e) No more than two eyasses may be taken by the same falconer.~~
- ~~\_\_\_\_\_ (2) An eyas may not be taken from a nest containing only a single eyas.~~
- ~~\_\_\_\_\_ (3) One or more eyasses must be left in a nest from which any eyas has been removed.~~
- ~~\_\_\_\_\_ (4) Passage raptors may be taken from the wild only from:~~
  - ~~\_\_\_\_\_ (a) September 1 through October 31 on weekends and legal holidays, unless September 1 is a Sunday, in which case the season shall begin the following weekend or legal holiday; and~~
  - ~~\_\_\_\_\_ (b) November 1, unless November 1 is a Sunday, in which case the season shall begin the following day through January 31.~~
- ~~\_\_\_\_\_ (5) Only American Kestrels and Great Horned Owls may be taken when over one year of age.~~
- ~~\_\_\_\_\_ (6) The date of capture, sex of raptor, and the location of the capture must be recorded precisely, to within 100 meters, on the Raptor Capture Permit. Precise nest locations will be held for use by the division and not made available to the public.~~
- ~~\_\_\_\_\_ (7)(a) The division falconry coordinator shall determine on an annual basis the number of capture permits issued for the taking of eyas raptors listed on Utah's current sensitive species list.~~
- ~~\_\_\_\_\_ (b) Notice of any limitations on the number of eyas capture permits for sensitive raptors shall be made by February 7 of each year.~~

~~(c) Application procedures for taking sensitive raptor species limited by the falconry coordinator are provided in Section R657-20-41.~~

**R657-20-29. Resident - Legal Birds by Class Designation.**

~~(1)(a) An apprentice class falconer may possess only one American Kestrel or one Red-tailed Hawk in accordance with Section R657-20-6, Apprentice Class Falconer.~~

~~(b) Only first-year Red-tailed Hawks may be taken, while first-year or older American Kestrels may be taken.~~

~~(c) Eyasses may not be taken.~~

~~(2) A general class falconer may not possess more than two raptors and may not obtain more than two raptors taken from the wild for replacement birds during a 12-month period.~~

~~(3) A master class falconer may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement birds during a 12-month period, except Golden Eagles.~~

~~(4) A resident general or master class falconer may apply each year to take one eyas Peregrine Falcon from the wild on the first two Saturdays of May and from May 13, unless May 13 is a Sunday, in which case the season will begin the following day through June 30.~~

~~(5)(a) Any resident general or master class falconer may apply each year to take one passage Peregrine Falcon from the wild from:~~

~~(i) September 1 through October 31 on weekends and legal holidays, unless September 1 is a Sunday, in which case the season shall begin the following weekend or legal holiday; and~~

~~(ii) November 1, unless November 1 is a Sunday, in which case the season will begin the following day through November 30.~~

~~(b) Any captured Peregrine Falcon banded with a numbered aluminum Bird Banding Laboratory band (numbered aluminum) must be released immediately.~~

~~(c) The band number, date of trapping, and precise location, within 100 meters, of the banded falcon must be reported to the falconry coordinator as soon as possible.~~

~~(d) Passage take of Peregrine Falcons will not be allowed unless approved by the Service.~~

~~(e) Application procedures for taking eyas or passage Peregrine Falcons are provided in Section R657-20-41.~~

~~(6)(a) The number of resident permits issued annually for the taking of eyas Peregrine Falcons may not exceed 10; and~~

~~(b) take is limited to Beaver, Iron, Washington, Piute, Wayne, Garfield, Kane, and San Juan counties and the area south of Interstate 70 in Grand, Emery and Sevier counties.~~

~~(c) In addition to following the requirements provided in Section R657-20-28(4) through R657-20-28(6), a falconer taking or attempting to take an eyas Peregrine Falcon must abide by the following:~~

~~(i) an eyas may not be removed from its nests prior to 10 days of age;~~

~~(ii) nests may not be entered when young are 28 days or more of age;~~

~~(iii) recently fledged young may be trapped within 100 meters of the nest;~~

~~(iv) three plucked breast feathers from any captured eyas must be presented to the division within five business days of capture.~~

~~(7) The number of resident and nonresident permits issued annually for the take of passage Peregrine Falcons may not exceed that number set by the Service.~~

**R657-20-30. Nonresident - Legal Birds by Class Designation.**

~~(1)(a) A nonresident general or master class falconer may apply each year to take one eyas from the wild pursuant to R657-20-28.~~

~~(b) Any nonresident general or master class falconer may apply each year to take one passage bird from the wild pursuant to R657-20-28.~~

~~(2) Application procedures for taking an eyas are provided in Section R657-20-41.~~

~~(4) The number of nonresident permits issued annually may not exceed the following:~~

~~(a) Sharp-shinned Hawk 10;~~

~~(b) Cooper's Hawk 20;~~

~~(c) Northern Goshawk 5;~~

~~(d) Red-tailed Hawk 20;~~

~~(e) American Kestrel 20;~~

~~(f) Merlin 10, passage take only;~~

~~(g) Gyrfalcon 5, passage take only;~~

~~(h) Prairie Falcon 20; and~~

~~(i) Great Horned Owl 20;~~

~~(j) Peregrine Falcon 1, eyas only, in accordance with restrictions set forth in R657-20-29(4), R657-20-29(8)(b) and R657-20-29(8)(c).~~

~~(5) Nonresidents may not take any other species.~~

**R657-20-31. Banding Raptors.**

~~(1)(a) A falconer who has captured a raptor from the wild must notify the division by telephone within two business days to receive a federal falconry band.~~

~~(b) Upon notification, the division shall issue a federal falconry band number to the falconer and mail the federal falconry band to the falconer.~~

~~(2) Upon receiving the federal falconry band, the falconer must attach the band to the raptor's leg.~~

~~(3) Within five business days of notifying the division of the capture, the falconer must submit:~~

~~(a) a completed Raptor Capture permit, with the precise location of capture within 100 meters; and~~

~~(b) the blue copy of the federal Form 3-186A.~~

~~(4) A falconer may remove the rear tab on a band and may smooth any imperfect surface, provided the integrity of the band and numbering are not affected.~~

~~(5)(a) A person may not remove, transfer, alter, counterfeit, or deface a falconry, except a band that is causing damage to a raptor may be removed only if the band is affecting the health or safety of the raptor.~~

~~(b) The raptor must be presented to a division representative and a replacement band placed on the raptor's other leg. Banding is by appointment only.~~

~~(e) The detached band must be surrendered to the division at the time of re-banding.~~

~~(6) The division must be notified of any raptor acquired or brought into the state on a permanent basis without a band. The raptor must be presented to a division representative for banding.~~

**~~R657-20-32A. Recovery and Capture of Banded Raptors – Federal Falconry Band.~~**

~~(1) An escaped raptor banded with a federal falconry band may be recovered at any time.~~

~~(2) Notification of recovery must be made to a division representative followed by a written notice within five business days.~~

**~~R657-20-32B. Recovery and Capture of Banded Raptors – Bird Banding Laboratory Band.~~**

~~The division requires notification of the capture date and precise location, within 100 meters, of any raptor marked with a numbered aluminum Bird Banding Laboratory band. i) Issuance of a probationary COR with restrictions on activities allowed; or~~

~~(ii) Non-renewal of a COR until the required records and reports are completed.~~

~~(5) A falconry COR is considered to be lapsed if the falconer has not applied for renewal within 30 calendar days of the expiration of their current COR.~~

~~(a) Disposition of raptors held under a lapsed falconry COR is at the discretion of the Division.~~

~~(b) Raptors held under a lapsed falconry COR are subject to seizure by the Division.~~

~~(6) A falconer who has allowed their COR to lapse may apply for a new COR.~~

~~(a) If a falconry COR has lapsed for fewer than 5 years, it will be reinstated at the level held previously if proof of certification at that level is provided and the applicant has appropriate facilities and equipment; and is otherwise qualified under R657-20-4(1).~~

~~(b) If a falconry COR or Permit has lapsed for 5 years or longer, an applicant must correctly answer at least 80 percent of the questions on an examination administered by the Division as required in Section R657-20-16(1)(b)(ii).~~

~~(i) If the applicant passes the examination, a falconry COR will be reinstated at the level previously held.~~

~~(ii) The applicant's facilities and equipment must also pass inspection by a Division representative before possessing a raptor for falconry as required in Sections R657-20-8, R657-20-9, and R657-20-10.~~

**~~R657-20-33-7. Nonresident Participation in Meets or Trials.~~**

~~(1) A nonresident entering Utah to participate in the sport of falconry at an organized meet must ~~first~~ be 14 years of age or older and must obtain a nonresident falconry meet license if hunting protected wildlife.~~

~~(2) A falconry meet license may be obtained by completing an application and submitting the application and appropriate fees to the ~~d~~Division.~~

~~(3) ~~The~~ A falconry meet license is valid only for nonresidents and only for five ~~(5)~~ consecutive calendar days as designated on the license.~~

(4) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified five-day period in accordance with the applicable proclamations of the Wildlife Board.

(5) A nonresident participating in an organized meet for more than five consecutive calendar days must obtain appropriate nonresident licenses, permits, tags, and stamps as provided in the proclamations of the Wildlife Board if protected wildlife is pursued.

(6) A nonresident participating in an organized meet for more than five consecutive calendar days must provide a health certificate and an import authorization number obtained from the Utah Department of Agriculture, Animal Health Section, on each raptor brought into the state.

(7) A falconry meet license is not required for participation in a falconry trial.

~~(7)(a)8~~ An organizer of a falconry meet must obtain prior approval from the Wildlife Board ~~to conduct the falconry meet~~ for non-residents to purchase a 5-day non-resident meet license.

~~(b) An organizer of a falconry trial must obtain landowner permission and prior approval from the division to conduct the falconry trial.~~

~~(e)a~~ A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the ~~d~~Division.

**~~R657-20-8. Care and Facilities Requirements.~~**

~~(1) A person may not possess a raptor without first providing adequate facilities and equipment to humanely house and care for the raptor.~~

~~(2) Care Requirements.~~

~~(a) The Falconer is responsible for the maintenance and security of raptors held in his or her care.~~

~~(b) All raptors held under a falconry COR must be kept in humane and healthy conditions.~~

~~(i) The Division may impose additional requirements to insure the safe and humane handling and care of raptors when the birds are maintained in inhumane or unhealthy conditions.~~

~~(3) To obtain a falconry COR, applicants must have either an indoor mews or an outdoor weathering area, or both.~~

~~(a) The primary consideration for raptor housing facilities whether an indoor mews or outdoor weathering area is protection of the raptor from unauthorized human access and disturbance, the environment, predators (to include domestic as well as wild animals), inhumane treatment, and other undue disturbances.~~

~~(4) Before a person may obtain a falconry COR, the raptor housing facilities and equipment shall be inspected by a Division representative.~~

~~(i) Inspections must be conducted in the presence of the permittee.~~

~~(ii) In the course of this inspection, the Division representative may collect a photograph of the facilities to keep on file with the falconer's other state records.~~

~~(5) The Division should complete an inspection of falconry facilities within 30 business days of receiving a request for inspection.~~

~~(a) Detailed photos and a description of facilities and equipment, including measurements of mews or weathering areas, shall constitute a temporary inspection for purposes of issuing~~

COR's if the Division has not physically inspected within 30 business days. The COR may be revoked if the photos and descriptions of facilities and equipment do not match the facilities in place. Any significant changes to facilities require notification to the Division.

(b) Requests for inspections may be made verbally or in writing or via email.

(6) Facilities Requirements.

(a) Facilities must be adequate to house the number of raptors in possession.

(b) Only inspected and approved indoor mews and weathering areas may be used for housing raptors for falconry.

(i) In conjunction with inspected and approved facilities, raptors may also be housed inside a place of residence as provided in Section R657-20-8(6)(d)(viii).

(ii) A new facilities inspection may be required when a permittee increases the number of raptors in their possession.

(c) The Utah falconry Program Coordinator must be notified within five (5) business days of a change in the location of an individual's falconry facilities.

(d) The Mews.

(i) The mews must have a suitable perch for each raptor, at least one opening for sunlight, and must provide for a healthy environment for each raptor inside.

(ii) A mews must be large enough to allow easy access for the care and feeding of raptors kept inside.

(iii) Untethered raptors may be housed together in the mews if they are compatible with each other.

(iv) Each mews must be large enough to allow each raptor the opportunity to fly if it is untethered or, if tethered, to fully extend its wings or bate without damaging its feathers.

(v) Each raptor shall have a pan of clean water available to it at all times while in a mews, unless weather conditions, perch type used, or some other factor makes it inadvisable to have water available next to the raptor.

(vi) If raptors housed in an indoor mews that is not a place of residence are untethered, the mews must be fully enclosed with solid walls and ceiling or with bars or heavy duty netting or mesh spaced narrower than the width of the body of the smallest raptor housed in the mews.

(vii) Acceptable indoor facilities may include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and opportunity to maintain undamaged feathers.

(viii) A place of residence used for housing falconry raptors indoors is considered a mews provided each raptor is tethered to a suitable perch.

(A) A raptor may be untethered inside a place of residence when being handled.

(B) If a raptor is housed inside a place of residence, there is no need to modify windows or other openings in the residence.

(C) A raptor may be housed untethered inside a flight chamber constructed within a place of residence, provided the chamber has a source of light and is fully enclosed with solid walls and ceiling or with bars or heavy duty netting or mesh spaced narrower than the width of the body of the smallest raptor housed in the chamber.

(e) Weathering Area

(i) The weathering area must be totally enclosed, and can be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material capable of preventing the raptor's escape and excluding predators and other animals capable of causing harm to the raptor.

(ii) The weathering area must be covered and have at least one covered perch to protect a raptor from predators and weather.

(iii) Adequate perches must be provided within the weathering area to ensure the health, safety and protection of the raptor.

(iv) Raptors must be tethered while inside the weathering area.

(v) The weathering area must be large enough to insure that the raptor(s) cannot strike the enclosure when bating from the perch.

(vi) Raptors may be perched next to a solid or fully opaque wall in the weathering area provided the proximity of the wall to the perch will not cause injury to the raptor or feather damage.

(vii) Each raptor should have a pan of clean water available.

(A) At the discretion of the permittee, this requirement is waived if weather conditions, the perch type used, or some other factor makes it inadvisable to have water available to the raptor.

(viii) New types of housing facilities and/or husbandry practices may be used if they satisfy the requirements of this chapter and are approved by the Division.

(ix) falconry raptors may be kept outside in the open at any location if they are under watch by an individual familiar with the handling of raptors.

(f) Approved falconry facilities may be on property owned by another person, provided the falconer submits a signed and dated statement by the falconer and the property owner agreeing that the falconry facilities, equipment, and raptors may be inspected without advance notice by the Division at any reasonable time of day.

(g) Any falconer who possesses a raptor and moves or changes the address of where the raptor is held must notify the Division in writing of the change of address within 5 business days.

(i) An inspection of facilities may be required at the new location.

(h) Raptors in transit must be provided with an adequate perch and protected from extreme temperatures, wind, and excessive disturbance to ensure the health, safety and protection of any raptor being transported.

(i) A raptor may be housed in temporary facilities for no more than 120 consecutive calendar days, provided the temporary facilities has a suitable perch for the raptor and adequately protects it from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

**R657-20-9. Equipment.**

(1) Prior to the facilities inspection and issuance of a falconry COR, the applicant shall possess the following items for each raptor in possession or proposed for future capture:

(a) At least one pair of Aylmeri jesses, or similar type, made from pliable, high quality leather or suitable synthetic material, or the materials and equipment to make them, or the material to be used when any raptor is flown free.

(i) Traditional one-piece jesses may be used on raptors when not being flown.

(b) At least one flexible, weather-resistant leash.

(c) At least one swivel of acceptable falconry design.

(d) At least one suitable container, two to six inches deep and wider than the length of the raptor, to hold drinking and bathing water for each raptor.

(e) At least one perch of an acceptable design will be provided for use for each raptor.

(f) A reliable scale or balance suitable for weighing the raptor held and graduated to increments of not more than one-half ounce or less.

(g) For small raptors, such as kestrels, merlins, and sharp-shinned hawks, the scale must weight in increments of at least 1 gram.

#### **R657-20-10. Inspection of Raptors, Facilities, CORs, and Documents.**

(1) A facilities inspection is required prior to initial issuance of a falconry COR and may be requested by the falconer in writing or by email at [falconry@utah.gov](mailto:falconry@utah.gov). Once a request is received, a facilities inspection will be completed by the Division within 30 business days of the date the request is received.

(2) As a condition to obtaining a falconry COR, the falconer agrees to reasonable administrative inspections of falconry raptors, facilities, equipment, CORs, and related documents.

(3) Falconry raptors, facilities, equipment, and documents may be inspected by the Division only in the presence of the permittee at a reasonable time of day.

#### **R657-20-11. Take of Wild Raptors.**

(1) A licensed falconer may take from the wild any raptor species of the Order Falconiformes or Strigiformes only as provided in this rule

(a) Haggard age raptors may not be taken from the wild for falconry.

(b) Any raptors taken from the wild for falconry is a "wild" raptor for the balance of the raptor's life, regardless of the length of captivity or the raptor's transfer to another permittee or permit type.

(c) A licensed falconer who wishes to take a raptor from the wild must meet all state and tribal requirements in this rule for capture of wild raptors for falconry.

(d) A raptor taken from the wild for falconry must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of the date of capture.

(2) Resident Take of Wild Raptors

(a) A Utah Resident may not take any raptor from the wild without first obtaining a COR and a Raptor Capture Permit from the Division.

(b) A Raptor Capture Permit is valid for one raptor authorized for possession in accordance with the restrictions and limitations of this rule.

(c) Raptor Capture Permits are non-transferable and non-assignable and can only be used by the person specified on the permit. However, another person can assist the permit holder pursuant to Section R657-20-21(2) and (3) as long as the permit holder is present.

(d) Raptor Capture Permits are valid only for the season specified on the permit.

(e) The Raptor Capture Permit and falconry COR (or legible copies thereof) must be in the possession of the permittee while pursuing, capturing or attempting to capture a raptor.

(f) Raptors may not be taken at any time or in any manner that violates any State, federal, tribal, or local law.

(g) While trapping, falconers shall not retain and transport more than one captured raptor per capture permit.

(3) Taking of wild raptors is prohibited within the boundaries of all National Parks in Utah and on all Utah State Parks

(4) A raptor may be taken from the wild by traps or nets that minimize the potential of physical injury and unnecessary stress to the raptor.

(a) Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, bow net traps, or other trapping devices that are humane and acceptable as commonly used in falconry trapping procedures.

(b) Trapping devices must be constantly attended while in use.

