

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764, FAX 801-537-9240. 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

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Nursing Facility Evacuation Payments

The Division of Medicaid and Health Financing (DMHF) is submitting changes to the Medicaid State Plan through Attachment 4.19-D, SPA 12-011-UT Nursing Facility Evacuation Payments. These changes are necessary to add wording to facilitate payments to nursing facilities during declared disasters. This amendment, therefore, adds wording that defines how payments to facilities will be administered and what payment limits will be in place.

DMHF does not expect any increased costs to result from this amendment and the amendment does not affect overall payments to the nursing facility industry providers.

The proposed effective date of this amendment is 08/02/2012, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the changes are also available at local county health department offices.

Insurance Administration

Notice of Public Hearing Regarding Proposed Changes to Rule R590-162, Actuarial Opinion and Memorandum Rule

The Department of Insurance has scheduled a public hearing for Tuesday, August 7, 2012, at 11:00 a.m. in the State Office Building, 450 N Main Street (behind the Capitol), Room 3110, Salt Lake City, UT.

The purpose of the hearing is to obtain public comments regarding the proposed amendment to Rule R590-162, Actuarial Opinion and Memorandum Rule, that was published in the June 1, 2012, issue of the Utah State Bulletin under DAR No. 36215 (2012-13, pg. 72). The changes are being made so the rule complies more closely with the National Association of Insurance Commissioners (NAIC) Model Regulation which has been adopted by most states.

Written comments are due by 08/16/2012. They should be directed to Jilene Whitby at: email: jwhitby@utah.gov; FAX: 801-538-3829; or mail to: State Office Building, Room 3110, Salt Lake City, UT 84114.

In compliance with the Americans with Disabilities Act, individuals desiring to attend the hearing who need special accommodations during the hearing (including auxiliary communicative aids and services) should notify us as directed above.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Executive Order EO/07/2012: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

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

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

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

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

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 10, 2012 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of July 2012

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Lieutenant Governor
Greg Bell

EO/07/2012

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 03, 2012, 12:00 a.m., and July 16, 2012, 11:59 p.m. are included in this, the August 01, 2012 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 August 31, 2012. 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 November 29, 2012, 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.

The Proposed Rules Begin on the Following Page

**Administrative Services, Debt
Collection
R21-1
Transfer of Collection Responsibility of
State Agencies**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36495

FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsequent to a five-year review, the Division identified corrections to statutory references and the addition of a new requirement that should be made to the rule.

SUMMARY OF THE RULE OR CHANGE: This amendment corrects various statutory citations and adds a new requirement. The new requirement is that an original signature is required for certain Office of State Debt Collection documents.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 15-1-4 and Subsection 63A-3-502(3)(m) and Subsection 63A-3-502(4)(g) and Subsection 63A-3-502(6)(a) and Subsection 63A-3-502(6)(b) and Subsection 63A-3-502(7)(F)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change will not result in any additional costs or additional savings to the state. Because this amendment only makes statutory reference changes and codifies the current practice of requiring an original signature on certain documents, there are no compliance costs.

◆ **LOCAL GOVERNMENTS:** This rule change will not result in any additional costs or additional savings to local governments. Because this amendment only makes statutory reference changes and codifies the current practice of requiring an original signature on certain documents, there are no compliance costs.

◆ **SMALL BUSINESSES:** This rule change will not result in any additional costs or additional savings to small businesses. Because this amendment only makes statutory reference changes and codifies the current practice of requiring an original signature on certain documents, there are no compliance costs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change will not result in any additional costs or additional savings to persons other than small businesses, businesses, or local governmental entities. Because this amendment only makes statutory reference changes and

codifies the current practice of requiring an original signature on certain documents, there are no compliance costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment only makes statutory reference changes and codifies the current practice of requiring an original signature on certain documents, there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed these changes with the Division of Finance Director and believe that these changes are reasonable and warranted. The department does not believe that this rule change will result in any additional costs or additional savings to anyone.

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

ADMINISTRATIVE SERVICES
DEBT COLLECTION
ROOM 2110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: John Reidhead, Director

R21. Administrative Services, Debt Collection.

R21-1. Transfer of Collection Responsibility of State Agencies.

R21-1-1. Purpose.

The purpose of this rule is to establish the procedures by which agencies shall bill and make initial collection efforts according to a coordinated schedule, the method to be used by agencies to transfer their delinquent accounts receivable to the Office or its designee for additional collection action, write-off of receivables, and the procedures and allocation of costs of collection established pursuant to Subsections 63A-[8]3-[20+]502(4)(g), 63A-[8]3-[20+]502(6)(b), Section 15-1-4, Utah Code, and by the Legislature in applicable laws.

R21-1-2. Authority.

This rule is established pursuant to Subsections 63A-[8]3-[20+]502(3)(m), 63A-[8]3-[20+]502(6)(f), 63A-[8]3-[20+]502(4)(g), 63A-[8]3-[20+]502(6)(b), Section 15-1-4, Utah Code and the Office intent language and fees authorized by the Legislature in applicable laws. Subsection 63A-[8]3-[20+]502(3)(m) authorizes

the Office to establish procedures for writing off accounts receivable for accounting and collection purposes. Subsection 63A-[8]3-[20+]502([6]7)(f) authorizes the Office to require state agencies to bill and make initial collection efforts of its receivables up to the time the accounts must be transferred. Subsection 63A-[8]3-[20+]502([6]7)(a) authorizes the Office to require state agencies to transfer collection responsibility to the Office or its designee according to time limits specified by the Office. Subsection 63A-[8]3-[20+]502(4)(g) authorizes Office to establish a fee to cover the administrative costs of collection, a late penalty fee and an interest charge by following the procedures and requirements of Section 63J-1-504. Subsection 63A-[8]3-[20+]502(6)(b) prohibits the Office from assessing the interest charge established by the Office under Subsection 63A-[8]3-[20+]502(4)(g) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4. Section 15-1-4 requires civil and criminal judgments of the district court and justice court to bear interest at the federal postjudgment interest rate and sets forth the procedures to be followed. The annual Appropriation Act authorizes the fees charged by the Office to collect accounts and provides legislative intent language allowing the costs of collection to be collected from the debtor.

R21-1-3. Definitions.

In addition to terms defined in Section 63A-[8]3-[40+]501, the following terms are defined below as follows:

- (1) "Delinquent" means any account receivable for which the state has not received payment in full by the payment demand date.
- (2) "Designee" means a Private Sector Collector or State Agency that the Office of State Debt Collection has contracted with to provide accounts receivable collection services.
- (3) "Payment demand date" is the date by which the agency requires payment for the account receivable that an entity has incurred.
- (4) "Skipped" means that the entity formerly transacting business with the state is not known at the address or telephone number previously used nor is any new address or telephone number known of the entity.
- (5) "Event" is the day the goods are purchased, services completed, fines, fees, and assessments are due, etc.
- (6) "Trust" means a receivable that is owed to a victim of a crime.

R21-1-4. Agency Billing and Collection Responsibility.

Pursuant to Subsection 63A-[8]3-[20+]502(3)(b), (d), and (f) as provided by Subsection 63G-3-201, state agencies shall document and track agency receivables on the state's Advanced Receivable Subsystem unless the state agency has received an exemption from ~~the Advisory Board to~~ the Office of State Debt Collection. If a state agency receives such an exemption, the state agency shall track their receivables on the agency system and provide the Office with quarterly receivable reports pursuant to 63A-[8]3-[20+]502([6]7)(g). The receivable reports are due to Office no later than 45 days after the end of the quarter.

State agency customers shall be billed within 10 days from the event creating the receivable or the next billing cycle, if reoccurring. The payment demand date shall be no later than 30 days from the event date unless the state agency can demonstrate

the 30 day demand date is not appropriate for the agency's business processes. State agencies shall contact customers for payment by phone or written notice when payment is not received within 10 days after the payment demand date.

The Office has published guidelines for billing receivables and collecting delinquent accounts. These guidelines are included in the document entitled "Statewide Guidelines for Accounting, Reporting and Collecting Accounts Receivable". This document is available at the Office of State Debt Collection, Room [5+0]1135 State Office Building, Salt Lake City, Utah, during regular working hours, for review.

R21-1-5. Transfer of Collection Responsibility.

Each state agency with delinquent accounts shall comply with the provisions of Section 63A-[8]3-[20+]502, et seq. unless prohibited by current state or federal statute or regulation. A state agency or user of the Office of State Debt Collection services shall transfer collection responsibility to the Office, or its designee, when the account receivable is not paid within 90 days of the event or is delinquent 61 days. A state agency can negotiate a different receivable transfer date with the Office by demonstrating how the state benefits from the negotiated transfer date. Office recommendations related to the transfer of collection responsibility can be found in the Office publication "Statewide Guidelines for Accounting, Reporting and Collecting Accounts Receivable".

R21-1-6. Format for Transfer of Accounts Receivable Data.

State agencies shall transfer delinquent accounts to the Office or its designee electronically through the state's Advanced Receivable Subsystem. State agencies exempted from using the state's Advanced Receivable Subsystem shall work with the Office to generate an electronic placement file for placing accounts.

R21-1-7. Costs of Collection.

Pursuant to Subsections 63A-[8]3-[20+]502(4) (g), Section 15-1-4, Utah Code, and by the legislature in applicable laws, the Office shall charge penalty, interest, and administrative costs of collection and shall collect these costs in addition to the receivable balance from the debtor. The fee calculation and payment priority shall be applied according to the following methodology.

(a) Pursuant to 63A-[8]3-[20+]502(4)(g)(i), the costs of collection shall be charged on all accounts referred for collection and the cost shall be calculated based on the dollars collected times the rate authorized by the legislature. The cost of collection shall be paid first from each payment.

(b) The Penalty shall be calculated as a percent of the receivable balance referred for collection. A percent of each payment shall be applied to the outstanding penalty until the penalty is paid in full. The penalty payment shall be calculated based on the authorized penalty percent set annually by the legislature, times the received payment amount. The calculated penalty amount shall be paid after the costs of collection are determined and paid.

(c) Two types of interest shall be charged on accounts referred to the [OFFICE]Office. Postjudgment interest as established by Section 15-1-4, Utah Code, applies to receivables with judgments established by the courts with a sentencing date subsequent to May 5, 1999. Postjudgment interest accrues on the unpaid judgment balance of the receivable. Postjudgment interest that accrues on a trust or the trust portion of a receivable, shall be

paid subsequent to the state's outstanding receivable. All other state receivables referred to the Office are charged an interest charge pursuant to 63A-[8]3-[201]502 (4) (g)(iii)(B), Utah Code. This interest is referred to as OSDC interest. OSDC accrued interest shall be paid from each payment after the payment of the costs of collection and the penalty except on trust receivables or receivables including a trust account.

(d) Each payment received on trust receivables shall be applied to the following items in the priority listed until the payment is fully disbursed: 1st - cost of collection, 2nd - penalty, 3rd - the trust receivable balance, and 4th - the accrued postjudgment interest.

(e) Each payment received on receivables that include trust(s) and state receivable balances shall be applied to the following items in the priority listed until the payment is fully disbursed: 1st - cost of collection, 2nd - penalty, 3rd - the trust(s) receivable balance until paid in full, 4th - accrued post-judgment or OSDC interest on the state receivable balance, 5th - the state receivable balance, and 6th - the accrued trust post-judgment interest.

(f) Each payment received on receivables owed only to the state shall be applied to the following items in the priority listed until the payment is fully disbursed: 1st - cost of collection, 2nd penalty payment, 3rd - accrued post-judgment or OSDC interest, and 4th - the receivable balance.

(g) Trust Payments sent to victims of crimes that are returned to the Office because of bad addresses, shall be reversed from the trust account and applied to amounts owed the state on the account. After the state debt is liquidated, payments shall be applied to the trust and if the victim still cannot be located, the payments shall be retained by the division of Finance for the appropriate time and then sent to Unclaimed Property and thereafter to Crime Victims Reparation.

R21-1-8. Write Off of Accounts Receivable.

State agencies shall follow the statewide Accounting Policies and Procedures outlined in FIACCT 06-01.14 and 06-02.04, available from the state Division of Finance.

R21-1-9. Original Signature Required on Certain Office of State Debt Collection (OSDC) Documents.

An Original Signature is Required by the Office of State Debt Collection (OSDC) on the following documents:

- (1) Victim Settlement Agreement
- (2) OSDC Debt Repayment Contract Agreement
- (3) Wage Assignments to pay debts
- (4) Authority for the automatic transfer of funds (EFT) to pay debts
- (5) Authority for the automatic Credit/Debit Card charge to pay debts

KEY: accounts receivable, collection transfer

Date of Enactment or Last Substantive Amendment: [August 13, 2002]2012

Notice of Continuation: June 28, 2012

Authorizing, and Implemented or Interpreted Law: 63A-[8]3-[201]502(3)(m); 63A-[8]3-[201]502(4)(g); 63A-[8]3-[201]502(6)(a); 63A-[8]3-[201]502(6)(b); 63A-[8]3-[201]502(6)(f); 15-1-4

Commerce, Occupational and Professional Licensing **R156-20a** Environmental Health Scientist Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36484

FILED: 07/12/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Environmental Health Scientist Board want to clarify professional continuing education being provided in the expanding professional arenas in which licensed environmental health scientists practice and to add a definition to support that clarification.

SUMMARY OF THE RULE OR CHANGE: In Section R156-20a-102, a definition of "distance learning" is added to define the expanded area of professional continuing education programs available for licensees; which continuing education is a requirement for the renewal of licensure. In Subsection R156-20a-304(4), "distance learning" is added as a type of recognized professional continuing education.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-20a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

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 environmental health scientists and environmental health scientists-in-training. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments only apply to licensed environmental health scientists and licensed environmental health scientists-in-training. A licensed environmental health scientist is generally employed by a company or government entity rather than in an office owned by a licensee. However, expansion of the continuing education opportunities for licensees may positively impact a small business that is involved in providing continuing education courses. The Division is not able to determine an exact cost or saving impact of this proposed amendment due to varying circumstances or frequency involving continuing education.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed environmental health scientists and environmental health scientists-in-training. The proposed amendments to include distance learning will expand potential continuing education opportunities for the licensee to the benefit and safety of the public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed environmental health scientists and environmental health scientists-in-training. The Division does not anticipate any increase in compliance costs as a result of the proposed amendment which allows for distance learning in recognized professional continuing education programs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing adds distance learning to the types of continuing education courses that licensees may take for licensure renewal. Any fiscal impact to businesses resulting from this change would likely be positive in nature.