(5) No more than two 2 raptors may be taken from the wild each calendar year to use in falconry.

(6) A raptor taken from the wild may be transferred to another permittee under the following conditions:

(a) The captured raptor will count as one of the raptors allowed for take from the wild in the calendar year it was taken by the capturing falconer;

(b) The transferred raptor will not count as a capture by the recipient.

(c) The transferred raptor will always be considered a wild bird.

(7) A permittee may not intentionally capture raptor species for falconry that their classification as a falconer does not allow them to possess.

(a) If a permittee captures a raptor he or she is not allowed to possess, it must be released immediately.

(8) A General or Master Class falconer may take no more than 1 raptor from the wild each year which belongs to a species listed as threatened or endangered under the federal Endangered Species Act if allowed under 50C CFR part 17, and if a federal endangered species permit is obtained before taking the bird.

(9) A General or Master Class falconers may take eyas raptors from a nest or aerie only during the seasons specified for taking eyas raptors in Subsection (12).

(a) At least one young must be left in any nest or aerie from which an eyas is taken.

(b) Removal of young is prohibited from a nest or aerie that contains only one eyas.

(10) An Apprentice, General or Master Class falconer may take passage age raptors from the wild only during the seasons specified for taking passage age raptors in Subsection (12).

(11) Periods for Allowable Take Of Raptors From the Wild

(a) Eyas or passage age raptors of any allowable Strigiform species may be taken from March 1 through November 30.

(b) Eyas or passage age raptors of any allowable Falconiform species except peregrine falcon (*Falco peregrinus*) and golden eagle (*Aquila chrysaetos*) may be taken January 1 through December 31.

(i) Notwithstanding Subsection (12)(b):

(A) Passage age raptors that fledged from the prior year may not be taken after March 1st; and

(B) Passage age gyrfalcons (*Falco rusticolus*) may be taken at any time.

(c) Licensed falconers may take any raptor from the wild that is authorized under this rule for take for their class level.

(i) A wild caught raptor that is banded with a Federal Bird Banding Laboratory aluminum band may be taken, provided the Federal Bird Banding Laboratory is notified of the removal of the banded raptor from the wild;

(ii) The Federal Bird Banding Laboratory aluminum band may be removed if the raptor is to be retained, after notifying the Federal Bird Banding Laboratory.

(iii) A peregrine falcon banded with a Federal Bird Banding Laboratory aluminum band may not be taken from the wild and retained.

(iv) Capture of any raptor that is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird must be reported to the Division no more than 5 business days after the capture.

(v) Capture of any raptor that is marked with any other band, research marking, or attached research transmitter attached to it must be promptly reported to the Federal Bird Banding Laboratory at 1-800-327-2263.

(d) A falconry raptor that has been lost may be recaptured at any time without the need to purchase a Raptor Capture Permit.

(i) Recapture of a lost or escaped "wild" raptor is not considered to be the taking of a raptor from the wild.

(e) A raptor wearing falconry equipment or a lost or escaped captive-bred raptor may be recaptured at any time by any other permitted falconer - even if the permittee performing the recapture is not allowed to possess the species.

(i) A recaptured raptor will not count against a permitted falconer's possession limit, nor will its recapture from the wild count against the permitted falconer's replacement limit.

(ii) Recapture of falconry raptors must be reported to the Division no more than 5 business days from the date of recapture.

(iii) A recaptured falconry raptor must be returned to the permittee who lost it if that individual may legally take possession.

(A) Disposition of a recaptured falconry raptor where the permittee's legal authority to possess the bird is in question will be determined by the Division.

(B) A recaptured falconry raptor temporarily held for return to the permittee who lost it will not count against the possession or replacement limit on take of raptors from the wild if the individual temporarily holding the raptor has reported the recapture to the Division.

(13) Special provisions for take of peregrine falcons.

(a) Only General and Master Class falconers only may take eyas or passage age peregrine falcons in accordance with Sections R657-20-11 and R657-20-12 and as provided in this rule.

(i) Application procedures for taking eyas or passage Peregrine Falcons are provided in Section R657-20-12 and R657-20-13.

(ii) The peregrine falcon take season begins annually on May 1<sup>st</sup> and ends on August 31<sup>st</sup>.

(iii) The number of permits issued to take peregrine falcons will be set by the Division annually.

(A) One non-resident take permit will be issued annually. If that permit is not applied for, it will be made available to resident falconers.

(B) Any remaining permits that are not applied for will be made available to resident and nonresident falconers on a first-come first-served basis.

(iv) Issued permits will allow take of one eyas or passage age Peregrine Falcon.

(b) An eyas peregrine falcon may not be removed from its aerie prior to 10 days of age.

(c) Aeries of peregrine falcon may not be entered when young are 28 days or more of age.

(d) The areas open for taking eyas and passage age peregrine falcons will be designated annually by the Falconry Program Coordinator.

(e) A peregrine falcon that is marked with a research band such as a colored band with alphanumeric codes or some other research marking attached must be immediately released.

(i) Research band numbers and location and date of capture must be reported to the Division and the Federal Bird Banding Laboratory (1-800-327-2263) within 5 business days of the date of capture.

(14) Special provisions for take of golden eagles

(A) A Master Class falconer with a COR to take golden eagles may take no more than three from the wild, subject to the requirements in federal statute 50 CFR 21 and Section R657-20-18(2)(c)(i).

(i) A Master Class Falconer that is authorized to take golden eagles may take no more than two golden eagles from the wild in any calendar year and only in a livestock depredation area during the time the depredation area declaration is in effect.

(A) The establishment, boundaries, and duration of a livestock depredation area in Utah are declared by U.S.D.A. Wildlife Services and the U. S. Fish and Wildlife Service in Lakewood, CO.

(ii) A Master Class falconer authorized to take golden eagles for use in falconry may capture an immature or subadult golden eagle only in a livestock depredation area during the time the depredation area is in effect in Utah.

(A) A Master Class Falconer may capture a nesting adult golden eagle, or take an eyas from its nest, in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the parent adult eagle is preying on livestock.

(B) A government employee who has trapped a golden eagle under Federal, State, or tribal permit may transfer the eagle to a Master Class falconer that is authorized to possess golden eagles if the eagle cannot be released in an appropriate location.

(iii) A Master Class Falconer authorized to take a golden eagle for falconry must contact USDA, Wildlife Services or the U. S. Fish and Wildlife Service in Lakewood, CO to determine the establishment and location of a livestock depredation area in Utah

\_\_\_\_\_ (A) The Division does not provide livestock depredation area information.

\_\_\_\_\_ (B) The Master Class falconer must have permission from the private landowner to capture a golden eagle on private lands;

\_\_\_\_\_ (15) Acquiring a bird for falconry from a permitted rehabilitator.

\_\_\_\_\_ (a) A licensed falconer may acquire directly from a rehabilitator a raptor of any age or species that the falconer is permitted to possess.

\_\_\_\_\_ (i) A raptor acquired for falconry from a rehabilitator must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of the transaction.

\_\_\_\_\_ (ii) A wild raptor acquired for falconry from a rehabilitator will count as one of the raptors the falconer is allowed to take from the wild that calendar year.

#### **R657-20-12. Nonresident Take of Wild Raptors.**

\_\_\_\_\_ (1) A Nonresident may not take any raptor from the wild without first obtaining a Nonresident Raptor Capture Permit from the Division.

\_\_\_\_\_ (b) Nonresident falconers are not required to purchase a Utah falconry COR in order to purchase a Nonresident Raptor Capture Permit.

\_\_\_\_\_ (c) Nonresidents must show proof of a valid federal falconry permit or falconry license issued by their state of residency to purchase a Nonresident Raptor Capture Permit.

\_\_\_\_\_ (d) Nonresident take of raptors is subject to all other applicable regulations set forth in this rule.

#### **R657-20-13. Application Procedures and Drawings for Capture of Peregrine Falcons, Sensitive Raptors, and Raptors Available to Nonresident Falconers.**

\_\_\_\_\_ (1) Applications for Raptor Capture Permits must be made for:

\_\_\_\_\_ (a) Peregrine falcons;

\_\_\_\_\_ (b) Sensitive raptor species for which take is limited by the falconry Program Coordinator pursuant to Section R657-20-11, and

\_\_\_\_\_ (c) Raptors designated for non-resident take.

\_\_\_\_\_ (2) If necessary, a drawing will be held for those species that have more applicants than available permits.

\_\_\_\_\_ (3) An individual may only draw once every 2 years for a Raptor Capture Permit to take peregrine falcons, sensitive raptor species, and nonresident legal raptors.

\_\_\_\_\_ (a) In the event that unclaimed permits remain after a drawing, then the 2 year restriction is waived.

\_\_\_\_\_ (4) If the number of applications received exceeds the number of available permits, then the Division will conduct a drawing to determine which applicants receive a permit.

\_\_\_\_\_ (a) Any remaining permits that are not applied for will be made available to resident and nonresident falconers of the appropriate class on a first-come first-served basis.

\_\_\_\_\_ (5) Application forms for Raptor Capture Permits are provided by the Division.

\_\_\_\_\_ (6) An applicant for a Raptor Capture Permit must submit a complete and accurate application to include the following:

\_\_\_\_\_ (a) A copy of the applicant's valid Utah falconry COR, or valid license from their state of residency indicating the falconry class designation;

\_\_\_\_\_ (b) A copy of the applicant's valid federal permit, when required by federal law; and

\_\_\_\_\_ (c) A non-refundable application fee.

\_\_\_\_\_ (7) Applications for taking raptors must be received by the Division through the mail, or by email, no later than close of business on the last business day of March each year.

#### **R657-20-14. Importation Requirements for Residents and Nonresidents.**

\_\_\_\_\_ (1) A person is not required to obtain a special COR from the Division to import a raptor brought into Utah from another state when the raptor is imported and used for falconry purposes.

\_\_\_\_\_ (a) Importation of a raptor used for any purposes other than falconry is governed by Rule R657-3.

\_\_\_\_\_ (b) A raptor imported into Utah is required to have:

\_\_\_\_\_ (i) a certificate of veterinary inspection from the state, tribe, or territory of origin; and

\_\_\_\_\_ (ii) an import authorization number issued through the Utah Department of Agriculture, Animal Health Office.

\_\_\_\_\_ (2) Any raptor brought into the state on a permanent basis must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of importation.

\_\_\_\_\_ (3) A raptor imported into the state for falconry or any other purpose have an import permit and certificate of veterinary inspection issued by the Utah Department of Agriculture and Food pursuant to R58-1-4.

#### **R657-20-15. Flying a Hybrid Raptor in Falconry.**

\_\_\_\_\_ (1) When flown free, a hybrid raptor must have at least two attached radio transmitters for tracking.

#### **R657-20-16. Apprentice Class Falconer and Sponsors.**

\_\_\_\_\_ (1) Apprentice class falconer requirements

\_\_\_\_\_ (a) Applicants for an Apprentice Class falconry COR must be at least 14 years of age;

\_\_\_\_\_ (i) Applicants for an Apprentice Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application;

\_\_\_\_\_ (ii) The parents or legal guardian of a minor Apprentice Class falconer are legally responsible for the activities of their child.

\_\_\_\_\_ (b) Applicants for an Apprentice Class falconry COR must correctly answer at least 80 percent of the questions on an examination administered by a Division representative.

\_\_\_\_\_ (i) An individual may not take the falconry exam earlier than two months prior to their 14th birthday.

\_\_\_\_\_ (ii) The examination questions will cover bacare and handling of falconry raptors, state and Federal laws and regulations relevant to falconry, raptor biology, diseases and health issues, raptor identification, trapping and training methods, and other appropriate subject matter.

\_\_\_\_\_ (iii) An individual may contact any Division office for information about taking the examination.

\_\_\_\_\_ (iv) Falconry examinations are administered at any Division office by appointment only during business hours.

(v) An individual that fails to correctly answer at least 80 percent of the questions on the exam may retake the exam after a minimum 14-day period.

(c) An applicant's facilities and equipment must pass inspection by the Division under R657-20-8, R657-20-9, and R657-20-10 before a falconry COR can be issued.

(2)(a) Applicants for an Apprentice Class falconry COR must have a sponsor to mentor and assist the Apprentice Class falconer, as necessary, in:

(i) Husbandry and training of raptors held for falconry;

(ii) Relevant wildlife laws and regulations, and

(iii) Determining what species of raptor is appropriate for the Apprentice to possess.

(b) The person applying for an Apprentice Class falconry COR must provide the Division with a letter from their chosen sponsor stating that sponsor's willingness to serve as a sponsor for the Apprentice Class falconer.

(c) A sponsor must be:

(i) a Master Class Falconer who holds a valid Utah falconry COR or tribal falconry permit;

(ii) a General Class Falconer who is at least 18 years of age, has no less than 2 years experience at the General Class falconer level, and who holds a valid Utah falconry COR or tribal falconry permit

(d) Unless approved by the Division in writing, the sponsor cannot reside

(i) greater than a 100 mile distance from the Apprentice; or

(ii) outside of Utah.

(e) In the event sponsorship is terminated, the holder of an Apprentice Class falconry COR must obtain a new sponsor within 30 calendar days of termination.

(i) Apprentice Class falconers that change sponsors must notify the Division in writing and provide a letter from the new sponsor showing compliance with the requirements in R657-20-16(2)(a) through (d).

(3) Possession of Raptors at the Apprentice Class

(a) An Apprentice Class falconer may take or possess any wild-caught passage age raptor or captive-bred raptor species of the Order Falconiformes or Strigiformes for falconry, with the following exceptions:

(i) An Apprentice Class falconer may not take or possess wild caught, captive-bred, or hybrid eagles, or federally listed threatened or endangered species, or Utah state Sensitive Species, or any species listed as a national Species of Conservation Concern in the most recent list of "Birds of Conservation Concern" from the federal Division of Migratory Bird Management to include wild, captive-bred, or hybrid individuals of any restricted species, with the following exceptions:

(1) Notwithstanding Subsection (3)(a)(i), an Apprentice Class falconer may take or possess raptors specified in the falconry guide book

(2) An Apprentice Class falconer may possess a hybrid raptor provided that the hybrid raptor is not the result of a cross involving any species listed in Section 10.13 of 50 CFR 21 (Federal Migratory Bird Treaty Act).

(b) An Apprentice Class falconer may not take or possess a raptor taken from the wild as an eyas.

(c) An Apprentice Class falconer may possess no more than one (1) wild-caught passage age raptor or captive-bred raptor for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the Apprentice has been issued.

(d) Another falconry permittee may capture a wild raptor and transfer the raptor to an Apprentice Class falconer as provided in R657-20-11(6) and R657-20-21.

(e) An Apprentice Class falconer may not possess an imprint raptor.

#### **R657-20-17. General Class Falconer.**

(1) General Class falconer requirements

(a) Applicants for a General Class falconry COR must be at least 16 years of age;

(i) Applicants for a General Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application;

(ii) The parents or legal guardian of a minor General Class falconer are legally responsible for the activities of their child.

(b) New General Class applicants must submit a request for class upgrade to the Division in writing or via email, and include a document from their General Class or Master Class sponsor stating that the General Class applicant has practiced falconry at the Apprentice Class Falconer level or equivalent for at least 2 years including maintaining, training, flying, and hunting raptors for at least 4 months in each separate 12-consecutive month period.

(i) For purposes of this Subsection, 2 years means two separate 12-consecutive month periods.

(ii) A General Class applicant may not substitute any falconry school program or education to shorten the minimum period of 2 years at the Apprentice level.

(iii) Evidence that a General Class applicant has had a valid General Class level falconry license or permit in another state for at least 2 years may be substituted for the Apprentice Class falconry COR requirement.

(2) Possession of raptors at the General Class

(a) A General Class falconer may take or possess any eyas or passage age wild-caught raptor, captive-bred, or hybrid raptor species of the Order Falconiformes or Strigiformes except eagles.

(b) A General Class falconer may possess no more than 3 wild-caught eyas or passage age raptors, captive-bred raptors, or hybrid raptors, or any combination thereof, for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the General Class falconer has been issued.

#### **R657-20-18. Master Class Falconer.**

(1) Master Class falconer requirements

(a) Applicants for a Master Class falconry COR must have 5 years of experience practicing falconry with raptor(s) held under their own state, tribal, or territorial falconry COR or permits at the General Class Falconer level.

(i) For the purposes of this Subsection, "5 years of experience" means maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each of five (5) separate 12-month periods.



(ii) Evidence that the applicant has had a valid General Class level falconry license or permit in another state for at least 5 years may be substituted for the General Class falconry COR requirement.

(iii) If an applicant has held falconry raptor(s) on an extended temporary basis, that experience may qualify for purposes of these requirements.

(2) Possession of Raptors at the Master Class

(a) A Master Class falconer may take or possess any wild-caught eyas or passage age, captive-bred raptor, or hybrid raptor species of the Order Falconiformes or Strigiformes except a bald eagle (*Haliaeetus leucocephalus*).

(i) A Master Class falconer may take and possess a golden eagle only if the qualifications set forth parting Subsection (2)(c) below are met.

(b) A Master Class falconer may possess no more than 5 wild-caught eyas or passage age raptors for use in falconry, including golden eagles, regardless of the number of state, tribal, or territorial falconry CORs or permits that the Master Class falconer has been issued.

(i) A Master Class falconer may possess any number of captive-bred raptors, but they must be trained in the pursuit of wild game and used for hunting.

(c) A Master Class falconer must obtain an authorization from the Division to possess an eagle for use in falconry:

(i) Approval for a Master Class falconer to take or possess an eagle for use in falconry shall not be granted unless the following documentation is provided:

(A) A written statement documenting the experience of the Master Class falconer in handling large raptors, including information about the species handled and the type and duration of activities in which the experience was obtained.

(B) At least two letters of reference from individuals with experience in handling or flying large raptors such as eagles, ferruginous hawks (*Buteo regalis*), Northern goshawks, or great horned owls (*Bubo virginianus*).

(I) Each reference letter must contain a concise history of the author's experience with large raptors, which can include but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors.

(II) Each reference letter must also assess the Master Class Falconer's ability to care for eagles and fly them in falconry.

(ii) A Master Class falconer that satisfies the requirements of this rule may be authorized to take or possess no more than 3 eagles as part of the 5-wild bird maximum limitation for the Master Class level.

**R657-20-19. Unintentional Kill of a Prey Item by a Falconry Raptor.**

(1) A falconry raptor may be allowed to feed on a prey animal taken unintentionally, provided the prey animal is not taken into the falconer's possession.

(2) Unintentional take of any federally listed threatened or endangered species must be reported to the Division and the U. S. Fish and Wildlife Ecological Services Field Office in Salt Lake City within 5 business days of the take event.