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 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 08/20/2012 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-20a. Environmental Health Scientist Act Rule.

R156-20a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 20a, as used in Title 58, Chapters 1 and 20a or this rule:

(1) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, including internet, audio/visual recordings, mail or other correspondence.

(2) "Qualified professional continuing education," as used in this rule, means professional continuing education that meets the standards set forth in Section R156-20a-304.

([2]3) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 20a, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-20a-502.

R156-20a-304. Professional Continuing Education.

(1) In accordance with Section 58-20a-304, during each two year period commencing June 1 of each odd numbered year, an environmental health scientist or environmental health scientist-in-training shall be required to complete not less than 30 hours of qualified professional continuing education directly related to the licensee's professional practice.

(2) The required number of hours of professional continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified professional continuing education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of an environmental health scientist;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit shall be recognized for professional continuing education on an hour for hour basis as a student completed in blocks of time of not less than 50 minutes in formally established classroom courses, distance learning, seminars, lectures, labs, or specific environmental conferences approved, taught or sponsored by:

(a) Utah Environmental Health Association;

(b) Bureau of Environmental Services;

(c) Utah Department of Environmental Quality;

(d) Bureau of Epidemiology;

(e) State Food Program;

(f) National Environmental Health Association;

(g) Food and Drug Administration;

(h) Center for Disease Control and Prevention;

(i) any local, state or federal agency; and

(j) a college or university which provides courses in or related to environmental health science.

(5) A maximum of 15 hours of credit may be recognized for a person who teaches continuing professional education on an hour for hour basis completed in block of time of not less than 50 minutes in formally established classroom courses, seminars, lectures, conferences which meet the requirements in Subsections (3) and (4).

(6) A licensee is responsible for maintaining competent records of completed qualified professional continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(7) If properly documented that a licensee is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section, the licensee may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

KEY: licensing, environmental health scientist, sanitarian, environmental health scientist-in-training

Date of Enactment or Last Substantive Amendment: [January 10, 2012]

Notice of Continuation: July 6, 2010

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-20a-101

Commerce, Real Estate
R162-2e
Appraisal Management Company
Administrative Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36449

FILED: 07/09/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to implement rules regarding the requirement for an appraisal management company (AMC) to obtain a surety bond, as imposed by the Legislature in H.B. 191, 2012 General Session.

SUMMARY OF THE RULE OR CHANGE: AMCs are required to obtain a \$25,000 surety bond in order to register or renew a registration in the state of Utah. Deadlines for evidencing compliance with the bonding requirement are outlined. Consequences for failing to comply with the bonding requirement are outlined. Procedures are outlined by which an appraiser may cause the Division to make a claim against an AMC's bond for unpaid fees.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2e-204(2)(c)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division anticipates that it has the staff and resources in place to administer these rules as part of the registration and renewal process. Therefore, no impact to the state budget is anticipated.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing appraisal management companies. Therefore, no fiscal impact to local government is anticipated.

◆ **SMALL BUSINESSES:** Small businesses that are AMCs will incur costs to obtain a bond. Those costs will vary among AMCs, depending on the amount of risk a bonding company assesses a bond applicant to have. These costs were considered by the Legislature in passing H.B. 191; no additional costs to small businesses are anticipated.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Only businesses are affected by this requirement. No other persons will be required to comply; therefore, no other persons will experience the costs associated with the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Affected persons will be required to purchase a surety bond in order to comply. Those costs will vary among AMCs, depending on the amount of risk a bonding company assesses a bond applicant to have.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

These rules implement the surety bond requirements of H.B. 191 (2012 General Session) for appraisal management companies. Any fiscal impact to appraisal management companies, or benefits to appraisers who perform appraisals for those companies, was contemplated by H.B. 191. This rule does not have any fiscal impact beyond that legislation.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Jonathan Stewart, Director

R162. Commerce, Real Estate.

R162-2e. Appraisal Management Company Administrative Rules.

R162-2e-201. Registration Required - Qualification for Registration.

(1) The division may not register or renew the registration of an AMC that fails to:

(a) comply with any provision of Utah Code Title 61, Chapter 2e, "Appraisal Management Company Registration and Regulation Act";

(b) register with the Utah Division of Corporations and Commercial Code and provide to the division its certificate of existence;

(c) pursuant to this Subsection (4)(a), evidence having secured a surety bond that:

(i) is in the amount of \$25,000; and

(ii) provides, throughout the full period of registration, for the division to make a claim:

(A) on behalf of an appraiser; and

(B) for unpaid fees as awarded to the appraiser in a final judgment entered by a court of competent jurisdiction; or

(c)(d) comply with any provision of these rules.

(2) The division shall schedule a hearing before the board for an AMC that:

(a)(i) applies for registration or renewal of registration;

(ii) has a control person who discloses, or the division finds through its own research, an issue that might affect the control person's moral character; and

(iii) the division determines that the board should be aware of the issue; or

(b) fails to provide an adequate explanation for the AMC's:

(i) plan to ensure the use of licensed appraisers in good standing;

(ii) plan to ensure the integrity of the appraisal review process; or

(iii) plan for record keeping.

(3)(a) An AMC shall register with the division in the name of the legal entity under which it is registered with the Utah Division of Corporations and Commercial Code and conducts the business of appraisal management in Utah and in other states.

(b) An AMC shall notify the division of a dba, trade name, or assumed business name under which the registered legal entity operates in Utah:

(i) at the time of registration; or

(ii) if applicable, immediately upon beginning to operate under such dba, trade name, or assumed business name.

(c) If an AMC changes its registered name, a dba, a trade name, or an assumed business name, the AMC shall notify the division:

(i) in writing; and

(ii) within ten business days of making the change.

(4)(a) The deadline by which an AMC shall demonstrate that the entity has obtained a surety bond pursuant to Subsection (1)(c) is as follows:

(i) For an AMC that applies for registration on or after October 1, 2012, the bond shall be obtained as a condition for initial registration.

(ii) For an AMC that obtained its initial registration prior to January 1 2011 and applies for renewal on or after October 1, 2012, the bond shall be obtained as a condition of the 2012 renewal.

(iii) For an AMC that is not described by this Subsection (4)(a)(i) or (ii), the deadline for obtaining the surety bond shall be January 1, 2013.

(b) Failure to comply with an applicable deadline as outlined in this Subsection (4)(a) shall result in the automatic suspension of an AMC's registration until such time as the AMC provides evidence to the division that it is in compliance with the surety bond requirement.

(c) If an AMC's surety bond lapses or is cancelled during the period of registration, the division shall:

(i) allow the AMC 30 days in which to comply with the surety bond requirement; and

(ii) if the AMC fails to obtain or reinstate a surety bond within 30 days, immediately and automatically suspend the AMC's registration until such time as the AMC provides evidence to the division that it is in compliance with the surety bond requirement.

R162-2e-201a. Claims Against an AMC Bond.

(1) To bring a claim against a bond that is held by an AMC pursuant to Section 61-2e-204(2)(c) and Subsection R162-2e-201(1)(c), an appraiser shall:

(a) demonstrate that a court of competent jurisdiction has awarded the appraiser a final judgment against the AMC for the fee(s) claimed;

(b) demonstrate that the appraiser earned the fee(s) claimed and that the AMC has had a reasonable period of time in which to tender payment; and

(c) submit a complaint to the division alleging nonpayment of fee(s):

(i) after a reasonable period of time for payment has passed; and

(ii) no later than 30 days after obtaining a judgment as required under this Subsection (1)(a).

(2) In evaluating whether an AMC has had a reasonable period of time in which to tender payment, the division shall consider the following:

(a) if a payment deadline is specified in the contract that applies to the assignment for which the appraiser claims an unpaid fee, whether the payment deadline has passed; or

(b) if the applicable contract is silent as to a period for payment, whether at least 90 days have passed since the date on which the appraiser submitted a report that complied with the assignment, including all scope of work requirements, as determined by the division in its sole discretion.

KEY: administrative proceedings, appraisal management company, conduct, registration

Date of Enactment or Last Substantive Amendment: ~~June 22, 2011~~ 2012

Authorizing, and Implemented or Interpreted Law: 61-2e-204(2)(c)

Environmental Quality, Air Quality **R307-208** Outdoor Wood Boiler Prohibition

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 36481
FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to prohibit future sales of outdoor wood boilers to help the state attain the PM2.5 National Ambient Air Quality Standard and to minimize the emissions of PM2.5 from existing outdoor wood boilers.

SUMMARY OF THE RULE OR CHANGE: This rule prohibits any person from selling, offering for sale, supplying, installing, purchasing, or transferring an outdoor wood boiler beginning 09/01/2013. It also requires current operators and owners to register their outdoor wood boiler with the director of the Division of Air Quality (DAQ) or local health district office, to operate the boiler in accordance with manufacturer specifications, and to limit visible emissions to 20% opacity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101 and Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There may be some additional administrative costs to register existing outdoor wood boilers with DAQ; however, any costs are anticipated to be minimal.
- ◆ **LOCAL GOVERNMENTS:** There may be some additional administrative costs to register existing outdoor wood boilers with local health district offices; however, any costs are anticipated to be minimal.
- ◆ **SMALL BUSINESSES:** As businesses will no longer be able to sell outdoor wood boilers in Utah, there is an anticipated cost. However, since Utah is not a large market base for these units, the impact should be limited.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As this rule prohibits all persons, not just businesses, from selling, installing, purchasing, or transferring outdoor wood boilers, there may be some costs or savings for persons other than small businesses, businesses, or local government entities; however, it is difficult to estimate what those costs or savings would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance costs will be those associated with the unit registration requirement, and that cost should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As businesses will no longer be able to sell outdoor wood

boilers in Utah, there is an anticipated cost. However, since Utah is not a large market base for these units, the impact should be minimal.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 08/15/2012 02:00 PM, DEQ Bldg, 195 N 1950 W, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2012

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality. R307-208. Outdoor Wood Boiler Prohibition. R307-208-1. Purpose and Applicability.

R307-208 applies statewide and establishes a ban on outdoor wood boilers, also known as wood-fired hydronic heaters.

R307-208-2. Definitions.

The following additional definition applies to R307-208:
"Outdoor wood boiler" means a fuel burning device also known as a wood-fired hydronic heater:

- (1) Designed to burn wood or other approved solid fuels;
- (2) Specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and
- (3) Designated to heat building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

R307-208-3. Prohibition.

Beginning September 1, 2013, no person shall sell, offer for sale, supply, install, purchase, or transfer an outdoor wood boiler.

R307-208-4. Exemptions.

(1) All persons who own or operate an outdoor wood boiler prior to October 4, 2012 shall comply with the following requirements to be exempt from the rule:

- (a) Within 180 days of October 4, 2012, register the outdoor wood boiler with the director or local health district office;

(b) Operate the outdoor wood boiler in accordance with outdoor wood boiler manufacturer's instructions; and

(c) Visible emissions shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

(i) An initial fifteen minute start-up period, and

(ii) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

KEY: air pollution, outdoor wood boiler, prohibition
Date of Enactment or Last Substantive Amendment: 2012
Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104

Environmental Quality, Air Quality
R307-303
Commercial Cooking

NOTICE OF PROPOSED RULE
 (New Rule)

DAR FILE NO.: 36480
 FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Air Quality (DAQ) is developing a new State Implementation Plan (SIP) for PM2.5. As part of that plan, the Air Quality Board is proposing for public comment this new rule to control PM2.5 and volatile organic compound (VOC) emissions from commercial cooking. Commercial cooking accounts for 43% of direct PM2.5 in the nonattainment area from the "Area Source" category, and chain-driven charbroilers make up 11% of that 43%.

SUMMARY OF THE RULE OR CHANGE: This rule requires owners and operators of chain driven charbroilers in food service establishments to install, maintain and operate a catalytic oxidizers that reduce uncontrolled PM2.5 and VOC by at least 80%; it requires owners and operators to clean and maintain catalytic oxidizers according to manufacturer's specifications; and it requires owners and operators to maintain records of the installation date of the control device, the date of catalyst replacement, and maintenance performed on the control device. This proposed rule applies to Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties. During the public comment period, DAQ are requesting public input on the appropriateness of applying this rule in Tooele and Box Elder counties.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** While there will be some additional inspection requirements for DAQ, there are no anticipated costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** Because this rule will be administered by the state and because it does not establish any new requirements to local governments, there are no anticipated costs or savings to local government.

♦ **SMALL BUSINESSES:** The annualized capital, operational, and maintenance cost for the required catalytic oxidation technology is estimated to cost approximately \$2,028 per year over a 10-year period.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule is applicable only to operations of chain driven charbroilers in food service establishments, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The annualized capital, operational, and maintenance cost for the required catalytic oxidation technology is estimated to cost approximately \$2,028 per year over a 10-year period.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The annualized capital, operational, and maintenance cost for the required catalytic oxidation technology is estimated to cost approximately \$2,028 per year over a 10-year period.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 08/15/2012 10:00 AM, DEQ Bldg, 195 N 1950 W, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2012

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.**R307-303. Commercial Cooking.****R307-303-1. Purpose.**

The purpose of this rule is to reduce volatile organic compound (VOC) and PM2.5 emissions from commercial cooking equipment.

R307-303-2. Applicability.

R307-303 shall apply to Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

R307-303-3. Definitions.

"Chain-driven (conveyorized) charbroiler" means a semi-enclosed charbroiler designed to mechanically move food on a grated grill through the broiler.

"Charbroiler" means a cooking device composed of a grated grill and a heat source, where food resting on the grated grill cooks as the food receives direct heat from the heat source or a radiant surface.

R307-303-4. Performance Standards and Recordkeeping.

(1) Beginning September 1, 2013, owners or operators of chain-driven charbroilers in food service establishments shall install, maintain and operate a catalytic oxidizer that reduces uncontrolled PM2.5 and VOC by at least 80%, according to manufacturer specified removal efficiencies.

(2) Any emission control device installed and operated under this rule shall be operated, cleaned, and maintained in accordance with the manufacturer's specifications.

(3) The owner or operator shall maintain on the premises of the food service establishment records of each of the following:

(a) The date of installation of the emission control device;

(b) When applicable, the date of the catalyst replacement; and

(c) For a minimum of five years, the date, time, and a brief description of all maintenance performed on the emission control device, including, but not limited to, preventative maintenance, breakdown repair, and cleaning.