(3) Unintentional take of any state Sensitive Species must be reported to the Division within 5 business days of the take event.

**R657-20-20. Temporary Care of Falconry Raptors.**

(1) Short-term handling of a raptor by a person other than the permitted falconer, such as allowing a person to handle or practice flying a permittee's raptor is not considered temporary possession for the purposes of this rule, provided the permittee is present and supervising the individual that is handling the raptor.

(2) Temporary care of raptors by another falconry permittee

(a) Another falconry permittee may care for a falconer's raptors for up to 120 consecutive calendar days.

(b) The temporary care permittee must have a signed and dated statement from the falconer authorizing the temporary possession, in addition to a copy of the FWS Form 3-186A for that raptor.

(i) The signed and dated statement must identify the time period for which the temporary permittee will keep the raptors and what activities are allowed to be carried out with the raptors.

(ii) Falconry raptors in temporary care will remain on the original falconer's COR and will not be counted against the possession limit of the person providing the temporary care for the raptors.

(iii) If the permittee providing temporary care for the raptors holds the appropriate level falconry permit, then the temporary permittee may fly the raptors in whatever way authorized by the falconer, including hunting.

(iv) Temporary care of raptors may be extended by the Division indefinitely in extenuating circumstances such as, illness, military duty, and family emergency. The Division will consider extenuating circumstances on a case-by-case basis.

(3) Temporary care of raptors by a non-falconer.

(a) A non-falconer may care for a falconer's raptors for up to 45 consecutive calendar days.

(i) The raptors will remain on the original falconer's COR.

(ii) The raptors must remain at the original falconer's facilities.

(iii) Temporary care of raptors by non-falconers may be extended by the Division indefinitely in extenuating circumstances such as illness, military duty, or family emergency. The Division will consider extenuating circumstances on a case-by-case basis.

(iv) A non-falconer caring for a falconer's raptors may not fly them for any reason.

(4) Transfer of falconry raptors when a permittee dies.

(a) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any raptor(s) held by the deceased permittee to another authorized permittee within 90 calendar days of the death of the original falconry permittee.

(b) After 90 calendar days from the death of the falconry permittee, disposition of raptors held under the permit is at the discretion of the Division.

**R657-20-21. Reporting Requirements for Acquisition of Raptors.**

(1) Take of any raptor from the wild must be reported to the Division by either entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email to

falconry@utah.gov, no later than 10 business days after capture of the raptor.

(2) A permittee may receive assistance from another individual in capturing a raptor, but the permittee must be present at the capture site

(a) Regardless of the assistance of another person in capturing a raptor:

(i) The permittee is always considered to be the individual who removes the bird from the wild; and

(ii) the permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

(3) A permittee with a long-term or permanent physical impairment that prevents their attendance at the capture of a raptor for use in falconry, or is otherwise unable to be present at the immediate location where the raptor is taken from the wild, may contact a General or Master Class falconer only to capture a raptor on their behalf.

(a) The impaired permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

(b) The raptor will count against the take of wild raptors that the impaired permittee is allowed in any year.

(c) The raptor will not count as one of the two replacement raptors the General or Master Class falconer who offers assistance is allowed to capture in any year.

(d) The raptor will not count as being taken from the wild by the permittee acting on behalf of the impaired permittee.

(4) Individuals authorized to do so may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are legally authorized to possess the raptor.

(a) Any transfer or exchange for a raptor must be reported to the Division within 10 business days either by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email to [falconry@utah.gov](mailto:falconry@utah.gov).

(b) A permittee may not purchase, sell, trade, or barter a wild raptor.

(i) A permittee may transfer a raptor to another permittee who is legally authorized to possess the raptor, provided there is no pecuniary consideration for the transfer.

(c) The number of wild caught or captive-bred raptors transferred to a permittee may not exceed the established possession limit for each permit class.

(5) Anytime a permittee acquires, transfers, rebands, or microchips a raptor; or a raptor in their possession is stolen; or is lost to the wild and is not recovered within 30 days; or dies; the occurrence must be reported to the Division within 10 days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to the Division or FWS pdf i-381A via email to [falconry@utah.gov](mailto:falconry@utah.gov).

(6) A permittee must retain copies of all electronic database submissions documenting take, transfer, loss, rebanding or micro chipping or any other transaction for each falconry raptor for up to 5 years after the given transaction or event has taken place.

(7) Date of capture, sex of the raptor, and location of the capture must be recorded on the Raptor Capture Permit for all species.

(a) Nest locations are held for use by the Division's sensitive species biologists and will not be made available to the public.

(8) On an annual basis, the falconry Program Coordinator shall determine the number of capture permits issued for the taking of eyas raptors listed on the most recent edition of the Utah sensitive species list.

(a) Notice of any limitations on the number of eyas capture permits available for sensitive raptors shall be available by February 1 of each year.

(b) Application procedures for taking sensitive raptor species are provided in Section R657-20-11.

#### **R657-20-22. Banding or Tagging Raptors Used in Falconry.**

(1) A falconer who has captured or acquired a wild northern goshawk, wild Harris's hawk (*Parabuteo unicinctus*), wild peregrine falcon, or wild gyrfalcon must band the raptor with a permanent, nonreusable, numbered U. S. Fish and Wildlife Service leg band.

(a) A falconer must contact the Division for information on obtaining and disposing of bands.

(b) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.

(2) Take or acquisition of any wild raptor must be reported to the Division by either entering the required information including, when required, the band number or microchip information in the electronic database at <http://permits.fws.gov/186A>, or by submitting a paper form 3-186A or FWS pdf i-381A via email no later than 10 business days after capture or acquisition of the raptor.

(3) Raptors bred in captivity must be banded with a U. S. Fish and Wildlife Service seamless metal band described in 50 CFR 21 Section 21.30, or plastic, numbered U. S. Fish and Wildlife Service yellow band.

(a) Unbanded raptors, or black, or yellow banded raptors may not be sold, traded or bartered in any way.

(b) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.

(c) Removal or loss of a seamless band must be reported to the Division within 10 business days of the event and a replacement non-reusable band attached to the raptor.

(d) New and replacement band or microchip information must be reported to the Division by either entering the required information including the band number and microchip information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, no later than 10 business days after banding the raptor.

(4) In the event a non-reusable band is removed or lost from a banded raptor, the removal or loss of the band must be reported to the Division within 5 business days and a replacement band requested.

(a) Immediately upon rebanding the raptor, the required information must be submitted at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division.

(5) A band may not be altered, defaced, or counterfeited.

(6) Exemptions for banding of raptors will be considered on a case-by-case basis, as follows:

(a) Documented health or injury problems for a raptor that are caused by the band

(b) A copy of the exemption paperwork must be kept by the permittee when transporting or flying the raptor.

(c) If the raptor is a wild northern goshawk, wild Harris's hawk, wild peregrine falcon, or wild gyrfalcon, the band must be replaced with an ISO-compliant microchip.

(i). Substituting a microchip for a band on a wild goshawk, wild Harris's hawk, wild peregrine falcon, or wild gyrfalcon will not be authorized unless it has been demonstrated that a band causes an injury or a health problem for the raptor.

(7) A raptor removed from the wild may not be banded with a with a U. S. Fish and Wildlife Service seamless metal band or plastic, numbered U. S. Fish and Wildlife Service yellow band.

**R657-20-23. Raptors Injured Due to Falconer Trapping Efforts.**

(1) Falconers that injure a raptor during trapping efforts are responsible for the costs of care and rehabilitation of the injured raptor.

(a) An injured raptor retained by the permittee must be placed on the permittee's falconry permit.

(b) Take of the injured raptor from the wild must be reported to the Division by either entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, no later than 10 business days after capture of the raptor.

(i). The injured raptor must be treated by a veterinarian or a permitted wildlife rehabilitator.

(ii) The injured raptor will count against the permittee's possession limit.

(b) An injured raptor must be immediately transported to a veterinarian, a permitted wildlife rehabilitator, or an appropriate wildlife agency employee.

(i) the injured raptor will not count against the permittee's allowed take or the permittee's possession limit.

**R657-20-24. Releasing a Falconry Raptor to the Wild.**

(1) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may not be permanently released into the wild.

(a) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may be transferred to another falconry permittee authorized for possession.

(2) A raptor that is native to the State of Utah and captive-bred may not be permanently released into the wild without prior authorization from the Division.

(a) Once authorization for release of a captive-bred native raptor is received, the raptor must be hacked (allow it to adjust) to the wild at an appropriate time of year and at an appropriate location as determined by the falconer.

(b) The falconry or captive-bred band must be removed and release of the bird reported to the Division by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email.

(3) If the species to be released is native to the State of Utah and was taken from the wild, the raptor may be released only

at an appropriate time of year and at an appropriate location as determined by the falconer.

(a) If the raptor is banded, the band must be removed and release of the bird reported to the Division by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email.

**R657-20-25. Hacking of Falconry Raptors and other Training Techniques.**

(1) A General or Master Class Falconer only may hack a falconry raptor or raptors.

(2) Raptors at hack count against possession limits and must be a species authorized for possession.

(3) Hybrid raptors at hack must have two attached and functioning radio transmitters.

(4) Raptors are not to be released at hack near the nesting area of a federally threatened or endangered bird species or in any other location where the raptor is likely to harm a federally listed threatened or endangered animal species that might be disturbed or taken by the raptor at hack.

(a) The Division must be notified prior to hacking a falconry raptor.

(b) Information on federally-listed species can be obtained from the U. S. Fish and Wildlife Service.

(5) Use of other falconry training or conditioning techniques.

(a) Other acceptable falconry practices may be used, such as the use of tethered flying, lures, balloons, or kites in training or conditioning raptors for falconry.

(b) Falconry raptors may be flown at pen-raised animals or at bird species not protected under this rule or the Migratory Bird Treaty Act.

**[R657-20-34. Use of Pen-Reared Game Birds for Meets, Trials and Training.**

A person may hold a meet or trial or may train a raptor using legally acquired**R657-20-26. Use of [p]Pen-[r]Reared [g]Game [b]Birds [under the following provisions:]for Meets, Trials and Training.**

(1) Any [person]falconer using pen-reared game birds for meets, trials or training must have an invoice or bill of sale or a copy thereof in their possession showing lawful personal possession or ownership of such birds.

(2) Pen-reared game birds may be held in possession no longer than 60 calendar days unless the person possessing the pen-reared game birds first obtains a private aviculture [Certificate of Registration]COR as provided in Rule R657-4.

(3)[(a)] Each pen-reared game bird must be marked with an aluminum leg band or other permanent marking before being released[;] except as provided in Subsection ([d]c).

[(b)a] Aluminum leg bands may be purchased at any [d]Division office.

[(e)b] The aluminum leg band or other permanent marking must remain attached to the pen-reared game bird.

[(d)c] Each pen-reared game bird used on a commercial hunting area may be released without marking.

(4) Pen-reared game birds used for a meet ~~[or trial]~~ may be released only on the property specified and only during the dates approved for the falconry meet ~~[or trial]~~.

~~(5) After release at a meet or trial, pen-reared game birds may be taken:]~~.

~~(5) Released pen-reared game birds may be taken using falconry raptors, as follows:~~

~~(a) [b]By the [person]individual who released the pen-reared game birds, or by any [person]individual participating in the meet [or trial]; and~~

~~(b) [o]Only during the approved dates of the meet [or trial]~~.

~~(6) [Pen-reared game birds used in a meet or trial become the property of the state of Utah and may not be taken, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board if:~~

~~(a) the birds]Once released, any pen-reared game birds that leave the property where the meet [or trial] is held [or~~

~~(b) the birds have] or are not [been] retrieved [by the end of the meet or trial] at the conclusion of the meet become the property of the State of Utah and may not be recaptured or taken, except as prescribed in the Upland Game or Waterfowl proclamations of the Wildlife Board.~~

~~(7) Pen-reared game birds used for training raptors, or for a trial that escape or are not recovered on the day of the training, or pen-reared game birds that escape, become property of the [s]State of Utah and may not be recaptured or taken, except [during legal hunting seasons as specified] as prescribed in the Upland Game and Waterfowl proclamations of the Wildlife Board and elsewhere in this rule.~~

**~~[R657-20-35. Certificates of Registration, Licenses, Permits, and Stamps.~~**

~~(1) A person must possess a valid federal permit and a valid Falconry Certificate of Registration or license from that person's state of residency while engaging in falconry.~~

~~(2) The Falconry Certificate of Registration or license allows the person to use a raptor to take coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European Starling, House Sparrow, and rock dove/feral pigeon.~~

~~(3) A falconer releasing a raptor on protected wildlife, not held in private ownership, must obtain the appropriate licenses, permits, tags, certificates of registration and stamps as provided in the applicable rules and proclamations of the Wildlife Board.~~

~~(4) A federal waterfowl stamp is required of a person 16 years of age or older to hunt migratory waterfowl.~~

**~~R657-20-36. Seasons and Bag and Possession Limits.~~**

~~(1) The hunting of:~~

~~(a) upland game shall be done in accordance with the rule and proclamation of the Wildlife Board for taking upland game species:~~

~~(b) waterfowl, Wilson's snipe, and coot shall be done in accordance with the rule and proclamation of the Wildlife Board for taking those species:~~

~~(c) Mourning Dove and Band-tailed Pigeon shall be done in accordance with the rules and proclamations of the Wildlife Board for those species.~~

~~(2) Bag and possession limits do not apply to coyote, field mouse, gopher, ground squirrel, jackrabbit, muskrat, raccoon, European Starling, House Sparrow, and rock pigeon/feral pigeon.~~

~~(3) Nothing in this rule shall be construed to allow the intentional taking of protected wildlife in violation of federal or state laws, rules, regulations, or proclamations.~~

**~~[R657-20-27. Practicing Falconry in the Vicinity of a Federally Listed Threatened or Endangered Animal Species.~~**

~~(1) Individuals practicing falconry must ensure that such activities do not result in the take of federally listed threatened or endangered wildlife.~~

~~(2) Under the federal Endangered Species Act:~~

~~(a) "Take" means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct".~~

~~(b) "Harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering; and~~

~~(c) "Harm" means an act that actually kills or injures wildlife.~~

~~(3) Information about threatened or endangered species that may occur in Utah is available by contacting the U. S. Fish and Wildlife Service or the Division.~~

**~~[R657-20-37. Training.]R657-20-28. Permission to Conduct Falconry Activities on Public or Private Lands.~~**

~~(1) A falconer must comply with all applicable Federal, State, local, or tribal laws regarding falconry activities, including hunting, on private, public, and tribal lands.~~

~~(a) All falconry activities shall be conducted consistent with the trespass requirements in Section 23-20-14.~~

~~(b) A person may not engage in any falconry activity on Tribal trust lands without authorization from the affected Indian tribe.~~

~~(2) Raptor training is not allowed on state waterfowl and wildlife management areas [from April 1 through August 15, unless otherwise authorized] without authorization.~~

~~(3) Practicing the sport of falconry without permission is prohibited on all National Parks in Utah.~~

~~(4) Practicing the sport of falconry without permission is prohibited on all Utah state Parks.~~

**~~R657-20-29. Use of Feathers and Carcasses.~~**

~~(1) Feathers that a falconry bird or birds molt may be used for imping.~~

~~(a) Flight feathers for each species of raptor currently in possession or previously held may be kept for imping for as long as needed by a falconer with a valid falconry COR.~~

~~(i) Feathers for imping purposes may be received from or provided to other licensed falconers, wildlife rehabilitators, or propagators in the United states.~~

~~(ii) Licensed falconers may not buy, sell, or barter molted raptor feathers.~~

~~(b) Molted feathers from a falconry bird, except golden eagle feathers, may be donated to any person or institution with a valid permit for possession.~~

~~(c) Except for primary or secondary flight feathers or rectrices from a golden eagle, a falconer is not required to gather~~

feathers that are molted or otherwise lost by a falconry bird held under a valid COR.

(i) Molted feathers may be left where they fall, stored for imping, or destroyed.

(ii) A licensed falconer possessing a golden eagle must collect any molted flight feathers and rectrices.

(iii) Collected golden eagle feathers that are not to be retained for imping must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(d) Once a falconry COR expires and is not renewed or is revoked, the falconer must donate molted feathers of any species of falconry raptor to any person or institution authorized by permit to acquire and possess the feathers.

(i) Molted feathers that are not donated must be burned, buried, or otherwise destroyed.

(2) Disposition of carcasses of falconry birds that die.

(a) The entire carcass of a golden eagle held for falconry that dies, including all feathers, talons, and other parts, must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(b) The body or feathers of any other species of falconry raptor may be donated to any person or institution authorized by permit to acquire and possess raptor parts or raptor feathers.

(c) A falconry raptor, except a golden eagle, that was either banded or micro chipped prior to its death may be retained by the licensed falconer.

(i) The body of the raptor may be kept so that the feathers are available for imping, or the body may be mounted by a taxidermist.

(A) The mounted raptor may be used in conservation education programs.

(B) If the falconry raptor was banded, the band must be left in place on the mounted raptor body.

(C) If the falconry raptor has an implanted microchip, the microchip must be left in place on the mounted raptor body.

(d) The body and feathers of a deceased falconry raptor that are not donated or retained must be burned, buried, or otherwise destroyed within 10 calendar days of the death of the bird or after final examination by a veterinarian to determine cause of death.

(e) A licensed falconer that does not wish to donate or destroy the flight feathers of a deceased raptor or have the body mounted by a taxidermist, may possess the flight feathers for as long as they possess a valid falconry COR, provided:

(i) The feathers are not be bought, sold, or bartered; and

(ii) The paperwork documenting lawful possession of the deceased raptor is retained.

### **R657-20-[38. Firearms]30. Other Uses of Raptors.**

~~[A person may not possess a firearm while pursuing any quarry with a raptor, unless the person is licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code and is not utilizing the concealed weapon to hunt or take wildlife.](1) Transfer of wild raptors captured for falconry to other permitted uses.~~

(a) A wild-caught falconry raptor may be transferred to a person authorized to possess raptors for propagation purposes only after the raptor has been used in falconry for at least:

(i) 12 months from the date of capture for a sharp-shinned hawk, Cooper's hawk, merlin, or American kestrel; and

(ii) 24 months from the date of capture for all other falconry raptors.

(b) The time periods imposed in Subsection (1)(a) for transferring a wild-caught falconry raptor to a person authorized to possess raptors for propagation purposes may be waived by the Division if the raptor has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the raptor can no longer be flown for falconry.

(i) In order to transfer an injured raptor to a propagation permit, the falconer must provide the Division and the Federal migratory bird permits office that administers propagation permits a certification from the treating veterinarian or rehabilitator stating that the raptor is injured and cannot be used in falconry.