KEY: commercial cooking, charbroilers, PM2.5, VOC

Date of Enactment or Last Substantive Amendment: 2012

Authorizing, and Implemented or Interpreted Law: 19-2-101

Environmental Quality, Air Quality

R307-309

Nonattainment and Maintenance Areas for PM10: Fugitive Emissions and Fugitive Dust

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36483

FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Air Quality Board is amending this rule in response to EPA concerns that not all anthropogenic sources of fugitive dust are being reasonably controlled as required under the Exceptional Events Rule and in order to receive EPA approval of exceptional event data flags.

SUMMARY OF THE RULE OR CHANGE: Rule applicability has been expanded to include PM2.5 nonattainment counties. The fugitive emissions section has been revised to clarify that EPA Method 9 is used to measure opacity, and the measurement process has also been expanded. The high wind exemption is re-written to clarify that sources must continue to operate their fugitive dust plan when winds exceed 25 mph to avoid violation of an opacity exceedance. High wind contingency measures are included under the General Requirements to enhance controls during high wind. Fugitive dust control plans must be filed using the online system before commencing activities. Suggestive control measures in Section R307-309-6 are deleted and replaced with best management practices in the online tool.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101 and Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Because the added requirements do not affect administrative procedures, there are no anticipated costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** Because the filing of dust controls plans and the implementation of controls are established practices, there will be minimal costs to local government.

♦ **SMALL BUSINESSES:** The estimated cost for small businesses to implement dust control plans is \$2,140 per acre.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The anticipated cost for any person other than small businesses, businesses, or local government entities engaged in construction projects greater than 1/4 acre is \$2,140 per acre.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The estimated cost to implement a dust control plan is \$2,140 per acre.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The estimated cost to implement a dust control plan is \$2,140 per acre.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR

195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 08/15/2012 01:00 PM, DEQ Bldg, 195 N 1950 W, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2012

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-309. Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust.

R307-309-1. Purpose.

This rule establishes minimum work practices and emission standards for sources of fugitive emissions and fugitive dust [listed in Section IX, Part H of the state implementation plan or located in PM10 nonattainment and maintenance areas to meet the reasonably available control measures for PM10 required in section 189(a)(1)(C) of the Act].

R307-309-2. Definitions.

The following addition definition applies to R307-309:

"Material" means sand, gravel, soil, minerals, and other matter that may create fugitive dust.

R307-309-3. Applicability.

(1) Applicability. R307-309 applies to all sources of fugitive dust and fugitive emissions [listed in Section IX, Part H of the state implementation plan or] located within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties [in a nonattainment or maintenance area for PM10], except as specified in R307-309-3(2) [below].

(2) Exemptions.

(a) The provisions of R307-309 do not apply to agricultural or horticultural activities specified in 19-2-114 (1)-(3).

(b) Any activity subject to R307-307 is exempt from R307-309-7.

(3) Compliance Schedule. Any source located in a new nonattainment area for PM10 is subject to R307-309 180 days after the area is designated nonattainment by the Environmental Protection Agency. Provisions of R307-205 shall continue to apply to the owner or operator of a source during this transition period.

R307-309-4. Fugitive Emissions.

(1) Fugitive emissions from any source shall not exceed 15% opacity.

(2) Opacity observations of fugitive emissions from stationary sources shall be conducted in accordance with EPA Method 9.

(3) For intermittent sources and mobile sources, opacity observations shall use procedures similar to Method 9 [but the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply].

R307-309-5. General Requirements for Fugitive Dust.

(1) Except as provided in R307-309-5(2) [below], opacity caused by fugitive dust shall not exceed:

(a) 10% at the property boundary; and

(b) 20% on site

(2) Any person owning or operating a new or existing source of fugitive dust one-quarter acre or greater in size shall submit a fugitive dust control plan to the director in accordance with R307-309-6.

(3) Opacity in R307-309-5(1) [above] shall not apply when the wind speed exceeds 25 miles per hour [and] if the owner or operator has implemented, and continues to implement, the accepted [is taking appropriate actions to control] fugitive dust control plan in R307-309-6 and administers at least one of the following contingency measures: [-]

(a) Pre-event watering;

(b) Hourly watering;

(c) Additional chemical stabilization; or

(d) Cease or reduce fugitive dust producing operations.

[If the source has a fugitive dust control plan approved by the executive secretary, control measures in the plan are considered appropriate.]

(b)4 Wind speed may be measured by a hand-held anemometer or equivalent device.

(3)5 Opacity observations of [emissions from stationary sources shall be conducted in accordance with EPA Method 9. For intermittent sources and mobile sources, opacity observations shall use procedures similar to Method 9, but the requirement for observations to be made at 15-second intervals over a six-minute period shall not apply] fugitive dust from any source shall be measured at the densest point of the plume.

(a) For mobile sources, visible emissions shall be measured at a point not less than 1/2 vehicle length behind the vehicle and not less than 1/2 the height of the vehicle.

(b) Opacity observations of emissions from stationary sources shall be measured in accordance with EPA Method 9.

R307-309-6. Fugitive Dust Control Plan.

(1) Any person owning or operating a new or existing source of fugitive dust, including storage, hauling or handling operations, [or engaging in] clearing or leveling of land one-quarter acre or greater in size, earthmoving, excavation, [or] moving [element of] trucks or construction equipment over cleared land one-quarter acre or greater in size or access haul roads, or [engaging in] demolition activities including razing homes, buildings or other structures, shall submit a fugitive dust control plan [a plan to control fugitive dust to the executive secretary] on a form provided by the director [no later than 30 days after the source becomes subject to R307-309.]

(2) Activities regulated by R307-309 shall not commence before the fugitive dust control plan is accepted by the Division of

~~Air Quality.~~ The plan shall address fugitive dust control strategies for the following operations as applicable:

- ~~(a) Material Storage;~~
- ~~(b) Material handling and transfer;~~
- ~~(c) Material processing;~~
- ~~(d) Road ways and yard areas;~~
- ~~(e) Material loading and dumping;~~
- ~~(f) Hauling of materials;~~
- ~~(g) Drilling, blasting and pushing operations;~~
- ~~(h) Clearing and leveling;~~
- ~~(i) Earth moving and excavation;~~
- ~~(j) Exposed surfaces;~~
- ~~(k) Any other source of fugitive dust.~~
- ~~(2) Strategies to control fugitive dust may include:~~
 - ~~(a) Wetting or watering;~~
 - ~~(b) Chemical stabilization;~~
 - ~~(c) Enclosing or covering operations;~~
 - ~~(d) Planting vegetative cover;~~
 - ~~(e) Providing synthetic cover;~~
 - ~~(f) Wind breaks;~~
 - ~~(g) Reducing vehicular traffic;~~
 - ~~(h) Reducing vehicular speed;~~
 - ~~(i) Cleaning haul trucks before leaving loading area;~~
 - ~~(j) Limiting pushing operations to wet seasons;~~
 - ~~(k) Paving or cleaning road ways;~~
 - ~~(l) Covering loads;~~
 - ~~(m) Conveyor systems;~~
 - ~~(n) Boots on drop points;~~
 - ~~(o) Reducing the height of drop areas;~~
 - ~~(p) Using dust collectors;~~
 - ~~(q) Reducing production;~~
 - ~~(r) Mulching;~~
 - ~~(s) Limiting the number and power of blasts;~~
 - ~~(t) Limiting blasts to non-windy days and wet seasons;~~
 - ~~(u) Hydro drilling;~~
 - ~~(v) Wetting materials before processing;~~
 - ~~(w) Using a cattle guard before entering a paved road;~~
 - ~~(x) Washing haul trucks before leaving the loading site;~~
 - ~~(y) Terracing;~~
 - ~~(z) Cleaning the materials that may create fugitive dust on a public or private paved road promptly; or~~
 - ~~(aa) Preventing, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site.~~
- ~~(3) Each source shall comply with all provisions of the fugitive dust control plan as approved by the executive secretary.]~~

R307-309-7. Storage, Hauling and Handling of Aggregate Materials.

Any person owning, operating or maintaining a new or existing material storage, handling or hauling operation shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road ~~promptly~~immediately.

R307-309-8. Construction and Demolition Activities.

Any person engaging in clearing or leveling of land with an area of one-quarter acre or more, earthmoving, excavating, construction, demolition, or moving trucks or construction equipment over cleared land or access haul roads shall prevent, to the maximum extent possible, material from being deposited onto any paved road other than a designated deposit site. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road ~~promptly~~immediately.

R307-309-9. Roads.

(1) Any person responsible for construction or maintenance of any existing road or having right-of-way easement or possessing the right to use the same whose activities result in fugitive dust from the road shall minimize fugitive dust to the maximum extent possible. Any such person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road ~~promptly~~immediately.

(2) Unpaved Roads. Any person responsible for construction or maintenance of any new or existing unpaved road shall prevent, to the maximum extent possible, the deposit of material from the unpaved road onto any intersecting paved road during construction or maintenance. Any person who deposits materials that may create fugitive dust on a public or private paved road shall clean the road ~~promptly~~immediately.

R307-309-10. Mining Activities.

(1) Fugitive dust, construction activities, and roadways associated with mining activities are regulated under the provisions of R307-309-10 and not by R307-309-7, 8, 9, and 11.

(2) Any person who owns or operates a mining operation shall minimize fugitive dust as an integral part of site preparation, mining activities, and reclamation operations.

(3) The fugitive dust control measures to be used may include:

- (a) ~~[p]~~Periodic watering of unpaved roads,
- (b) ~~[e]~~Chemical stabilization of unpaved roads,
- (c) ~~[p]~~Paving of roads,
- (d) ~~[prompt]~~Immediate removal of coal, rock minerals, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface,
- (e) ~~[r]~~Restricting the speed of vehicles in and around the mining operation,
- (f) ~~[r]~~Revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are a source of fugitive dust,
- (g) ~~[r]~~Restricting the travel of vehicles on other than established roads,
- (h) ~~[e]~~Enclosing, covering, watering, or otherwise treating loaded haul trucks and railroad cars, to minimize loss of material to wind and spillage,
- (i) ~~[s]~~Substitution of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subject to wind erosion,
- (j) ~~[m]~~Minimizing the area of disturbed land,
- (k) ~~[p]~~Prompt revegetation of regraded lands,

- (l) Planting of special windbreak vegetation at critical points in the permit area,
- (m) Control of dust from drilling, using water sprays, hoods, dust collectors or other controls approved by the ~~executive secretary~~ director.
- (n) Restricting the areas to be blasted at any one time,
- (o) Reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization,
- (p) Restricting fugitive dust at spoil and coal transfer and loading points,
- (q) Control of dust from storage piles through use of enclosures, covers, or stabilization and other equivalent methods or techniques as approved by the ~~executive secretary~~ director, or
- (r) Other techniques as determined necessary by the ~~executive secretary~~ director.

R307-309-11. Tailings Piles and Ponds.

- (1) Fugitive dust, construction activities, and roadways associated with tailings piles and ponds are regulated under the provisions of R307-309-11 and not by R307-309-7, 8, 9, and 10.
- (2) Any person owning or operating an existing tailings operation where fugitive dust results from grading, excavating, depositing, or natural erosion or other causes in association with such operation shall take steps to minimize fugitive dust from such activities. Such controls may include:
- (a) Watering,
- (b) Chemical stabilization,
- (c) Synthetic covers,
- (d) Vegetative covers,
- (e) Wind breaks,
- (f) Minimizing the area of disturbed tailings,
- (g) Restricting the speed of vehicles in and around the tailings operation, or
- (h) Other equivalent methods or techniques which may be approvable by the ~~executive secretary~~ director.

R307-309-12. Compliance Schedule.

All sources within Salt Lake County, Utah County and the city of Ogden shall be in compliance with R307-309 upon the effective date of this rule. All sources within Box Elder County, Cache County, Davis County, Tooele County, and the remaining portions of Weber shall be in compliance with R307-309 within 30 days of the effective date of this rule.

KEY: air pollution, fugitive dust[,PM10]

Date of Enactment or Last Substantive Amendment:
[September 2, 2005]2012

Notice of Continuation: June 2, 2010

Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104; 19-2-109

Environmental Quality, Air Quality **R307-335** Ozone Nonattainment and Maintenance Areas: Degreasing and Solvent Cleaning Operations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36482

FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to assist states in the uniform development of control measures for volatile organic compounds (VOCs). EPA has developed control measure guidance documents called control techniques guidelines (CTGs) for VOCs. As part of the PM_{2.5} State Implementation Plan, the Utah Air Quality Board is proposing to amend Rule R307-335 to reflect control measures in EPA's CTG for degreasing operations.

SUMMARY OF THE RULE OR CHANGE: New sections are added, including a section for industrial solvent cleaning requirements; a section of regulatory requirements for emission control systems; and a section for solvent containing waste disposal requirements. The rule is also changed to apply to Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties. During the public comment period, the Division of Air Quality (DAQ) is soliciting public input on the appropriateness of applying this rule in Tooele and Box Elder counties.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because the revisions to the rule do not increase or decrease the cost to administer this rule, no costs or savings are anticipated for the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because this revision does not create new requirements for local governments, and because it is administered by the state, there are no anticipated costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** The new requirements of this rule will result in a slight increase of costs to small businesses. There are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 0.42 pounds per gallon or less; however, if an owner or operator installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the revision does not create new requirements for persons other than small businesses, businesses, or local governments entities, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The new requirements of this rule will result in a slight increase of costs to small businesses. There are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 0.42 pounds per gallon or less; however, if an owner or operator installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new requirements of this rule will result in a slight increase of costs to small businesses. There are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 0.42 pounds per gallon or less; however, if an owner or operator installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ◆ 08/15/2012 09:00 AM, DEQ, 195 N 1950 W, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2012

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

~~R307-335. [Ozone Nonattainment and Maintenance Areas:] Degreasing and Solvent Cleaning Operations.~~

R307-335-1. Purpose.

The purpose of this rule is to limit volatile organic compound (VOC) emission from~~establish Reasonably Available~~

~~Control Technology (RACT) for] degreasing and solvent cleaning operations[that are located in an ozone nonattainment or maintenance area. The rule is based on federal control technique guidance documents].~~

R307-335-2. Applicability.

R307-335 applies to all degreasing or solvent cleaning operations that use [volatile organic compounds (VOCs)] and that are located in [any ozone nonattainment or maintenance area.]Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties.

R307-335-3. Definitions.

The following additional definitions apply to R307-335:

"Batch [~~Ø~~]open [~~F~~]top [~~V~~]vapor [~~Ø~~]degreasing" means the batch process of cleaning and removing grease and soils from metal surfaces by condensing hot solvent vapor on the colder metal parts.

"Cold [~~Ø~~]cleaning" means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersing while maintaining the solvent below its boiling point.