(c) Upon transfer of a wild raptor to a propagation permit, the falconer must provide a copy of the 3-186A form documenting acquisition of the raptor by the propagator to the Division and the Federal migratory bird permit office that administers propagation permits.

(2) Transfer of captive-bred falconry raptors to other permitted uses.

(a) Captive-bred falconry raptors may be transferred to another person if the recipient is authorized for possession.

(i) Transfer must be reported to the Division within 10 business days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a standard paper form 3-186A, or FWS pdf i-381A via email.

(3) Use of raptors possessed for falconry in captive propagation

(a) Raptors possessed for falconry may be bred in captivity if the falconer or the person overseeing the propagation has the necessary permits.

(b) Formal transfer of a raptor from a falconry permit to a captive propagation permit is required if the raptor is to be permanently used for propagation.

(c) Formal transfer of a raptor from a falconry permit to a captive propagation permit is not required if the raptor is used for propagation less than 8 months in a year.

(i) The licensed propagator must have a signed and dated statement from the falconer authorizing the temporary possession, plus a copy of the falconer's original FWS Form 3-186A for that raptor.

(4) Use of falconry raptors in conservation education programs.

(a) A General or Master Class falconer may use a falconry raptor in conservation education programs presented in public venues.

(i) A Federal education permit is not required to conduct conservation education activities using a falconry raptor held under a Utah falconry COR.

(b) Conservation programs may be presented by an Apprentice Falconer who is accompanied by their General or Master Class sponsor.

~~(c) Raptors used to present conservation programs must primarily be used for falconry.~~

~~(d) A falconer may charge a fee for presentation of a conservation education program.~~

~~(i) The fee charged may not exceed the amount required to recoup costs of presenting the conservation education program.~~

~~(e) When presenting conservation education programs, the falconer must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation.~~

~~(f) A falconer may not give presentations using a falconry raptor that do not address falconry and conservation education.~~

~~(g) The falconer is responsible for all liability associated with conservation education activities undertaken.~~

~~(5) Other educational uses of falconry raptors.~~

~~(a) A falconer may allow photography, filming, or other similar uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds.~~

~~(i) A falconer may not be paid or otherwise compensated for such activities.~~

~~(b) A falconer may not use falconry raptors or permit the use of falconry raptors to make movies, commercials, or in other commercial ventures that are not related to the practice of falconry or the biology, ecological roles, and conservation needs of raptors and other migratory birds.~~

~~(c) Falconry raptors may not be used for:~~

~~(i) Commercial entertainment for advertisements;~~

~~(ii) promoting or endorsing any business, company, corporation, or other organization; or~~

~~(iii) promoting or endorsing any product, merchandise, good, service, meeting, or fair, except for products related directly to falconry, such as hoods, telemetry equipment, giant hoods, perches, and materials for raptor facilities.~~

~~(6) Assisting in rehabilitation of raptors in preparation for release.~~

~~(a) A General or Master Class Falconer may assist a permitted migratory bird rehabilitator in conditioning raptors in preparation for their release to the wild.~~

~~(i) The falconer may keep the raptor being rehabilitated in their facilities up to 180 calendar days.~~

~~(ii) The rehabilitator must provide the falconer with a letter or form that identifies the raptor and explains that the falconer is assisting in the rehabilitation of the raptor to be released.~~

~~(iii) Facilities where the raptor will be temporarily housed must adhere to standards outlined in Sections R657-20-8, R657-20-9, and R657-20-10 of this rule.~~

~~(iv) The falconer is not required to add any raptor possessed for rehabilitation to their COR; the raptor will remain under the permit of the rehabilitator.~~

~~(v) The falconer must permanently release any raptor capable of sustaining itself in the wild or return it to the rehabilitator within the 180-day timeframe in which the rehabilitator is authorized to possess the raptor, unless the Division authorizes the falconer to retain the bird for longer than 180 calendar days.~~

~~(7) Using a falconry raptors in abatement activities.~~

~~(a) Abatement activities may only be conducted with captive bred raptors.~~

~~(b) A Master Class falconer may conduct abatement activities with raptors possessed for falconry and receive compensation for such activities, if the falconer is in possession of a Special Purpose Abatement permit issued by the U.S. Fish and Wildlife Service.~~

~~(c) A General Class falconer may conduct abatement activities only as a subpermittee of a Master Class falconer that possesses an abatement permit.~~

~~(d) An Apprentice Class falconer may not conduct abatement activities.~~

~~(8) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the Division as provided in Rule R657-3 and the appropriate authorization from the U.S. Fish and Wildlife Service.~~

**[R657-20-39. Other Uses of Raptors.**

~~(1)(a) A general or master class falconer who possesses a raptor for falconry purposes is not required to obtain an education certificate of registration to use the raptor for educational purposes provided money or consideration is not involved.~~

~~(2)(a) An apprentice falconer who possesses a raptor for falconry purposes is required to obtain an education certificate of registration to use the raptor for educational purposes.~~

~~(b) The division will provide the education certificate of registration at no cost provided money or consideration is not involved.~~

~~(3) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the division as provided in Rule R657-3 and the appropriate authorization from the Service.~~

**R657-20-40. Application Procedures and Drawings for Capture of Peregrine Falcons, Sensitive Raptors, and Nonresident Legal Birds.**

~~(1) Applications for Raptor Capture Permits must be made for:~~

~~(a) Peregrine Falcons;~~

~~(b) sensitive raptor species limited by the falconry coordinator pursuant to Section R657-20-28(7), and;~~

~~(c) nonresident legal birds.~~

~~(2) Application forms are provided by the division.~~

~~(3) An applicant must submit a complete and accurate application with:~~

~~(a) a copy of their valid Falconry Certificate of Registration or valid license from their state of residency, indicating the falconry class designation;~~

~~(b) a copy of their valid federal permit, indicating the falconry class designation; and~~

~~(c) the application handling fee.~~

~~(4)(a) Applications for taking an eyas raptor must be received through the mail by 5 p.m. on the last Friday of February.~~

~~(b) Applications for taking a passage raptor must be received through the mail by 5 p.m. on the last Friday of June.~~

~~(5)(a) If necessary, a drawing will be held for those species that have more applicants than available permits.~~

~~\_\_\_\_\_ (b) Remaining permits will be available to falconers of the appropriate class and residency on a first-come first-served basis after the drawing.]~~

**KEY:** wildlife, birds, falconry

**Date of Enactment or Last Substantive Amendment:** ~~[March 12, 2007]~~ **2010**

**Notice of Continuation:** January 10, 2007

**Authorizing, and Implemented or Interpreted Law:** 23-17-7; 50 CFR 21

**Workforce Services, Employment  
Development  
R986-200-235  
Unearned Income**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33296

FILED: 12/30/2009

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to not count the \$25 unemployment stimulus payment.

**SUMMARY OF THE RULE OR CHANGE:** Congress authorized a \$25 supplemental weekly Unemployment Compensation payment under the American Recovery and Reinvestment Act of 2009 (ARRA). In November 2009, President Obama signed an executive order providing that the \$25 not be counted in determining eligibility for food stamps. For ease of administration and to align the programs, the Department will not count the \$25 in determining eligibility for the Family Employment Program (FEP).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-302(5)(b)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget. Very few people receiving unemployment are eligible for FEP assistance so very few people will be impacted by this change. Any increase will be absorbed by current funding.

◆ **LOCAL GOVERNMENTS:** This applies to federally-funded programs so there are no costs or savings to any local government.

◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 EMPLOYMENT DEVELOPMENT  
 140 E 300 S  
 SALT LAKE CITY, UT 84111-2333  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010

AUTHORIZED BY: Kristen Cox, Executive Director

**R986. Workforce Services, Employment Development.**

**R986-200. Family Employment Program.**

**R986-200-235. Unearned Income.**

(1) Unearned income is income received by an individual for which the individual performs no service.

(2) Countable unearned income includes:

(a) pensions and annuities such as Railroad Retirement, Social Security, VA, Civil Service;

(b) disability benefits such as sick pay and workers' compensation payments unless considered as earned income;

(c) unemployment insurance, except, starting March 1, 2009 and continuing as long as it is authorized by Congress and not counted for food stamps, the \$25 supplemental weekly Unemployment Compensation payment authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) will not be countable unearned income;

- (d) strike or union benefits;
- (e) VA allotment;
- (f) income from the GI Bill;
- (g) assigned support retained in violation of statute is counted when a request to do so has been generated by ORS;
- (h) payments received from trusts made for basic living expenses;
  - (i) payments of interest from stocks, bonds, savings, loans, insurance, a sales contract, or mortgage. This applies even if the payments are from the sale of an exempt home. Payments made for the down payment or principal are counted as assets;
  - (j) inheritances;
  - (k) life insurance benefits;
  - (l) payments from an insurance company or other source for personal injury, interest, or destroyed, lost or stolen property unless the money is used to replace that property;
  - (m) cash contributions from any source including family, a church or other charitable organization;
  - (n) rental income if the rental property is managed by another individual or company for the owner. Income from rental property managed by someone in the household assistance unit is considered earned income;
  - (o) financial assistance payments received from another state or the Department from another type of financial assistance program including a diversion payment; and
  - (p) payments from Job Corps and Americorps living allowances.
- (3) Unearned income which is not counted (exempt):
  - (a) cash gifts for special occasions which do not exceed \$30 per quarter for each person in the household assistance unit. The gift can be divided equally among all members of the household assistance unit;
  - (b) bona fide loans, including reverse equity loans on an exempt property. A bona fide loan means a loan which has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment;
  - (c) the value of food stamps, food donated from any source, and the value of vouchers issued under the Women Infants and Children program;
  - (d) any per capita payments made to individual tribal members by either the secretary of interior or the tribe are excluded. Income to tribal members derived from privately owned land is not exempt;
  - (e) any payments made to household members that are declared exempt under federal law;
  - (f) the value of governmental rent and housing subsidies, federal relocation assistance, or EA issued by the Department;
  - (g) money from a trust fund to provide for or reimburse the household for a specific item NOT related to basic living expenses. This includes medical expenses and educational expenses. Money from a trust fund to provide for or reimburse a household member for basic living expenses is counted;
  - (h) travel and training allowances and reimbursements if they are directly related to training, education, work, or volunteer activities;
  - (i) all unearned income in-kind. In-kind means something, such as goods or commodities, other than money;

- (j) thirty dollars of the income received from rental income unless greater expenses can be proven. Expenses in excess of \$30 can be allowed for:
  - (i) taxes;
  - (ii) attorney fees expended to make the rental income available;
  - (iii) upkeep and repair costs necessary to maintain the current value of the property; and
  - (iv) interest paid on a loan or mortgage made for upkeep or repair. Payment on the principal of the loan or mortgage cannot be excluded;
  - (k) if meals are provided to a roomer/boarder, the value of a one-person food stamp allotment for each roomer/boarder;
  - (l) payments for energy assistance including H.E.A.T payments, assistance given by a supplier of home energy, and in-kind assistance given by a private non-profit agency;
  - (m) federal and state income tax refunds and earned income tax credit payments;
  - (n) payments made by the Department to reimburse the client for education or work expenses, or a CC subsidy;
  - (o) income of an SSI recipient. Neither the payment from SSI nor any other income, including earned income, of an SSI recipient is included;
  - (p) payments from a person living in the household who is not included in the household assistance unit, as defined in R986-200-205, when the payment is intended and used for that person's share of the living expenses;
  - (q) educational assistance and college work study except Veterans Education Assistance intended for family members of the student, living stipends and money earned from an assistantship program is counted as income; and
  - (r) for a refugee, as defined in R986-300-303(1), any grant or assistance, whether cash or in-kind, received directly or indirectly under the Reception and Placement Programs of Department of State or Department of Justice.

**KEY: family employment program****Date of Enactment or Last Substantive Amendment:** [~~August 26, 2009~~2010]**Notice of Continuation:** September 14, 2005**Authorizing, and Implemented or Interpreted Law:** 35A-3-301 et seq.

**Workforce Services, Employment  
Development  
R986-700-714  
CC Payment Method**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33295

FILED: 12/30/2009



**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to eliminate emergency payments which are not supported by our new vendor.

**SUMMARY OF THE RULE OR CHANGE:** The Department makes payments to some child care providers through an EBT card. The Division has recently switched vendors for that card. The new vendor does not support the emergency \$125 payment. This emergency payment began when the Department went to two party checks for child care to avoid delay in getting payments to a child care provider. Since more payments are now issued on the EBT card, the emergency provision is no longer needed and used very infrequently.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Subsection 35A-1-104(4)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget. This is also a revenue neutral amendment. It will not save or cost anything.
- ◆ **LOCAL GOVERNMENTS:** This applies to federally-funded programs so there are no costs or savings to any local government. This is also a revenue neutral amendment.
- ◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program. There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with this proposed change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with this proposed amendment as it is revenue neutral.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

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

WORKFORCE SERVICES  
 EMPLOYMENT DEVELOPMENT  
 140 E 300 S  
 SALT LAKE CITY, UT 84111-2333  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2010**

**AUTHORIZED BY: Kristen Cox, Executive Director**

**R986. Workforce Services, Employment Development.  
 R986-700. Child Care Assistance.  
 R986-700-714. CC Payment Method.**

(1) CC payments to parents will be generated monthly by a two-party check issued in the parent's name and the chosen provider's name, except as noted in paragraph (2) below. The check is mailed to the client. ~~[In the event of an emergency, a payment up to a maximum of \$125 can be made on the Horizon card. Emergency payments can only be made where a parent is in danger of not being able to obtain necessary child care if the parent is required to wait until the two party check can be issued.]~~

(2) CC payments will be made by electronic benefit transfer (EBT) either through a point of sale (POS) machine or interactive voice recording (IVR) system to authorized provider types as determined by the Department. The provider may elect which option of EBT to use. The provider must sign an agreement with the Department's contractor in order to be eligible to receive CC payments. If the provider elects to use the POS method of payment, the provider must lease a POS machine at the provider's own expense.

(3) In the event that a check is reported as lost or stolen, both the parent and the provider are required to sign a statement that they have not received funds from the original check before a replacement check can be issued. The check must be reported as lost or stolen within 60 days of the date the check was mailed. The statement must be signed on an approved Department form and the signing witnessed, and in some cases notarized, at a local office of the Department. If the provider is unable to come into a Department office to sign the form, the form may be accepted if the signature is notarized. If the original check has been redeemed, a copy of the check will be reviewed and both the parent and provider must provide a sworn, notarized statement that the signature on the endorsed check is a forgery. The Department may require a waiting period prior to issuing a replacement check.

(4) The Department is authorized to stop payment on a CC check without prior notice to the client if:

(a) the Department has determined that the client was not eligible for the CC payment, the Department has confirmed with the child care provider that no services were provided for the month in question or the provider cannot be located, and the Department has made an attempt to contact the parent: or

- (b) when the check has been outstanding for at least 90 days; or
- (c) the check is lost or stolen.

(5) No stop payment will be issued by the Department without prior notice to the provider unless the provider is not providing services or cannot be contacted.

**Notice of Continuation: September 14, 2005**  
**Authorizing, and Implemented or Interpreted Law: 35A-3-310**

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**KEY: child care**

**Date of Enactment or Last Substantive Amendment: [~~July 2,~~  
~~2008~~2010**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive public comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends February 15, 2010.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through May 15, 2010, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303; Rule R15-2; and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page**

**Environmental Quality, Administration  
R305-5  
Health Reform -- Health Insurance  
Coverage in DEQ State Contracts --  
Implementation**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 33102  
FILED: 12/23/2009

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the comment period, it was brought to the Division's attention that the citation of Section 63G-6-102 in Subsection R305-5-4(3) is incorrect. Instead, it should be Section 63G-6-103. Also, Section R305-5-3 is missing the subsection designation of (1) for the first paragraph.

SUMMARY OF THE RULE OR CHANGE: The citation of Section 63G-6-102 in Subsection R305-5-4(3) was changed to Section 63G-6-103. The number "(1)" was added to the first paragraph in Section R305-5-3. Minor spacing changes were also made at this time. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the November 15, 2009, issue of the Utah State Bulletin, on page 30. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-206

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ THE STATE BUDGET: No cost or savings are anticipated for the state budget. No new requirements where created.
- ◆ LOCAL GOVERNMENTS: No cost or savings are anticipated for local government budget. No new requirements where created.
- ◆ SMALL BUSINESSES: No cost or savings are anticipated for small businesses. No new requirements where created.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost or savings are anticipated for persons other than small businesses, businesses, or local government entities. No new requirements where created.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost or savings are anticipated for affected persons. No new requirements where created.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No cost or savings are anticipated for businesses. No new requirements where created.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ENVIRONMENTAL QUALITY  
ADMINISTRATION  
168 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at [kkreykes@utah.gov](mailto:kkreykes@utah.gov)

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2010

AUTHORIZED BY: Amanda Smith, Executive Director

**R305. Environmental Quality, Administration.  
R305-5. Health Reform -- Health Insurance Coverage in DEQ  
State Contracts -- Implementation.**

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**R305-5-3. Definitions.**

(1) "Employee" means an "employee," "worker," or "operative" as defined in UCA Section 34A-2-104 who works in the State at least 30 hours per calendar week, and meets employer eligibility waiting requirements for health care insurance which may not exceed 90 days from the date of hire.

(2) "Health benefit plan" has the same meaning as provided in UCA Section 31A-1-301.

(3) "Qualified health insurance coverage" means a health benefit plan that at the time the contract is entered into or renewed:

(a) provides coverage that is actuarially equivalent to the current benefit plan determined by the Children's Health Insurance Program under Section 26-40-106, and under which the employer pays at least 50% of the premium for the employee and the dependents of the employee;

(b) is a federally qualified high deductible health plan that has the lowest deductible permitted for a federally qualified high deductible health plan and an out of pocket maximum that does not exceed three times the amount of the annual deductible, and under which the employer pays 75% of the premium for the employee and the dependents of the employee; or

(c) provides coverage that is actuarially equivalent to 75% of the benefit plan determined under R305-5-3(3)(a), and under which the employer pays at least 75% of the premium of the employee and the dependents of the employee.

(4) "Subcontractor" has the same meaning provided for in UCA Section 63A-5-208.

**R305-5-4. Applicability of Rule.**

(1) Except as provided in Subsection R305-5-4(2) below, this [R]Rule R305-5 applies to all contracts entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, if:

- (a) the contract is for design and construction; and
- (b) the prime contract is in the amount of \$1,500,000 or greater; or a subcontract is in the amount of \$750,000 or greater.

(2) This [R]Rule R305-5 does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this [R]Rule R305-5 jeopardizes the receipt of federal funds;

(b) the contract or agreement is between the department or a division or board of the department and another agency of the state, the federal government, another state, an interstate agency, a political subdivision of this state[;], or a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is a sole source contract or an emergency procurement.

(3) This [R]Rule R305-5 does not apply to a change order as defined in UCA Section 63G-6-102[2], or a modification to a contract, when the contract does not meet the initial threshold required by R305-5-4(1).

.....

**KEY: contract requirements, health insurance**  
**Date of Enactment or Last Substantive Amendment:**  
**[2009]2010**  
**Authorizing, and Implemented or Interpreted Law: 19-1-206**

**End of the Notices of Changes in Proposed Rules Section**



# NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-DAY RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-DAY RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-DAY RULES** are governed by Section 63G-3-304; and Section R15-4-8.

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## Judicial Performance Evaluation Commission, Administration **R597-3**

### Judicial Performance Evaluations

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 33289

FILED: 12/22/2009

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the change is to define the survey period for the attorney survey and extend the survey period by one month for other categories of survey respondents.

**SUMMARY OF THE RULE OR CHANGE:** The change defines the attorney survey period as running from January 1, 2008, through December 31, 2009. It also extends the survey period for other categories of respondents by one month, ending it on January 31, 2010.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 78A-12-101 through 78A-12-206

**REGULAR RULEMAKING WOULD** place the agency in violation of federal or state law. The current rule states that the pilot programs must all be run and completed in 2009.

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** A contract has already been awarded for this work. This change will not affect the contract. Consequently, there is no impact on the state budget.

♦ **LOCAL GOVERNMENTS:** Because the commission has no authority with respect to local government, there is no anticipated cost or savings to local government.

♦ **SMALL BUSINESSES:** Because the commission has no authority with respect to small businesses, there is no anticipated cost or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the commission has no authority with respect to persons other than small businesses, businesses, or local government entities, there is no anticipated cost or savings to these entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The commission assumes all compliance costs. Any affected persons do not assume compliance costs of the emergency rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Because the Commission does not regulate business, there is no fiscal cost on business.

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

JUDICIAL PERFORMANCE EVALUATION  
COMMISSION  
ADMINISTRATION  
ROOM B-330 SENATE BUILDING

420 N STATE ST  
 SENATE BUILDING B-330  
 SALT LAKE CITY, UT 84114  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Joanne Slotnik by phone at 801-538-1652, by FAX at 801-538-1024, or by Internet E-mail at [jslotnik@utah.gov](mailto:jslotnik@utah.gov)

EFFECTIVE: 12/22/2009

AUTHORIZED BY: V. Lowry Snow, Chair

**R597. Judicial Performance Evaluation Commission, Administration.**

**R597-3. Judicial Performance Evaluations.**

**R597-3-1. Evaluation Cycles.**

(1) For judges not serving on the supreme court:

(a) The mid-term evaluation cycle. The mid-term evaluation cycle begins upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ends 2 1/2 years later, on June 30th of the third year preceding the year of the judge's next retention election.

(b) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the judge's next retention election.

(2) For justices serving on the supreme court:

(a) The initial evaluation cycle. The initial evaluation cycle begins upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ends 2 1/2 years later, on June 30th of the seventh year preceding the year of the justice's next retention election.

(b) The mid-term evaluation cycle. The mid-term evaluation cycle begins the day after the initial evaluation cycle is finished and ends four years later, on June 30th of the third year preceding the year of the justice's next retention election.

(c) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the justice's next retention election.

(3) Transition Evaluation Cycles

(a) For judges standing for retention election in 2012:

(i) ~~[The mid-term evaluation cycle shall be conducted in 2009, ending on December 31, 2009.]~~ The mid-term evaluation cycle for attorney surveys shall begin on January 1, 2008 and end on December 31, 2009.

(ii) The mid-term evaluation cycle for all other survey categories shall begin in 2009 and end on January 31, 2010.

(iii) The retention evaluation cycle for all surveys shall begin no later than July 1, 2010, and end on June 30, 2011.

(b) For judges not on the supreme court standing for retention election in 2014:

(i) The mid-term evaluation cycle for surveys of attorneys and jurors shall begin in 2009 and finish on June 30, 2011.

(ii) The mid-term evaluation cycle for all pilot program categories shall begin no later than July 1, 2010, and end on June 30, 2011.

(iii) The retention evaluation cycle will be as described in R597-3-1(1)(b), supra.

(c) For supreme court justices standing for retention election in 2014:

(i) The mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2011.

(ii) The mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010, and end on June 30, 2011.

(iii) The retention evaluation cycle shall be as described in R597-3-1(2)(b)-(c).

(d) For supreme court justices standing for retention election in 2016:

(i) The initial evaluation cycle shall be combined with the mid-term evaluation, beginning in 2009 and ending on June 30, 2013.

(ii) The combined initial/mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2013.

(iii) The combined initial/mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010.

(iv) The retention evaluation cycle shall be as described in R597-3-1(2)(c).

**R597-3-2. Survey.**

(1) General provisions.

(a) All surveys shall be conducted according to the evaluation cycles described in R597-3-1, supra.

(b) The commission shall distribute the survey questionnaires upon which the judge shall be evaluated to each judge at the beginning of the survey cycle. Within a single evaluation cycle, all survey questions shall remain the same.

(c) In 2010, the commission shall finalize survey questionnaires and implementation procedures for each respondent classification.

(2) Respondent Classifications

(a) Attorneys

(i) Identification of survey respondents. Within 10 business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify as potential respondents all attorneys who have appeared before the judge who is being evaluated at a minimum of one hearing or trial during the evaluation cycle.

(ii) Number of survey respondents. For each judge who is the subject of a survey, the surveyor shall identify 180 potential respondents or all attorneys appearing before the judge, whichever is less.

(iii) Sampling. The surveyor shall make a random selection of respondents and shall otherwise design the survey to comply with generally-accepted principles of surveying.

(iv) Distribution of surveys. Surveys shall be distributed by the third-party contractor engaged by the commission to conduct the survey.



- (b) Jurors
  - (i) Identification and number of survey respondents. All jurors who participate in deliberation shall be given a juror questionnaire.
  - (ii) Distribution of surveys. Prior to the jury being dismissed, the bailiff or clerk in charge of the jury shall distribute surveys to the jurors. The bailiff or clerk shall collect completed surveys, seal them in an envelope, and mail them to the surveyor. The surveyor shall deliver survey results electronically to each judge.
- (c) Court Staff
  - (i) Identification of survey respondents. Court staff who have worked with the judge shall include, where applicable:
    - (A) court clerks;
    - (B) bailiffs;
    - (C) law clerks;
    - (D) probation and intake officers;
    - (E) courthouse staff;
    - (F) Administrative Office of the Courts staff.
  - (ii) Pilot program. The commission shall run a pilot program [~~in 2009~~]to evaluate the methodology, content, and administrative feasibility of surveying court staff.
- (d) Litigants
  - (i) Identification of survey respondents. A litigant is a party to a cause of action before a judge who is being evaluated.
    - (A) The following categories of litigants may be surveyed:
      - (I) any competent person 14 years of age or older;

- (II) the parent, guardian, or legal custodian of any minor;
- (III) the designated representative of a corporate or like entity.
  - (B) The representative of the prosecuting entity in a criminal case shall be surveyed as an attorney. Prosecutor responses to the judicial temperament part of the survey shall be reported in both the attorney and litigant portions of the judicial evaluation report.
  - (ii) Pilot Program. The commission shall run a pilot program [~~in 2009~~]to evaluate the methodology, content, and administrative feasibility of surveying litigants.
- (e) Witnesses
  - (i) Identification of survey respondents. A witness is anyone not surveyed as a litigant who testifies in court before a judge who is being evaluated. Any witness who is competent and who is 14 years of age or older is qualified as a witness survey respondent.
    - (ii) Pilot Program. The commission shall run a pilot program [~~in 2009~~]to evaluate the methodology, content, and administrative feasibility of surveying witnesses.

**KEY: judicial performance evaluations, judges, evaluation cycles, surveys**  
**Date of enactment or Last Substantive Amendment: December 22, 2009**  
**Authorizing, and Implemented or Interpreted Law: 78A-12**

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



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended 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 upon filing.

**NOTICES** are governed by Section 63G-3-305.

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## Health, Health Systems Improvement, Licensing **R432-270** Assisted Living Facilities

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33281  
FILED: 12/16/2009

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act authorizes the Utah Department of Health to promulgate rules for the licensing of health care facilities. This rule promotes the health and safety of individuals receiving services in assisted living facilities by establishing basic standards for the facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department agrees with the need to continue the rule.

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT, LICENSING  
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:

♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at [carmenrichins@utah.gov](mailto:carmenrichins@utah.gov)  
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at [jhoffman@utah.gov](mailto:jhoffman@utah.gov)

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 12/16/2009

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## Human Services, Services for People with Disabilities **R539-4** Behavior Interventions

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33284  
FILED: 12/17/2009

**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 62A-5-103(4)(b) requires the Division to establish standards to assure constitutional protections for persons receiving services and behavior interventions are used during the provision of these services.

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 THE 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 62A-5-103(4)(b) to establish standards to assure that a person with disabilities is not deprived of constitutionally protected rights and prevent abuse or injury when behavior interventions are used. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 SERVICES FOR PEOPLE WITH  
 DISABILITIES ROOM 411  
 120 N 200 W  
 SALT LAKE CITY, UT 84103-1500  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steven Bradford by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

AUTHORIZED BY: Alan Ormsby, Director

EFFECTIVE: 12/17/2009

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Human Services, Services for People  
 with Disabilities  
**R539-5**  
 Self-Administered Services

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

DAR FILE NO.: 33285  
 FILED: 12/17/2009

**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 establishes standards for Self-Administered Services as required by Subsection 62A-5-103(8). The Division sets standards to assure that persons receiving services are supported appropriately in a community setting and that program and financial requirements are met.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued to assure continued operation of an efficient and financially responsible Self-Administered Services program that meets program objectives and maintains the person's health and safety in a community setting.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 SERVICES FOR PEOPLE WITH  
 DISABILITIES ROOM 411  
 120 N 200 W  
 SALT LAKE CITY, UT 84103-1500  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steven Bradford by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

AUTHORIZED BY: Alan Ormsby, Director

EFFECTIVE: 12/17/2009

**Insurance, Administration**  
**R590-196**  
**Bail Bond Surety Fee Standards,  
 Collateral Standards, and Disclosure  
 Form**

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

DAR FILE NO.: 33294  
 FILED: 12/30/2009

**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 receives its authority from Section 31A-35-104. This section authorizes the commissioner to write rules establishing specific licensure and certification guidelines and standards of conduct for the business of surety bail bond insurance. The rule provides guidelines for fee and collateral standards to be used in the bail bond business along with a disclosure form that must be used by a bail bond agent when charging fees and receiving collateral.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule went through two comment periods during the past five years for which no written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to remain in effect to avoid price gouging and the charging of fees without a prior disclosure to the consumer. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/30/2009

**Insurance, Administration**  
**R590-197**  
**Treatment of Guaranty Association  
 Assessments as Qualified Assets**

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

DAR FILE NO.: 33290  
 FILED: 12/24/2009

**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 promulgated by the insurance commissioner pursuant to the general authority to adopt a rule granted under Subsection 31A-2-201(3). Specific rulemaking authority in Subsection 31A-17-201(2)(j) allows the department to authorize other assets than those specified in the insurance code as qualified assets in the determination of an insurers financial condition. Pursuant to Subsection 31A-28-109(8), the insurance commissioner is authorized to approve the amounts and time periods for which contributions are treated as assets.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule within the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Insurers are still subject to guarantee fund assessments and states are still allowing premium tax offsets to insurers for payment of guarantee fund assessments. As long as insurers are afforded tax offsets or other benefits for payment of guarantee fund assessments, it is appropriate to allow them as an asset, which is what this rule does. Therefore, this rule should be continued.

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

INSURANCE  
 ADMINISTRATION

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/24/2009

associations having group insurance policies. They process claims, certify eligibility, etc. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/24/2009

**Insurance, Administration**  
**R590-232**

**Authorization for a Health Maintenance Organization to Provide Services as Third Party Administrator of Health Care Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 33291  
 FILED: 12/24/2009

**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 31A-8-103(2) allows the commissioner to waive provisions of Title 31A that he considers inapplicable to health maintenance organizations, and Section 31A-2-201 gives the commissioner authority to implement the provisions of Title 31A.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments within the past five years regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule remain in effect since it authorizes health maintenance organizations (HMOs) to provide services as a third party administrator of health care benefits. As a third party administrator, an HMO would provide administrative services to employers and other

**Regents (Board of), Administration**  
**R765-604**  
**New Century Scholarship**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 33286  
 FILED: 12/21/2009

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-8-105 established a scholarship program for Utah residents who complete the requirements for an associate degree by September 1 of the year their high school class graduates. This statute directs the State Board of Regents to administer this program, called the New Century scholarship.

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 past year, there were many more applicants who established eligibility for New Century Scholarship funds than appropriated funds could sustain at the highest award level of 75% of tuition at four-year state institutions. Many inquiries and petitions were received by the Board of Regents office and legislature from students and parents demanding full funding of what they expected to receive. These were not comments of support or

opposition to the rule itself but rather they centered around the amount of award the students expected to receive. After much publicity the legislature and governor agreed to fully fund all those who qualified for this scholarship for the current academic year. This unexpected level of interest in this scholarship program has caused the legislature to reevaluate the funding level for future years so that future qualified applicants may receive the expected funds.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: A continuation of this rule is needed as the state legislature moved to continue this program during the 2009 legislative session.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY, UT 84101-1284  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rccrossley@utahsbr.edu

AUTHORIZED BY: William Sederburg, Commissioner

EFFECTIVE: 12/21/2009

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**School and Institutional Trust Lands,  
Administration  
R850-10  
Expedited Rulemaking**

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

DAR FILE NO.: 33288  
FILED: 12/22/2009

**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-1-201(3)(c) specifically authorizes an "expedited" rulemaking process, outside of the traditional rulemaking process, or the

emergency rulemaking process established under Title 63G, Chapter 3. Although the statutory authorization for expedited rules instructs the director of the agency to establish a procedure to enact expedited rules, it was deemed prudent that this procedure be in rule, also. Rule R850-10 established the procedure used for promulgating expedited rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R850-10 provides the guidelines to carry out the direction of the legislature as provided by statute in Subsection 53C-1-201(3)(c). The need to be able to enact expedited rules continues to exist due to changing marketplaces and the agency's need to react quickly to time-sensitive business opportunities. 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:

♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 12/22/2009

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**Tax Commission, Auditing  
R865-16R  
Severance Tax**

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

DAR FILE NO.: 33292  
FILED: 12/29/2009

**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 59-2-203 indicates how taxable value shall be determined for purposes of imposing the mining severance tax of 2.6% of taxable value. The section requires the Tax Commission to establish a rule setting forth an established authority for market prices of metals, and a process for determining the value of metals sold between affiliated companies where a bona fide sale has not taken place.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes authority and

promulgates processes both required by statute and necessary in the determination of fair market value. The rule is necessary to ensure that the measurement of taxable value is consistent among the different taxpayers, thereby ensuring that all pay their fair share of tax. Therefore, this rule should be continued.

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:  
♦ D'Arcy Dixon by phone at 801-297-3906, by FAX at 801-297-3901, or by Internet E-mail at ddixon@utah.gov

AUTHORIZED BY: D'Arcy Dixon, Commissioner

EFFECTIVE: 12/29/2009

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



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

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### Abbreviations

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

### Administrative Services

#### Finance

No. 33101 (NEW): R25-10. State Entities' Posting of Financial Information to the Utah Public Finance Website  
Published: 11/15/2009  
Effective: 12/23/2009

### Alcoholic Beverage Control

#### Administration

No. 33023 (AMD): R81-1-3. General Policies  
Published: 11/01/2009  
Effective: 12/23/2009

### Commerce

#### Occupational and Professional Licensing

No. 33067 (AMD): R156-1-305. Inactive Licensure  
Published: 11/15/2009  
Effective: 12/22/2009

No. 33079 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule

Published: 11/15/2009  
Effective: 12/22/2009

No. 33092 (AMD): R156-42a. Occupational Therapy Practice Act Rule

Published: 11/15/2009  
Effective: 12/22/2009

No. 33115 (AMD): R156-61. Psychologist Licensing Act Rule

Published: 11/15/2009  
Effective: 12/22/2009

### Financial Institutions

#### Nondepository Lenders

No. 33094 (NEW): R343-2. Mortgage Lenders, Brokers and Servicers Fees  
Published: 11/15/2009  
Effective: 12/22/2009

No. 33095 (NEW): R343-3. Mortgage Lenders, Brokers and Servicers Definitions

Published: 11/15/2009  
Effective: 12/22/2009

No. 33096 (NEW): R343-4. Application Forms and Procedures for Mortgage Lenders

Published: 11/15/2009  
Effective: 12/22/2009

No. 33097 (NEW): R343-5. Mortgage Loan Originator Surety Bond Requirements

Published: 11/15/2009  
Effective: 12/22/2009

No. 33098 (NEW): R343-6. Mortgage Loan Originator Challenge of Nationwide Database Information

Published: 11/15/2009  
Effective: 12/22/2009

No. 33099 (NEW): R343-7. Mortgage Loan Originator Education and Written Test Requirements

Published: 11/15/2009  
Effective: 12/22/2009

No. 33100 (NEW): R343-8. Mortgage Loan Originator Record Requirements and Reports of Condition

Published: 11/15/2009  
Effective: 12/22/2009

### Health

Epidemiology and Laboratory Services, Environmental Services

No. 33126 (AMD): R392-600-6. Confirmation Sampling and Decontamination Standards

Published: 11/15/2009  
Effective: 12/22/2009

Epidemiology and Laboratory Services; HIV/AIDS,  
Tuberculosis Control/Refugee Health  
No. 33086 (AMD): R388-805. Ryan White Program  
Published: 11/15/2009  
Effective: 12/30/2009

Health Care Financing, Coverage and Reimbursement Policy  
No. 33127 (AMD): R414-1-5. Incorporations by Reference  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33130 (AMD): R414-54-3. Services  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33129 (AMD): R414-59-4. Client Eligibility  
Requirements  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33132 (AMD): R414-305. Resources  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33133 (AMD): R414-308-3. Application and Signature  
Published: 11/15/2009  
Effective: 01/01/2010

Health Systems Improvement, Child Care Licensing  
No. 33083 (AMD): R430-6-4. Criminal Background  
Screening  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33084 (AMD): R430-8. Exemptions From Child Care  
Licensing  
Published: 11/15/2009  
Effective: 01/01/2010