"Conveyorized [~~Ø~~]degreasing" means the continuous process of cleaning and removing greases and soils from metal surfaces by using either cold or vaporized solvents.

"Freeboard [~~R~~]ratio" means the freeboard height (distance between solvent line and top of container) divided by the width of the degreaser.

"Industrial solvent cleaning" means operations performed using a liquid that contains any VOC, or combination of VOCs, which is used to clean parts, tools, machinery, equipment and work areas. Cleaning operations include, but are not limited to, spraying, wiping, dipping, flushing, and purging.

"Open [~~F~~]top [~~V~~]vapor [~~Ø~~]degreaser" means the batch process of cleaning and removing soils from metal surfaces by condensing low solvent vapor on the colder metal parts.

"Separation [~~Ø~~]operation" means any process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

"Solvent [~~M~~]metal [~~Ø~~]cleaning" means the process of cleaning soils from metal surfaces by cold cleaning, open top vapor degreasers, or conveyorized degreasing.

R307-335-4. Cold Cleaning Facilities.

No owner or operator shall operate a degreasing or solvent cleaning operation unless conditions in R307-335-4(1) through (7) [below] are met.

(1) A cover shall be installed which shall remain closed except during actual loading, unloading or handling of parts in cleaner. The cover shall be designed so that it can be easily operated with one hand if:

(a) [~~t~~]The volatility of the solvent is greater than 2 kPa (15 mm Hg or 0.3 psi) measured at 38 degrees C (100 degrees F),

(b) [~~t~~]The solvent is agitated, or

(c) [~~t~~]The solvent is heated.

(2) An internal draining rack for cleaned parts shall be installed on which parts shall be drained until all dripping ceases. If the volatility of the solvent is greater than 4.3 kPa (32 mm Hg at 38 degrees C (100 degrees F)), the drainage facility must be internal,

so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(3) Waste or used solvent shall be stored in covered containers. Waste solvents or waste materials which contain solvents shall be disposed of by recycling, reclaiming, or by incineration in an incinerator approved to process hazardous materials, or by an alternate means approved by the executive secretary.

(4) Tanks, containers and all associated equipment shall be maintained in good operating condition, and leaks shall be repaired immediately or the degreaser shall be shutdown.

(5) Written procedures for the operation and maintenance of the degreasing or solvent cleaning equipment shall be permanently posted in an accessible and conspicuous location near the equipment.

(6) If the solvent volatility is greater than 4.3 kPa (33 mm Hg or 0.6 psi) measured at 38 degrees C (100 degrees F), or if solvent is heated above 50 degrees C (120 degrees F), then one of the following control devices shall be used:

(a) Freeboard that gives a freeboard ratio greater than 0.7;

(b) Water cover if the solvent is insoluble in and heavier than water); or

(c) Other systems of equivalent control, such as a refrigerated chiller or carbon adsorption.

(7) If used, the solvent spray shall be a solid fluid stream at a pressure that does not cause excessive splashing and may not be a fine, atomized or shower type spray.

R307-335-5. Open Top Vapor Degreasers.

Owners or operators of open top vapor degreasers shall, in addition to meeting the requirements of R307-335-4(3), (4) and (5),

(1) Equip the vapor degreaser with a cover that can be opened and closed without disturbing the vapor zone. The cover shall be closed except when processing work loads through the degreaser;

(2) Install one of the following control devices:

(a) Equipment necessary to sustain:

(i) A freeboard ratio greater than or equal to 0.75, and

(ii) A powered cover if the degreaser opening is greater than 1 square meter (10.8 square feet),

(b) Refrigerated chiller,

(c) Enclosed design (cover or door opens only when the dry part is actually entering or exiting the degreaser),

(d) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when cover is open and exhausting less than 25 parts per million of solvent averaged over one complete adsorption cycle;

(3) Minimize solvent carryout by:

(a) Racking parts to allow complete drainage,

(b) Moving parts in and out of the degreaser at less than 3.3 meters per minute (11 feet per minute),

(c) Holding the parts in the vapor zone at least 30 seconds or until condensation ceases,

(d) Tipping out any pool of solvent on the cleaned parts before removal, and

(e) Allowing the parts to dry within the degreaser for at least 15 seconds or until visibly dry.

(4) Spray parts only in or below the vapor level;

(5) Not use ventilation fans near the degreaser opening, nor provide exhaust ventilation exceeding 20 cubic meters per minute per square meter (65 cubic feet per minute per square foot) in degreaser open area, unless necessary to meet state and federal occupational, health, and safety requirements. The exhaust ventilation flow indicated above shall be measured using EPA Reference Methods 1 and 2 of 40 CFR Part 60, or by EPA approved equivalent state methods;

(6) Not degrease porous or absorbent materials, such as cloth, leather, wood or rope;

(7) Not allow work loads to occupy more than half of the degreaser's open top area;

(8) Ensure that solvent is not visually detectable in water exiting the water separator;

(9) Install safety switches on the following:

(a) Condenser flow switch and thermostat (shuts off sump heat if condenser coolant is either not circulating or too warm); and

(b) Spray switch (shuts off spray pump if the vapor level drops excessively, i.e., greater than 10 cm (4 inches), and

(10) Ensure that the control device specified by (2)(b) or (d) above meet the applicable requirements of R307-340-4 and 15.

(10) Open top vapor degreasers with an open area smaller than one square meter (10.8 square feet) are exempt from R307-335-5(2)(b) and (d) above.

R307-335-6. Conveyorized Degreasers.

Owners and operators of conveyorized degreasers shall, in addition to meeting the requirements of R307-335-4(3), (4) and (5) and R307-335-5(5):

(1) Install one of the following control devices for conveyorized degreasers with an air/vapor interface equal to or greater than two square meters (21.6 square feet):

(a) Refrigerated chiller; or

(b) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when downtime covers are open, and exhausting less than 25 parts per million of solvent, by volume, averaged over a complete adsorption cycle.

(2) Equip the cleaner with equipment, such as a drying tunnel or rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

(3) Provide downtime covers for closing off the entrance and exit during shutdown hours. Ensure that down-time cover is placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shut down and is removed just before they are started up.

(4) Minimize carryout emissions by racking parts for best drainage and maintaining the vertical conveyor speed at less than 3.3 meters per minute (11 feet per minute).

(5) Ensure that the control device specified by (1)(a) or (b) above meet the applicable requirements of R307-340-4 and 15.

(6) Minimize openings: Entrances and exits should silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than 10 cm (4 inches) or less than 10% of the width of the opening.

([7]6) Install safety switches on the following:

(a) Condenser flow switch and thermostat - shuts off sump heat if coolant is either not circulating or [two]too warm;

(b) Spray switch - shuts off spray pump or conveyor if the vapor level drops excessively, i.e., greater than 10 cm or (4 inches); and

(c) Vapor level control thermostat -[tø] shuts off sump level if vapor level rises too high.

([8]Z) Ensure that solvent is not visibly detectable in the water exiting the water separator.

R307-335-7. Alternate Methods of Control.

~~(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-335, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.~~

~~(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-335 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.~~

~~(3) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.~~

R307-335-7. Industrial Solvent Cleaning.

(1) Operators of industrial solvent cleaning that emit 15 pounds of VOCs or more per day shall reduce VOC emissions from the use, handling, storage, and disposal of cleaning solvents and shop towels by implementing the following work practices:

(a) Covering open containers; and

(b) Storing used applicators and shop towels in closed fire proof containers.