No. 33082 (AMD): R430-70. Out of School Time Child Care  
Programs  
Published: 11/15/2009  
Effective: 01/01/2010

#### Human Services

Substance Abuse and Mental Health  
No. 33038 (AMD): R523-1. Procedures  
Published: 11/01/2009  
Effective: 12/29/2009

No. 33039 (AMD): R523-20. Division Rules of Administration  
Published: 11/01/2009  
Effective: 12/29/2009

#### Public Safety

Driver License  
No. 33106 (REP): R708-6. Renewal By Mail  
Published: 11/15/2009  
Effective: 12/31/2009

No. 33056 (R&R): R708-41. Requirements for Acceptable  
Documentation  
Published: 11/01/2009  
Effective: 12/31/2009

No. 33110 (NEW): R708-45. Exception for Renewal or  
Duplicate License for a Utah Resident Temporarily Residing  
Out of State  
Published: 11/15/2009  
Effective: 12/31/2009

#### Fire Marshal

No. 32880 (AMD): R710-6. Liquefied Petroleum Gas Rules  
Published: 09/01/2009  
Effective: 12/16/2009

#### Tax Commission

Motor Vehicle  
No. 33111 (AMD): R873-22M-27. Issuance of Special Group  
License Plates Pursuant to Utah Code Ann. Sections  
41-1a-418, 41-1a-419, 41-1a-420, and 41-1a-21  
Published: 11/15/2009  
Effective: 12/22/2009

#### Property Tax

No. 33128 (AMD): R884-24P-53. 2009 Valuation Guides for  
Valuation of Land Subject to the Farmland Assessment Act  
Pursuant to Utah Code Ann. Section 59-2-515  
Published: 11/15/2009  
Effective: 12/22/2009

#### Technology Services

Administration  
No. 33104 (REP): R895-10. Standards, Best Practices, and  
Institutional Knowledge Requirements for Executive Branch  
Agencies  
Published: 11/15/2009  
Effective: 12/22/2009

#### Transportation

Motor Carrier  
No. 33131 (AMD): R909-19. Safety Regulations for Tow  
Truck Operations - Tow Truck Requirements for Equipment,  
Operation and Certification  
Published: 11/15/2009  
Effective: 12/22/2009

# 2009 COMPLETE RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

This Rules Index is a complete index that reflects all effective changes to Utah's administrative rules for 2009. The Index lists changes made effective from January 2, 2009, including notices of effective date received through December 31, 2009, the effective dates of which are no later than January 1, 2010. The Rules Index is published in the Utah State Bulletin and in the annual Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

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

## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

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

**DEPARTMENT**  
**AGENCY**

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>ADMINISTRATION</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	32204	AMD	02/26/2009	2009-1/3
R13-3-8	Relationship to Other Laws	32431	NSC	03/26/2009	Not Printed
<u>CHILD WELFARE PARENTAL DEFENSE (OFFICE OF)</u>					
R19-1	Parental Defense Counsel Training	33081	5YR	10/21/2009	2009-22/105
<u>DEBT COLLECTION</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	32941	NSC	10/01/2009	Not Printed
R21-2	Office of State Debt Collection Administrative Procedures	32832	NSC	09/02/2009	Not Printed
<u>FACILITIES CONSTRUCTION AND MANAGEMENT</u>					
R23-1	Procurement of Construction	32937	NSC	10/01/2009	Not Printed
R23-2	Procurement Of Architect-Engineer Services	32872	NSC	08/31/2009	Not Printed

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R23-2	Procurement of Architect-Engineer Services	33093	5YR	10/26/2009	2009-22/105	
R23-3	Planning and Programming for Capital Projects	32700	5YR	06/01/2009	2009-12/76	
R23-4	Suspension/Debarment	32873	NSC	08/31/2009	Not Printed	
R23-21-1	Purpose and Authority	32874	NSC	08/31/2009	Not Printed	
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	32771	EMR	07/01/2009	2009-14/63	
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	32772	NEW	10/08/2009 see CPR in 09/01/2009 Bulletin	2009-14/3	
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	32772	CPR	10/08/2009	2009-17/56	
R23-25	Administrative Rules Adjudicative Proceedings	32875	NSC	08/31/2009	Not Printed	
R23-26	Dispute Resolution	32876	NSC	08/31/2009	Not Printed	
R23-29	Across the Board Delegation (5YR EXTENSION)	32399	EXT	06/01/2009 see 5YR DAR No. 32699	2009-6/95	
R23-29	Across the Board Delegation	32699	5YR	06/01/2009	2009-12/76	
R23-29-6	Procurement	32877	NSC	08/31/2009	Not Printed	
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R25-5	Payment of Per Diem to Boards	32632	AMD	06/23/2009	2009-10/3	
R25-7	Travel-Related Reimbursements for State Employees	32635	AMD	06/23/2009	2009-10/4	
R25-7-10	Reimbursement for Transportation	33275	EMR	01/01/2010	2010-1/77	
R25-10	State Entities' Posting of Financial Information to the Utah Public Finance Website	33101	NEW	12/23/2009	2009-22/4	
<b>FLEET OPERATIONS</b>						
R27-1-2	Definitions	32189	AMD	04/20/2009	2009-1/5	
R27-3	Vehicle Use Standards	33223	NSC	12/17/2009	Not Printed	
R27-4	Vehicle Replacement and Expansion of State Fleet	32886	AMD	10/08/2009	2009-17/10	
R27-7	Safety and Loss Prevention of State Vehicles	32292	AMD	04/20/2009	2009-3/2	
R27-10	Identification Mark for State Motor Vehicles	32291	AMD	04/20/2009	2009-3/4	
<b>FLEET OPERATIONS, SURPLUS PROPERTY</b>						
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<b>PURCHASING AND GENERAL SERVICES</b>						
R33-3	Source Selection and Contract Formation	33107	NSC	11/18/2009	Not Printed	
R33-6	Modification and Termination of Contracts for Supplies and Services (5YR EXTENSION)	31983	EXT	01/29/2009 see 5YR, DAR No. 32344	2008-20/54	
R33-6	Modification and Termination of Contracts for Supplies and Services	32344	5YR	01/29/2009	2009-4/55	
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R33-9	Insurance Procurement (5YR EXTENSION)	31985	EXT	01/29/2009 see 5YR DAR No. 32346	2008-20/54
R33-9	Insurance Procurement	32346	5YR	01/29/2009	2009-4/56
R33-9	Insurance Procurement	33109	NSC	11/18/2009	Not Printed
<b>RECORDS COMMITTEE</b>					
R35-1	State Records Committee Appeal Hearing Procedures (5YR EXTENSION)	32758	EXT	09/23/2009 see 5YR DAR No. 32988	2009-14/85
R35-1	State Records Committee Appeal Hearing Procedures	32988	5YR	09/23/2009	2009-20/45
R35-1-1	Scheduling Committee Meetings	32684	AMD	10/13/2009	2009-12/4
R35-1-2	Procedures for Appeal Hearings	32685	AMD	10/13/2009	2009-12/4
R35-1-4	Committee Minutes	32355	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings	32358	NSC	02/26/2009	Not Printed
R35-2	Declining Appeal Hearings (5YR EXTENSION)	32759	EXT	09/23/2009 see 5YR DAR No. 32989	2009-14/85
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R35-3	Prehearing Conferences (5YR EXTENSION)	32760	EXT	09/23/2009 see 5YR DAR No. 32990	2009-14/85
R35-3	Prehearing Conferences	32990	5YR	09/23/2009	2009-20/46
R35-3-2	Scheduling Prehearing Conferences	32686	AMD	10/13/2009	2009-12/6
R35-4	Compliance with State Records Committee Decisions and Orders	32359	NSC	02/26/2009	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders (5YR EXTENSION)	32761	EXT	09/23/2009 see 5YR DAR No. 32991	2009-14/85
R35-4	Compliance with State Records Committee Decisions and Orders	32991	5YR	09/23/2009	2009-20/46
R35-5	Subpoenas Issued by the Records Committee	32360	NSC	02/26/2009	Not Printed
R35-5	Subpoenas Issued by the Records Committee (5YR EXTENSION)	32762	EXT	09/23/2009 see 5YR DAR No. 32992	2009-14/85
R35-5	Subpoenas Issued by the Records Committee	32992	5YR	09/23/2009	2009-20/47
R35-6	Expedited Hearings	32361	NSC	02/26/2009	Not Printed
R35-6	Expedited Hearing (5YR EXTENSION)	32763	EXT	09/23/2009 see 5YR DAR No. 32994	2009-14/85
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	R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	32740	NSC	09/21/2009	Not Printed
	R51-3	Government Records Access and Management Act	32573	NSC	05/27/2009	Not Printed
	R51-4-1	Authority and Purpose	32537	NSC	05/14/2009	Not Printed
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	R58-17	Aquaculture and Aquatic Animal Health	32199	AMD	02/19/2009	2009-1/7
	R58-19-2	Definition of Terms	32693	NSC	06/18/2009	Not Printed
	R58-20	Domesticated Elk Hunting Park	32397	5YR	02/23/2009	2009-6/90
	R58-20-13	Liability	32692	NSC	06/18/2009	Not Printed
	R58-21	Trichomoniasis	32784	AMD	09/22/2009	2009-15/3
<u>MARKETING AND DEVELOPMENT</u>						
	R65-7 (Changed to R52-7)	Horse Racing	32401	AMD	04/21/2009	2009-6/4
<u>PLANT INDUSTRY</u>						
	R68-2-3	Registration of Products	32031	AMD	02/25/2009	2008-21/4
	R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	33219	5YR	11/25/2009	2009-24/
	R68-7	Utah Pesticide Control Act	32332	AMD	03/26/2009	2009-4/4
	R68-19-2	Definition of Terms	32516	NSC	05/14/2009	Not Printed
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	R70-310	Grade A Pasteurized Milk	32742	5YR	06/24/2009	2009-14/82
	R70-440	Egg Products Inspection	33071	5YR	10/21/2009	2009-22/106
	R70-540	Food Establishment Registration	33072	5YR	10/21/2009	2009-22/107
	R70-560-1	Authority and Purpose	32818	NSC	09/21/2009	Not Printed
	R70-630	Water Vending Machine	32289	5YR	01/08/2009	2009-3/83
	R70-910-12	Revocation of Certificate of Registration	32817	NSC	09/21/2009	Not Printed
	R70-940	Standards and Testing of Motor Fuel	32570	AMD	06/22/2009	2009-10/6
	R70-960	Weights and Measures Fee Registration	33070	5YR	10/21/2009	2009-22/107
<b>ALCOHOLIC BEVERAGE CONTROL</b>						
<u>ADMINISTRATION</u>						
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	R81-1-2	Definitions	32542	AMD	06/24/2009	2009-10/7
	R81-1-3	General Policies	32544	AMD	06/24/2009	2009-10/9
	R81-1-3	General Policies	32897	AMD	10/27/2009	2009-18/8
	R81-1-3	General Policies	32900	NSC	10/27/2009	Not Printed
	R81-1-3	General Policies	33023	AMD	12/23/2009	2009-21/8
	R81-1-6	Violation Schedule	32414	AMD	04/22/2009	2009-6/15
	R81-1-6	Violation Schedule	32459	AMD	05/27/2009	2009-8/5
	R81-1-9	Liquor Dispensing Systems	32549	AMD	06/24/2009	2009-10/11
	R81-1-11	Multiple-Licensed Facility Storage and Service	32607	NSC	05/27/2009	Not Printed
	R81-1-24	Responsible Alcohol Service Plan	32552	AMD	06/24/2009	2009-10/12
	R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	32553	AMD	06/24/2009	2009-10/14
	R81-1-28	Special Commission Meetings-Fees	32333	AMD	03/24/2009	2009-4/8
	R81-2-10	State Store Hours	32608	NSC	05/27/2009	Not Printed
	R81-3-13	Operational Restrictions	32554	AMD	06/24/2009	2009-10/15
	R81-4A-1	Licensing	32610	NSC	05/27/2009	Not Printed
	R81-4A-2	Application	32556	EMR	05/01/2009	2009-10/145

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R81-4A-10	Table Service	32557	AMD	06/24/2009	2009-10/17
R81-4A-11	Consumption at Patron's Table	32560	EMR	05/01/2009	2009-10/147
R81-4A-11	Consumption at Patron's Table	32559	AMD	06/24/2009	2009-10/18
R81-4A-14	Brownbagging	32611	NSC	05/27/2009	Not Printed
R81-4A-15	Grandfathered Bar Structures	32562	EMR	05/01/2009	2009-10/148
R81-4A-15	Grandfathered Bar Structures	32561	AMD	06/24/2009	2009-10/19
R81-4B-1	Licensing	32612	NSC	05/27/2009	Not Printed
R81-4C-1	Licensing	32613	NSC	05/27/2009	Not Printed
R81-4C-2	Application	32564	EMR	05/01/2009	2009-10/149
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R81-4C-9	Table Service	32568	EMR	05/01/2009	2009-10/150
R81-4C-9	Table Service	32567	AMD	06/24/2009	2009-10/21
R81-4C-10	Consumption at Patron's Table	32571	EMR	05/01/2009	2009-10/151
R81-4C-10	Consumption at Patron's Table	32569	AMD	06/24/2009	2009-10/22
R81-4C-13	Grandfathered Bar Structures	32574	EMR	05/01/2009	2009-10/151
R81-4C-13	Grandfathered Bar Structures	32572	AMD	06/24/2009	2009-10/23
R81-4D-1	Licensing	32575	AMD	06/24/2009	2009-10/24
R81-4D-2	Application	32614	NSC	05/27/2009	Not Printed
R81-4D-4	Insurance	32616	NSC	05/27/2009	Not Printed
R81-4D-10	State Label	32577	EMR	05/01/2009	2009-10/153
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R81-5-2	Application	32580	AMD	06/24/2009	2009-10/28
R81-5-5	Advertising	32581	AMD	06/24/2009	2009-10/29
R81-5-6	Club Licensee Liquor Order and Return Procedures	32582	AMD	06/24/2009	2009-10/30
R81-5-7	Club License Operating Hours.	32628	AMD	06/24/2009	2009-10/31
R81-5-9	Liquor Storage	32583	AMD	06/24/2009	2009-10/31
R81-5-10	Alcohol Product Flavoring	32584	AMD	06/24/2009	2009-10/32
R81-5-11	Price Lists	32585	AMD	06/24/2009	2009-10/33
R81-5-13	Brownbagging	32588	AMD	06/24/2009	2009-10/34
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R81-5-17	Visitor Cards	32600	AMD	06/24/2009	2009-10/38
R81-5-18	Age Verification - Dining and Social Clubs	32606	EMR	05/01/2009	2009-10/154
R81-5-18	Age Verification - Dining and Social Clubs.	32604	AMD	06/24/2009	2009-10/39
R81-10A-1	Licensing	32620	NSC	05/27/2009	Not Printed
R81-10A-7	Draft Beer Sales/Minors on Premises	32624	NSC	05/27/2009	Not Printed

**CAPITOL PRESERVATION BOARD (STATE)**

**ADMINISTRATION**

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R994-309	Nonprofit Organizations	32802	5YR	07/08/2009	2009-15/121
R994-310	Coverage	32803	5YR	07/08/2009	2009-15/122
R994-311	Governmental Units and Indian Tribes	32804	5YR	07/08/2009	2009-15/122
R994-312	Employing Units Records	32805	5YR	07/08/2009	2009-15/123
R994-403-118e	Disqualification Periods if a Claimant Fails to Provide Information	32782	AMD	08/26/2009	2009-14/61
R994-405-3	Professional Employment Organization (PEO)	32534	NSC	05/14/2009	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 reenactment
NEW = New rule	5YR = Five-Year Review
EXD = Expired rule	EXT = Five-Year Review Extension

**KEYWORD**

AGENCY	CODE REFERENCE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE / PAGE
<b>A</b>					
<u>abortion</u>					
Health; Health Care Financing, Coverage and Reimbursement Policy	R414-1B	32996	5YR	09/23/2009	2009-20/49
	R414-1B	33008	AMD	11/25/2009	2009-20/25
<u>accelerated learning</u>					
Education; Administration	R277-712	32376	5YR	02/13/2009	2009-5/27
<u>acceptable documents</u>					
Public Safety; Driver License	R708-41	33056	R&R	12/31/2009	2009-21/70
<u>acceptable use</u>					
Technology Services; Administration	R895-7	32705	5YR	06/03/2009	2009-13/86
<u>access</u>					
Environmental Quality; Drinking Water	R309-545-15	32410	AMD	04/27/2009	2009-6/36
<u>accessing records</u>					
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Administrative Services; Fleet Operations		R27-7	32292	AMD	04/20/2009	2009-3/2
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Commerce; Occupational and Professional Licensing		R156-26a	32712	AMD	08/10/2009	2009-13/20
<u>accounts receivable</u>						
Administrative Services; Debt Collection		R21-1	32941	NSC	10/01/2009	Not Printed
		R21-2	32832	NSC	09/02/2009	Not Printed
<u>accreditation</u>						
Education; Administration		R277-413	32373	5YR	02/13/2009	2009-5/26
		R277-504	32945	5YR	09/03/2009	2009-19/116
<u>acquisition</u>						
Natural Resources; Parks and Recreation		R651-700	32898	NEW	10/27/2009	2009-18/69
<u>activities</u>						
Education; Administration		R277-494	32917	AMD	10/22/2009	2009-18/14
		R277-494-3	32220	NSC	01/22/2009	Not Printed
		R277-494-3	32323	NSC	02/25/2009	Not Printed
<u>ADA (Americans with Disabilities Act)</u>						
Transportation; Administration		R907-62-7	32161	NSC	02/05/2009	Not Printed
		R907-62-7	32303	NSC	02/05/2009	Not Printed
<u>ADA (Americans with Disabilities Act) complaint procedures</u>						
Crime Victim Reparations; Administration		R270-3	32197	NSC	01/12/2009	Not Printed
		R270-3	32394	5YR	02/19/2009	2009-6/91
<u>ADAP (AIDS Drug Assistance Program)</u>						
Health; Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/ Refugee Health		R388-805	33085	EMR	10/23/2009	2009-22/101
		R388-805	33086	AMD	12/30/2009	2009-22/44
<u>adjudicative procedures</u>						
Community and Culture; Library		R223-1	32295	NSC	02/05/2009	Not Printed
<u>adjudicative proceedings</u>						
Administrative Services; Facilities Construction and Management		R23-25	32875	NSC	08/31/2009	Not Printed
Community and Culture; History		R212-1	32243	NSC	01/22/2009	Not Printed
Public Safety; Driver License		R708-14	32587	AMD	07/06/2009	2009-10/143
		R708-35-7	33021	NSC	11/17/2009	Not Printed
<u>adjudicative process</u>						
Administrative Services; Debt Collection		R21-2	32832	NSC	09/02/2009	Not Printed
<u>administrative law</u>						
Administrative Services; Facilities Construction and Management		R23-25	32875	NSC	08/31/2009	Not Printed
Human Services; Recovery Services		R527-258	32390	AMD	07/13/2009	2009-6/62
		R527-258	32890	AMD	11/03/2009	2009-18/48

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<u>administrative procedures</u>	Agriculture and Food; Administration	R51-1	32536	NSC	05/14/2009	Not Printed
	Commerce; Corporations and Commercial Code	R154-100-2	32518	NSC	05/14/2009	Not Printed
	Community and Culture; History	R212-1	32243	NSC	01/22/2009	Not Printed
	Community and Culture; Library	R223-1	32295	NSC	02/05/2009	Not Printed
	Crime Victim Reparations; Administration	R270-2	32196	NSC	01/12/2009	Not Printed
	Education; Administration	R277-102	32372	5YR	02/13/2009	2009-5/26
	Education; Rehabilitation	R280-150	32836	5YR	07/23/2009	2009-16/73
	Environmental Quality; Drinking Water	R309-100	32806	AMD	09/24/2009	2009-15/11
	Human Resource Management; Administration	R477-3	32598	AMD	07/01/2009	2009-10/88
		R477-12	32609	AMD	07/01/2009	2009-10/113
		R477-12-3	32427	EMR	03/02/2009	2009-6/87
		R477-12-3	32424	AMD	04/21/2009	2009-6/55
		R477-15	32590	AMD	07/01/2009	2009-10/117
	Human Services; Administration, Administrative Hearings	R497-100	32181	AMD	01/21/2009	2008-24/21
	Labor Commission; Adjudication	R497-100	32328	NSC	02/25/2009	Not Printed
		R602-2-2	32276	AMD	03/10/2009	2009-3/51
		R602-2-3	32764	AMD	08/24/2009	2009-14/56
		R602-7	32277	NEW	03/10/2009	2009-3/52
		R602-7-4	32482	AMD	05/22/2009	2009-8/47
		R602-8	32278	NEW	03/10/2009	2009-3/57
		R602-8-4	32483	AMD	05/22/2009	2009-8/48
	Natural Resources; Forestry, Fire and State Lands	R652-5-200	32487	AMD	05/26/2009	2009-8/50
		R652-20	32853	AMD	09/23/2009	2009-16/33
		R652-20-1600	32485	AMD	05/26/2009	2009-8/52
		R652-70	32486	AMD	05/26/2009	2009-8/52
	Public Safety; Driver License	R708-7-10	32202	AMD	02/19/2009	2009-1/41
	School and Institutional Trust Lands; Administration	R850-5-200	32402	NSC	03/14/2009	Not Printed
		R850-10	33288	5YR	12/22/2009	2010-2/59
		R850-40-250	32931	AMD	10/22/2009	2009-18/99
		R850-40-250	33139	NSC	11/30/2009	Not Printed
	Transportation; Administration	R907-1	32214	AMD	04/14/2009	2009-1/45
		R907-3	32217	NSC	01/12/2009	Not Printed
<u>administrative proceedings</u>	Public Safety; Driver License	R708-22	32503	5YR	04/07/2009	2009-9/55
		R708-22-2	33020	NSC	11/17/2009	Not Printed
<u>administrative responsibility</u>	Human Resource Management; Administration	R477-2	32605	AMD	07/01/2009	2009-10/85
		R477-2	32727	AMD	10/01/2009	2009-13/66
<u>adoption</u>	Human Services; Child and Family Services	R512-2	32455	AMD	05/27/2009	2009-8/18
		R512-40	32457	AMD	05/27/2009	2009-8/22
		R512-41	32657	5YR	05/07/2009	2009-11/58
		R512-51	32905	AMD	10/22/2009	2009-18/41

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<u>adult education</u>	Education; Administration	R277-702 R277-733 R277-733 R277-733	32511 32315 32647 32981	AMD AMD AMD AMD	06/09/2009 03/10/2009 06/23/2009 11/09/2009	2009-9/13 2009-3/23 2009-10/52 2009-19/83
<u>advertising</u>	Commerce; Consumer Protection	R152-11-12	32687	AMD	08/19/2009	2009-12/7
<u>agricultural law</u>	Agriculture and Food; Animal Industry	R58-19-2	32693	NSC	06/18/2009	Not Printed
	Agriculture and Food; Regulatory Services	R70-201	32798	NSC	09/21/2009	Not Printed
<u>agriculture law</u>	Agriculture and Food; Plant Industry	R68-19-2	32516	NSC	05/14/2009	Not Printed
<u>air pollution</u>	Environmental Quality; Air Quality	R307-101 R307-101-2 R307-101-2 R307-101-3 R307-121 R307-150 R307-405 R307-405-2 R307-840 R307-840	32783 32458 32958 32351 32275 32353 32354 32042 32350 32656	5YR AMD AMD AMD 5YR 5YR 5YR AMD AMD 5YR	07/02/2009 07/02/2009 12/02/2009 05/07/2009 01/06/2009 02/05/2009 02/05/2009 02/05/2009 05/07/2009 05/07/2009	2009-15/121 2009-8/6 2009-19/87 2009-5/8 2009-3/86 2009-5/28 2009-5/28 2008-21/33 2009-5/9 2009-11/57
<u>air travel</u>	Administrative Services; Finance	R25-7 R25-7-10	32635 33275	AMD EMR	06/23/2009 01/01/2010	2009-10/4 2010-1/77
<u>aircraft</u>	Tax Commission; Motor Vehicle	R873-22M-27 R873-22M-41	33111 33050	AMD AMD	12/22/2009 12/08/2009	2009-22/87 2009-21/79
<u>alarm company</u>	Commerce; Occupational and Professional Licensing	R156-55d-302a	32477	NSC	04/14/2009	Not Printed
<u>alcohol</u>	Public Safety; Highway Patrol	R714-500	33024	5YR	10/05/2009	2009-21/88
<u>alcoholic beverages</u>	Alcoholic Beverage Control; Administration	R81-1 R81-1-2 R81-1-3 R81-1-3 R81-1-3 R81-1-3 R81-1-6 R81-1-6 R81-1-9 R81-1-11 R81-1-24	32222 32542 32544 32897 32900 33023 32414 32459 32549 32607 32552	NSC AMD AMD AMD NSC AMD AMD AMD AMD NSC AMD	01/22/2009 06/24/2009 06/24/2009 10/27/2009 10/27/2009 12/23/2009 04/22/2009 05/27/2009 06/24/2009 05/27/2009 06/24/2009	Not Printed 2009-10/7 2009-10/9 2009-18/8 Not Printed 2009-21/8 2009-6/15 2009-8/5 2009-10/11 Not Printed 2009-10/12

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		R81-2-10	32608	NSC	05/27/2009	Not Printed
		R81-3-13	32554	AMD	06/24/2009	2009-10/15
		R81-4A-1	32610	NSC	05/27/2009	Not Printed
		R81-4A-2	32556	EMR	05/01/2009	2009-10/145
		R81-4A-2	32555	AMD	06/24/2009	2009-10/17
		R81-4A-10	32558	EMR	05/01/2009	2009-10/146
		R81-4A-10	32557	AMD	06/24/2009	2009-10/17
		R81-4A-11	32560	EMR	05/01/2009	2009-10/147
		R81-4A-11	32559	AMD	06/24/2009	2009-10/18
		R81-4A-14	32611	NSC	05/27/2009	Not Printed
		R81-4A-15	32562	EMR	05/01/2009	2009-10/148
		R81-4A-15	32561	AMD	06/24/2009	2009-10/19
		R81-4B-1	32612	NSC	05/27/2009	Not Printed
		R81-4C-1	32613	NSC	05/27/2009	Not Printed
		R81-4C-2	32564	EMR	05/01/2009	2009-10/149
		R81-4C-2	32563	AMD	06/24/2009	2009-10/21
		R81-4C-9	32568	EMR	05/01/2009	2009-10/150
		R81-4C-9	32567	AMD	06/24/2009	2009-10/21
		R81-4C-10	32571	EMR	05/01/2009	2009-10/151
		R81-4C-10	32569	AMD	06/24/2009	2009-10/22
		R81-4C-13	32574	EMR	05/01/2009	2009-10/151
		R81-4C-13	32572	AMD	06/24/2009	2009-10/23
		R81-4D-1	32575	AMD	06/24/2009	2009-10/24
		R81-4D-2	32614	NSC	05/27/2009	Not Printed
		R81-4D-4	32616	NSC	05/27/2009	Not Printed
		R81-4D-10	32577	EMR	05/01/2009	2009-10/153
		R81-4D-10	32576	AMD	06/24/2009	2009-10/26
		R81-5-1	32578	AMD	06/24/2009	2009-10/27
		R81-5-2	32580	AMD	06/24/2009	2009-10/28
		R81-5-5	32581	AMD	06/24/2009	2009-10/29
		R81-5-6	32582	AMD	06/24/2009	2009-10/30
		R81-5-7	32628	AMD	06/24/2009	2009-10/31
		R81-5-9	32583	AMD	06/24/2009	2009-10/31
		R81-5-10	32584	AMD	06/24/2009	2009-10/32
		R81-5-11	32585	AMD	06/24/2009	2009-10/33
		R81-5-13	32588	AMD	06/24/2009	2009-10/34
		R81-5-14	32589	AMD	06/24/2009	2009-10/35
		R81-5-15	32591	AMD	06/24/2009	2009-10/36
		R81-5-16	32599	AMD	06/24/2009	2009-10/37
		R81-5-17	32600	AMD	06/24/2009	2009-10/38
		R81-5-18	32606	EMR	05/01/2009	2009-10/154
		R81-5-18	32604	AMD	06/24/2009	2009-10/39
		R81-10A-1	32620	NSC	05/27/2009	Not Printed
		R81-10A-7	32624	NSC	05/27/2009	Not Printed
<u>alimony</u>	Human Services; Recovery Services	R527-450	33201	5YR	11/24/2009	2009-24/103
<u>all payer database</u>	Health; Center for Health Data, Health Care Statistics	R428-15	32858	NEW	10/27/2009	2009-16/19
<u>alternative fuels</u>	Environmental Quality; Air Quality	R307-121	32275	5YR	01/06/2009	2009-3/86
<u>alternative licensing</u>	Education; Administration	R277-503-4	32643	AMD	06/23/2009	2009-10/42

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<u>annuity insurance filings</u>						
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		R590-227	32903	AMD	11/19/2009	2009-18/56
<u>annuity replacement</u>						
Insurance; Administration		R590-93	32531	5YR	04/15/2009	2009-9/50
<u>annuity suitability</u>						
Insurance; Administration		R590-230	32702	5YR	06/02/2009	2009-13/84
<u>appellate procedures</u>						
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<u>application</u>						
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		R414-308	32184	AMD	01/26/2009	2008-24/9
		R414-308-3	32744	EMR	07/01/2009	2009-14/70
		R414-308-3	32743	AMD	09/15/2009	2009-14/44
		R414-308-3	33133	AMD	01/01/2010	2009-22/58
<u>applications</u>						
Public Service Commission; Administration		R746-700	32866	NEW	09/23/2009	2009-16/41
		R746-700-30	33000	NSC	10/19/2009	Not Printed
<u>appraisal management company regulations</u>						
Commerce; Real Estate		R162-150	32725	NEW	08/07/2009	2009-13/31
		R162-150	32956	AMD	11/13/2009	2009-19/71
		R162-150-1	32871	NSC	08/31/2009	Not Printed
<u>appraisals</u>						
Tax Commission; Property Tax		R884-24P-19	32260	AMD	03/03/2009	2009-2/39
		R884-24P-24	32233	AMD	03/03/2009	2009-2/42
		R884-24P-33	32822	AMD	09/17/2009	2009-15/103
		R884-24P-52	33043	AMD	12/08/2009	2009-21/81
		R884-24P-53	33128	AMD	12/22/2009	2009-22/89
		R884-24P-66	33049	NSC	11/17/2009	Not Printed
<u>aquaculture</u>						
Agriculture and Food; Animal Industry		R58-17	32199	AMD	02/19/2009	2009-1/7
<u>ARC (Accident Review Committee)</u>						
Administrative Services; Fleet Operations		R27-7	32292	AMD	04/20/2009	2009-3/2
<u>archaeological resources</u>						
Regents (Board Of); University of Utah, Museum of Natural History (Utah)		R807-1	32284	5YR	01/06/2009	2009-3/89
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		R23-2	33093	5YR	10/26/2009	2009-22/105



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<u>armored car company</u>	Commerce; Occupational and Professional Licensing	R156-63b	32474	NSC	04/14/2009	Not Printed
		R156-63b-503	32709	NSC	06/29/2009	Not Printed
<u>armored car security officers</u>	Commerce; Occupational and Professional Licensing	R156-63b	32474	NSC	04/14/2009	Not Printed
		R156-63b-503	32709	NSC	06/29/2009	Not Printed
<u>assessment instruments</u>	Human Services; Substance Abuse and Mental Health	R523-20	33039	AMD	12/29/2009	2009-21/51
<u>assignments</u>	Education; Administration	R277-520-1	32144	AMD	01/07/2009	2008-23/9
<u>assistance</u>	Human Services; Recovery Services	R527-332	33241	5YR	12/03/2009	2010-1/82
<u>assisted living facilities</u>	Public Safety; Fire Marshal	R710-3	32304	AMD	03/10/2009	2009-3/73
<u>attorney exemption application process</u>	Insurance; Title and Escrow Commission	R592-8	32526	NEW	06/25/2009	2009-9/27
		R592-8	32546	REP	06/25/2009	2009-10/139
<u>audiology</u>	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-59-4	32228	AMD	02/24/2009	2009-2/29
		R414-59-4	32327	AMD	04/01/2009	2009-4/28
		R414-59-4	32639	AMD	07/01/2009	2009-10/64
		R414-59-4	32842	AMD	10/01/2009	2009-16/16
		R414-59-4	33129	AMD	01/01/2010	2009-22/56
<u>autism spectrum</u>	Health; Community and Family Health Services, Children with Special Health Care Needs	R398-10	32158	EXT	03/19/2009	2008-24/44
		R398-10	32454	5YR	03/19/2009	2009-8/62
<u>automatic fire sprinklers</u>	Public Safety; Fire Marshal	R710-5-8	32460	NSC	04/13/2009	Not Printed
<u>awards</u>	Public Education Job Enhancement Program; Job Enhancement Committee	R690-100	32986	AMD	11/23/2009	2009-20/31

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<b>B</b>						
<u>background screening</u>	Human Services; Administration, Administrative Services, Licensing	R501-14	32193	NSC	01/12/2009	Not Printed
<u>bait and switch</u>	Commerce; Consumer Protection	R152-11-12	32687	AMD	08/19/2009	2009-12/7
<u>ballots</u>	Lieutenant Governor; Elections	R623-2	32512	5YR	04/07/2009	2009-9/54
<u>barrier</u>	Transportation; Preconstruction	R930-3	32000	AMD	01/12/2009	2008-21/98
<u>basic application procedures</u>	Public Safety; Peace Officer Standards and Training	R728-402	32132	AMD	02/05/2009	2008-23/25
<u>bear</u>	Natural Resources; Wildlife Resources	R657-33-19	32319	AMD	03/24/2009	2009-4/50
<u>bed allocations</u>	Human Services; Substance Abuse and Mental Health	R523-1	33038	AMD	12/29/2009	2009-21/42
		R523-1-5	32183	AMD	01/22/2009	2008-24/26
<u>behavior</u>	Human Services; Services for People with Disabilities	R539-4	33284	5YR	12/17/2009	2010-2/55
<u>bicycle support</u>	Transportation; Program Development	R926-12	32934	NEW	10/22/2009	2009-18/108
<u>bids</u>	Transportation; Operations, Construction	R916-2	32307	NSC	02/05/2009	Not Printed
<u>big game</u>	Natural Resources; Wildlife Resources	R657-44-3	32299	AMD	03/10/2009	2009-3/69
<u>big game seasons</u>	Natural Resources; Wildlife Resources	R657-5	32337	AMD	03/24/2009	2009-4/43
		R657-5	32677	AMD	07/27/2009	2009-12/56
		R657-5-73	32462	NSC	04/14/2009	Not Printed
<u>birds</u>	Natural Resources; Wildlife Resources	R657-6	32718	AMD	08/10/2009	2009-13/68
		R657-9	32921	AMD	10/22/2009	2009-18/78
		R657-46	32721	5YR	06/09/2009	2009-13/85
<u>birth defect reporting</u>	Health; Community and Family Health Services, Children with Special Health Care Needs	R398-5	32987	EXT	09/22/2009	2009-20/53
		R398-5	33001	5YR	09/28/2009	see 5YR DAR No. 33001 2009-20/49

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<u>birth defects</u>	Health; Community and Family Health Services, Children with Special Health Care Needs	R398-5	32987	EXT	09/22/2009 see 5YR DAR No. 33001	2009-20/53
		R398-5	33001	5YR	09/28/2009	2009-20/49
<u>boards</u>	Administrative Services; Finance	R25-5	32632	AMD	06/23/2009	2009-10/3
<u>boating</u>	Natural Resources; Parks and Recreation	R651-202-1	32899	AMD	10/27/2009	2009-18/68
<u>boilers</u>	Labor Commission; Safety	R616-2-3	32259	AMD	02/24/2009	2009-2/34
<u>bonding requirements</u>	Human Services; Recovery Services	R527-394	32391	AMD	07/13/2009	2009-6/64
		R527-394	33242	5YR	12/03/2009	2010-1/82
<u>bonuses</u>	Transportation; Administration	R907-66	32213	NSC	01/12/2009	Not Printed
<u>boxing</u>	Sports Authority (Utah); Pete Suazo Utah Athletic Commission	R859-1	32205	AMD	05/01/2009	2009-1/42
	Sports Authority (Utah); Pete Suazo Utah Athletic Commission	R859-1 (Changed to R359-1)	33002	NSC	10/28/2009	Not Printed
		R859-1-301	32188	AMD	03/01/2009	2009-1/44
		R859-1-301	32670	AMD	07/14/2009	2009-11/48
		R859-1-501	32671	AMD	07/14/2009	2009-11/49
		R859-1-501	32920	AMD	10/28/2009	2009-18/105
		R859-1-802	32669	AMD	07/14/2009	2009-11/51
<u>brachytherapy</u>	Environmental Quality; Radiation Control	R313-32	32207	AMD	02/12/2009	2009-1/30
<u>breaks</u>	Human Resource Management; Administration	R477-8	32592	AMD	07/01/2009	2009-10/104
<u>breath testing</u>	Public Safety; Highway Patrol	R714-500	33024	5YR	10/05/2009	2009-21/88
<u>brine shrimp royalty</u>	Tax Commission; Auditing	R865-25X	32825	REP	09/17/2009	2009-15/99
<u>broad scope</u>	Environmental Quality; Radiation Control	R313-22-75	32206	AMD	02/12/2009	2009-1/27
<u>broadcast revenue</u>	Sports Authority (Utah); Pete Suazo Utah Athletic Commission	R859-1-501	32920	AMD	10/28/2009	2009-18/105
<u>budgeting</u>	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-304	32933	AMD	10/22/2009	2009-18/24

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		R156-56-302	32476	NSC	04/14/2009	Not Printed
<u>building inspection</u>	Commerce; Occupational and Professional Licensing	R156-56-302	32476	NSC	04/14/2009	Not Printed
<u>building inspections</u>	Commerce; Occupational and Professional Licensing	R156-56	32757	AMD	08/24/2009	2009-14/7
<u>buildings</u>	Administrative Services; Facilities Construction and Management	R23-29	32399	EXT	06/01/2009 see 5YR DAR No. 32699	2009-6/95
		R23-29 R23-29-6	32699 32877	5YR NSC	06/01/2009 08/31/2009	2009-12/76 Not Printed
<u>bulls</u>	Agriculture and Food; Animal Industry	R58-21	32784	AMD	09/22/2009	2009-15/3
<u>bullying</u>	Education; Administration	R277-613	33053	NEW	12/08/2009	2009-21/21
<u>burglar alarms</u>	Commerce; Occupational and Professional Licensing	R156-55d-302a	32477	NSC	04/14/2009	Not Printed
<u>buses</u>	Education; Administration	R277-601	32375	5YR	02/13/2009	2009-5/27
<b>C</b>						
<u>C plate (clean fuel special group license plate)</u>	Transportation; Program Development	R926-11	32076	NEW	01/05/2009	2008-22/39
<u>camp</u>	Regents (Board Of); University of Utah, Administration	R805-3	32713	NEW	09/18/2009	2009-13/74
<u>campfire</u>	Regents (Board Of); University of Utah, Administration	R805-3	32713	NEW	09/18/2009	2009-13/74
<u>camping</u>	Regents (Board Of); University of Utah, Administration	R805-3	32713	NEW	09/18/2009	2009-13/74
<u>cancer</u>	Health; Community and Family Health Services, Chronic Disease	R384-100	32465	5YR	03/25/2009	2009-8/62
<u>capacity development</u>	Environmental Quality; Drinking Water	R309-352-5	32815	NSC	09/21/2009	Not Printed

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<u>capital punishment</u>	Pardons (Board Of); Administration	R671-312	32065	AMD	02/25/2009	2008-22/30
<u>career and technical education</u>	Education; Administration	R277-518 R277-911	32143 32146	AMD AMD	01/07/2009 01/07/2009	2008-23/7 2008-23/12
<u>caseworker training</u>	Human Services; Child and Family Services	R512-204	32909	AMD	10/22/2009	2009-18/47
<u>cash management</u>	Money Management Council; Administration	R628-15-12 R628-16-12	32293 32294	NSC NSC	02/05/2009 02/05/2009	Not Printed Not Printed
<u>cattle</u>	Agriculture and Food; Animal Industry	R58-21	32784	AMD	09/22/2009	2009-15/3
<u>certification</u>	Labor Commission; Safety	R616-2-3	32259	AMD	02/24/2009	2009-2/34
<u>certifications</u>	Education; Rehabilitation Transportation; Motor Carrier	R280-203 R909-19 R909-19 R909-19	33091 32215 32819 33131	5YR NSC AMD AMD	10/23/2009 01/12/2009 10/15/2009 12/22/2009	2009-22/109 Not Printed 2009-15/112 2009-22/95
<u>certified local inspector</u>	Human Services; Administration, Administrative Services, Licensing	R501-4-7	32191	NSC	01/12/2009	Not Printed
<u>certified medical language interpreter</u>	Commerce; Occupational and Professional Licensing	R156-80	32770	NEW	08/24/2009	2009-14/20
<u>certified nurse midwife</u>	Commerce; Occupational and Professional Licensing	R156-44a	32356	5YR	02/05/2009	2009-5/24
<u>charities</u>	Tax Commission; Auditing	R865-19S-58 R865-19S-107	32785 32796	AMD AMD	09/17/2009 09/17/2009	2009-15/97 2009-15/99
<u>charter schools</u>	Education; Administration	R277-470 R277-470-9 R277-470-12	32979 32566 32663	AMD NSC LNR	11/09/2009 05/27/2009 05/12/2009	2009-19/77 Not Printed 2009-11/60
<u>child abuse</u>	Human Services; Child and Family Services	R512-60 R512-200 R512-204	32906 32907 32909	AMD AMD AMD	10/22/2009 10/22/2009 10/22/2009	2009-18/42 2009-18/44 2009-18/47

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	Health; Health Systems Improvement, Child Care Licensing	R430-70	32716	NEW	10/01/2009	2009-13/52
		R430-70	32950	NSC	10/01/2009	Not Printed
		R430-100	32416	AMD	07/01/2009	2009-6/43
		R430-100	32595	NSC	07/01/2009	Not Printed
<u>child care centers</u>						
	Health; Health Systems Improvement, Child Care Licensing	R430-70	32716	NEW	10/01/2009	2009-13/52
		R430-70	32950	NSC	10/01/2009	Not Printed
		R430-100	32416	AMD	07/01/2009	2009-6/43
		R430-100	32595	NSC	07/01/2009	Not Printed
<u>child care facilities</u>						
	Health; Health Systems Improvement, Child Care Licensing	R430-6	31820	R&R	02/16/2009 see CPR in 01/01/2009 Bulletin	2008-17/54
		R430-6	31820	CPR	02/16/2009	2009-1/51
		R430-6-4	33083	AMD	01/01/2010	2009-22/61
		R430-8	32683	5YR	05/19/2009	2009-12/78
		R430-8	33084	AMD	01/01/2010	2009-22/63
		R430-70	32716	NEW	10/01/2009	2009-13/52
		R430-70	32950	NSC	10/01/2009	Not Printed
		R430-70	33082	AMD	01/01/2010	2009-22/64
		R430-100	32416	AMD	07/01/2009	2009-6/43
		R430-100	32595	NSC	07/01/2009	Not Printed
<u>child support</u>						
	Human Services; Recovery Services	R527-3	32385	AMD	07/13/2009	2009-6/57
		R527-3	32952	AMD	11/10/2009	2009-19/111
		R527-3	32953	AMD	11/10/2009	2009-19/109
		R527-10	32386	AMD	07/13/2009	2009-6/58
		R527-10	33172	5YR	11/19/2009	2009-24/102
		R527-38	32387	AMD	07/13/2009	2009-6/59
		R527-38	32844	5YR	07/28/2009	2009-16/78
		R527-39	32388	AMD	07/13/2009	2009-6/60
		R527-40	32497	AMD	06/15/2009	2009-9/17
		R527-201	32492	AMD	06/09/2009	2009-9/18
		R527-201	32951	AMD	11/10/2009	2009-19/112
		R527-258	32390	AMD	07/13/2009	2009-6/62
		R527-258	32890	AMD	11/03/2009	2009-18/48
		R527-275	32494	NEW	06/09/2009	2009-9/20
		R527-300	32565	AMD	06/30/2009	2009-10/118
		R527-300-2	32887	NSC	08/31/2009	Not Printed
		R527-301	32676	AMD	10/01/2009	2009-12/43
		R527-332	33241	5YR	12/03/2009	2010-1/82
		R527-394	32391	AMD	07/13/2009	2009-6/64
		R527-394	33242	5YR	12/03/2009	2010-1/82
		R527-450	33201	5YR	11/24/2009	2009-24/103
		R527-601	32496	AMD	06/15/2009	2009-9/21
<u>child welfare</u>						
	Administrative Services; Child Welfare Parental Defense (Office of)	R19-1	33081	5YR	10/21/2009	2009-22/105
	Human Services; Child and Family Services	R512-2	32455	AMD	05/27/2009	2009-8/18
		R512-32	32456	AMD	05/27/2009	2009-8/19
		R512-41	32657	5YR	05/07/2009	2009-11/58
		R512-60	32906	AMD	10/22/2009	2009-18/42

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		R512-204	32909	AMD	10/22/2009	2009-18/47
		R512-302	32464	AMD	05/27/2009	2009-8/23
		R512-302	32942	AMD	12/02/2009	2009-19/108
		R512-309	32182	NEW	01/21/2009	2008-24/24
<u>children's health benefits</u>						
	Health; Children's Health Insurance Program	R382-10	32185	AMD	01/22/2009	2008-24/7
		R382-10	32636	AMD	07/01/2009	2009-10/54
		R382-10	32928	AMD	10/22/2009	2009-18/20
<u>children's trust account</u>						
	Human Services; Child and Family Services	R512-60	32906	AMD	10/22/2009	2009-18/42
<u>CHIP (Children's Health Insurance Program)</u>						
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		R414-320	32751	EMR	07/01/2009	2009-14/75
		R414-320	32752	AMD	09/01/2009	2009-14/49
<u>chiropractic physicians</u>						
	Commerce; Occupational and Professional Licensing	R156-73	32753	AMD	08/24/2009	2009-14/16
		R156-73-501	32896	NSC	10/01/2009	Not Printed
<u>chiropractic services</u>						
	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-99	32352	5YR	02/04/2009	2009-5/30
		R414-99-2	32229	AMD	02/24/2009	2009-2/30
<u>chiropractors</u>						
	Commerce; Occupational and Professional Licensing	R156-73	32753	AMD	08/24/2009	2009-14/16
		R156-73-501	32896	NSC	10/01/2009	Not Printed
<u>citation monitoring service</u>						
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<u>Class I area</u>						
	Environmental Quality; Air Quality	R307-405	32354	5YR	02/05/2009	2009-5/28
		R307-405-2	32042	AMD	02/05/2009	2008-21/33
<u>classified license</u>						
	Public Safety; Driver License	R708-10	32502	5YR	04/07/2009	2009-9/55
<u>clean fuel</u>						
	Transportation; Program Development	R926-11	32076	NEW	01/05/2009	2008-22/39
<u>clients rights</u>						
	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-301	32927	AMD	10/22/2009	2009-18/21
		R414-301-4	32252	NSC	01/22/2009	Not Printed

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<u>clinical health information exchange</u>	Health; Administration	R380-70	31980	NEW	02/04/2009	2008-20/12
<u>co-curricular</u>	Education; Administration	R277-494	32917	AMD	10/22/2009	2009-18/14
		R277-494-3	32220	NSC	01/22/2009	Not Printed
		R277-494-3	32323	NSC	02/25/2009	Not Printed
<u>collection transfer</u>	Administrative Services; Debt Collection	R21-1	32941	NSC	10/01/2009	Not Printed
<u>collections</u>	Tax Commission; Auditing	R865-12L-14	33048	AMD	12/08/2009	2009-21/77
		R865-12L-17	32791	AMD	09/17/2009	2009-15/96
<u>colleges</u>	Public Safety; Administration	R698-4	32404	5YR	02/25/2009	2009-6/93
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	Workforce Services; Administration	R982-101	32237	NSC	01/22/2009	Not Printed
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		R309-210	32811	AMD	09/24/2009	2009-15/21
		R309-215	32812	AMD	09/24/2009	2009-15/47
<u>compulsory education</u>	Education; Administration	R277-607	33090	5YR	10/23/2009	2009-22/108
<u>confidential information</u>	Public Service Commission; Administration	R746-100-16	32867	AMD	09/23/2009	2009-16/36
<u>confidentiality</u>	Education; Administration	R277-117	32255	NEW	02/24/2009	2009-2/15
		R277-117-2	32400	NSC	03/14/2009	Not Printed
<u>confidentiality of information</u>	Human Resource Management; Administration	R477-2	32605	AMD	07/01/2009	2009-10/85
	Workforce Services; Unemployment Insurance	R477-2	32727	AMD	10/01/2009	2009-13/66
		R994-312	32805	5YR	07/08/2009	2009-15/123
<u>conflict</u>	Human Services; Administration	R495-888	32154	NEW	01/21/2009	2008-24/18
<u>conflict of interest</u>	Human Resource Management; Administration	R477-9	32594	AMD	07/01/2009	2009-10/108
<u>congregate meals</u>	Human Services; Aging and Adult Services	R510-104	33028	5YR	10/08/2009	2009-21/86



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	Transportation; Operations, Construction	R916-4 R916-4-7	32823 33015	NSC NSC	10/01/2009 10/19/2009	Not Printed Not Printed
<u>construction disputes</u>	Administrative Services; Facilities Construction and Management	R23-4	32873	NSC	08/31/2009	Not Printed
<u>consumer</u>	Commerce; Consumer Protection	R152-21	32382	5YR	02/17/2009	2009-5/24
<u>consumer confidence report</u>	Environmental Quality; Drinking Water	R309-225	32814	AMD	09/24/2009	2009-15/61
<u>consumer hearing panel</u>	Human Services; Child and Family Services	R512-75	33236	5YR	12/02/2009	2010-1/81
<u>consumer protection</u>	Commerce; Consumer Protection	R152-11-12	32687	AMD	08/19/2009	2009-12/7
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<u>continuing professional education</u>	Commerce; Occupational and Professional Licensing	R156-26a	32712	AMD	08/10/2009	2009-13/20
<u>contractors</u>	Administrative Services; Facilities Construction and Management	R23-23	32771	EMR	07/01/2009	2009-14/63
		R23-23	32772	NEW	10/08/2009 see CPR in 09/01/2009 Bulletin	2009-14/3
	Capitol Preservation Board (State); Administration	R23-23 R131-13	32772 32769	CPR EMR	10/08/2009 07/01/2009	2009-17/56 2009-14/65
		R131-13	32778	NEW	10/08/2009 see CPR in 09/01/2009 Bulletin	2009-14/5
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<u>contracts</u>	Administrative Services; Facilities Construction and Management	R23-1	32937	NSC	10/01/2009	Not Printed
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	Capitol Preservation Board (State); Administration	R23-23	32772	CPR	10/08/2009	2009-17/56
		R131-13	32769	EMR	07/01/2009	2009-14/65
		R131-13	32778	NEW	10/08/2009	2009-14/5
					see CPR in 09/01/2009 Bulletin	
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		R916-2	32307	NSC	02/05/2009	Not Printed
		R916-4	32823	NSC	10/01/2009	Not Printed
		R916-4-7	33015	NSC	10/19/2009	Not Printed
		R916-5	32768	EMR	07/01/2009	2009-14/78
		R916-5	32863	NEW	09/21/2009	2009-16/55
<u>controlled substances</u>						
	Commerce; Occupational and Professional Licensing	R156-37	32540	NSC	05/27/2009	Not Printed
		R156-37-609a	32411	AMD	04/21/2009	2009-6/18
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	Corrections; Administration	R251-105	31997	AMD	02/26/2009	2008-21/30
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	Commerce; Occupational and Professional Licensing	R156-11a	32715	AMD	08/10/2009	2009-13/4
<u>cost sharing</u>						
	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-200	32230	AMD	02/24/2009	2009-2/31
		R414-200	32621	AMD	07/01/2009	2009-10/65
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	Agriculture and Food; Regulatory Services	R70-560-1	32818	NSC	09/21/2009	Not Printed
<u>cougar</u>						
	Natural Resources; Wildlife Resources	R657-10	32922	AMD	10/22/2009	2009-18/84
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	Commerce; Occupational and Professional Licensing	R156-60c	32690	AMD	08/11/2009	2009-12/8
	Education; Administration	R277-462	32256	AMD	02/24/2009	2009-2/16
		R277-462	32446	AMD	05/08/2009	2009-7/5
		R277-462	32943	5YR	09/03/2009	2009-19/115
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	Workforce Services; Unemployment Insurance	R994-310	32803	5YR	07/08/2009	2009-15/122

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		R414-303-11	32746	EMR	07/01/2009	2009-14/68
		R414-303-11	32747	AMD	09/01/2009	2009-14/42
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	Health; Health Care Financing, Coverage and Reimbursement Policy	R414-310	32186	AMD	01/22/2009	2008-24/13
		R414-310	32626	AMD	07/01/2009	2009-10/67
		R414-310	32749	EMR	07/01/2009	2009-14/72
		R414-310	32750	AMD	09/01/2009	2009-14/46
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	Environmental Quality; Drinking Water	R309-700	32028	AMD	01/28/2009	2008-21/34
<u>credit insurance filings</u>						
	Insurance; Administration	R590-228	32469	5YR	03/26/2009	2009-8/64
		R590-228	32908	AMD	11/19/2009	2009-18/63
<u>credit services</u>						
	Commerce; Consumer Protection	R152-21	32382	5YR	02/17/2009	2009-5/24
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	Human Services; Child and Family Services	R512-51	32905	AMD	10/22/2009	2009-18/41
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	Commerce; Corporations and Commercial Code	R154-1-7	32519	NSC	05/14/2009	Not Printed
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<u>curricula</u>						
	Education; Administration	R277-700	32313	AMD	03/10/2009	2009-3/17
		R277-705	32314	AMD	03/10/2009	2009-3/20
		R277-705	32736	AMD	08/07/2009	2009-13/46
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		R602-8	32278	NEW	03/10/2009	2009-3/57
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		R156-42a	33092	AMD	12/22/2009	2009-22/24
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		R277-402-1	32731	AMD	08/07/2009	2009-13/36

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		R156-79	33065	AMD	12/08/2009	2009-21/15
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		R35-2	32358	NSC	02/26/2009	Not Printed
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		R35-5	32360	NSC	02/26/2009	Not Printed
		R35-5	32762	EXT	09/23/2009 see 5YR DAR No. 32992	2009-14/85
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		R35-6	32361	NSC	02/26/2009	Not Printed
		R35-6	32763	EXT	09/23/2009 see 5YR DAR No. 32994	2009-14/85
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<u>state vehicle use</u>	Administrative Services; Fleet Operations	R27-3	33223	NSC	12/17/2009	Not Printed
<u>stock brokers</u>	Money Management Council; Administration	R628-16-12	32294	NSC	02/05/2009	Not Printed
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		R597-3	33289	EMR	12/22/2009	2010-2/51
	School and Institutional Trust Lands; Administration	R850-40-250	32931	AMD	10/22/2009	2009-18/99
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	Natural Resources; Geological Survey	R638-2	32331	AMD	04/06/2009	2009-4/29
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