(2) Owners or operators shall limit VOC emissions by either:

(a) Using cleaning solutions with vapor pressure less than or equal to eight millimeters of mercury (mm Hg) at 20° C;

(b) Using solvents with a VOC content of 0.42 pounds per gallon or less; or

(c) Installing an emission control system designed to have an overall control efficiency of at least 85%.

R307-335-8. Emission Control Systems.

(1) The owner or operator of a control device shall provide certification from the manufacturer that the emission control system will attain required efficiency performance.

(2) Emission control systems shall be operated and maintained in accordance with the manufacturer recommendations. The owner or operator shall maintain for a minimum of two years records of operating and maintenance sufficient to demonstrate that the equipment is being operated and maintained in accordance with the manufacturer recommendations.

R307-335-9. Solvent Containing Waste Disposal.

Waste solvents or waste materials that contain solvents shall be disposed of by recycling, reclaiming or by incineration in an incinerator approved to process hazardous materials or by an alternate means approved by the director.

R307-335-[8]10. Compliance Schedule.

All sources within Salt Lake and Davis counties shall be in compliance with this rule upon the effective date. All sources in Box Elder, Cache, Tooele, Utah, and Weber counties [within any newly designated nonattainment area for ozone] shall be in compliance with this rule by September 1, 2013 [within 180 days of the effective date of designation to nonattainment].

KEY: air pollution, degreasing, solvent cleaning[, ozone]

Date of Enactment or Last Substantive Amendment: [January 16, 2007]2012

Notice of Continuation: February 1, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104(1) (a)

**Environmental Quality, Environmental
Response and Remediation
R311-201-12
UST Operator Training and Registration**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36496

FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Subsections R311-201-12(d) and (e), the rule, as currently written, allows an underground storage tank (UST) owner or employee to become a Class A or Class B operator, but does not provide for an UST operator to be a Class A or Class B operator. In some cases, the UST owner is the property owner or someone else who does not operate the USTs. A lessee or other individual is the UST operator and has day-to-day oversight for the USTs. The proposed

change allows the operator, the person who in these cases has the actual responsibility for the USTs, to be the Class A or Class B operator. The change to allow an UST owner or operator to designate a third-party Class B operator as a Class A operator is proposed for situations in which a financial institution or other person becomes the UST owner through foreclosure, default of a tenant, etc., and does not operate the USTs. Under this proposed change, the UST owner will not be required to become a Class A and/or Class B operator, but will be able to contract with a qualified individual to be both the Class A and Class B operators, saving the cost and effort to become a registered operator in a situation where the UST owner may not have practical knowledge to oversee the USTs properly. In Subsections R311-201-12(h) and (k), the 2012 Utah legislature amended the Utah UST Act to remove the requirement that USTs display a tag or other means of identification to show that they are eligible to receive deliveries of fuel or other petroleum products, and provide for a "red tag" to be displayed only on USTs that are not eligible to receive deliveries. The proposed rule changes remove references to the compliance tag regarding monthly UST operator inspections and mandatory Class B operator retraining, because of the legislative change that does away with the compliance tag concept.

SUMMARY OF THE RULE OR CHANGE: In Subsections R311-201-12(d) and (e), adds wording to allow an UST operator to be registered as a Class A or Class B operator. Adds wording to allow an UST owner/operator to designate a third-party Class B operator as a Class A operator when the UST owner/operator is a financial institution or other person who acquired ownership of the UST facility only to protect a security interest in the property, and when the USTs are properly temporarily closed and emptied. In Subsections R311-201-12(h) and (k), removes wording that requires the Class B operator to verify, as part of the monthly UST operator inspection, that the UST compliance tags are in place on each tank. Removes wording that provides for automatic re-training of the Class B operator if the UST compliance tags are not in place on each tank.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-301 and Section 19-6-105 and Section 19-6-402 and Section 19-6-403 and Section 63G-4-102 and Section 63G-4-503 and Sections 63G-4-201 through 205

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** No anticipated costs or savings. The changes expand the range of individuals who may become Class A or Class B operators to meet requirements already in place, and remove requirements that no longer apply due to legislative changes made to the UST Act.

♦ **LOCAL GOVERNMENTS:** No anticipated costs or savings for local government. The changes expand the range of individuals who may become Class A or Class B operators to meet requirements already in place, and remove

requirements that no longer apply due to legislative changes made to the UST Act.

♦ **SMALL BUSINESSES:** No costs are anticipated--The proposed changes allow individuals to become Class A or Class B operators in certain situations, expanding the range of individuals who may become registered operators, to meet requirements that are already in place. An UST owner or operator who is a small business may realize savings of approximately \$250 (the cost of training and registration as a Class A or Class B operator) in situations where a third-party class B operator may be designated as the Class A operator. The aggregate savings would depend on the number of UST owner/operators who take advantage of this option. Removing references to the UST compliance tag has no cost or savings; the changes are made only to remove requirements that no longer apply due to legislative changes made to the UST Act.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No costs are anticipated--The proposed changes allow individuals to become Class A or Class B operators in certain situations, expanding the range of individuals who may become registered operators, to meet requirements that are already in place. An UST owner or operator may realize savings of approximately \$250 (the cost of training and registration as a Class A or Class B operator) in situations where a third-party class B operator may be designated as the Class A operator. The aggregate savings would depend on the number of UST owner/operators who take advantage of this option. Removing references to the UST compliance tag has no cost or savings; the changes are made only to remove requirements that no longer apply due to legislative changes made to the UST Act. **Non-fiscal impacts:** The proposed changes make it easier for UST owner/operators to meet the operator training requirements already in place by expanding the range of individuals who may become Class A and Class B operators. This allows, in some situations, for individuals who have greater expertise and day-to-day oversight for UST systems to become registered operators, instead of requiring that individuals who have little or no hands-on knowledge of UST systems be the Class A and Class B operators. The other proposed changes only remove requirements that no longer apply due to legislative changes made to the UST Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are associated with the proposed changes. The changes expand the range of individuals who may become Class A or Class B operators to meet requirements already in place, and remove requirements that no longer apply due to legislative changes made to the UST Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes make it easier for UST owners and operators to provide a Class A operator in a case where the owner acquires the property by foreclosure or other default, and saves the cost of becoming a Class A operator. The other

changes do not have any significant fiscal impact on businesses.

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

ENVIRONMENTAL QUALITY
ENVIRONMENTAL RESPONSE AND
REMEDICATION
FIRST FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Gary Astin by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at gastin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 08/15/2012 01:30 PM, Department of Environmental Quality, 195 N 1950 W, Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/14/2012

AUTHORIZED BY: Brent Everett, Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-201. Underground Storage Tanks: Certification Programs and UST Operator Training.

R311-201-12. UST Operator Training and Registration.

(a) To meet the Operator Training requirement (42 USC Section 6991i) of the Solid Waste Disposal Act as amended by the Energy Policy Act of 2005, each UST facility shall, by January 1, 2012, have UST facility operators that are trained and registered according to the requirements of this section. Each facility shall have three classes of operators: A, B, and C.

(1) A facility may have more than one person designated for each operator class.

(2) An individual acting as a Class A or B operator may do so for more than one facility.

(b) The UST owner or operator shall provide documentation to the Executive Secretary to identify the Class A, B, and C operators for each facility. If an owner or operator does not register and identify Class A, B, and C operators for a facility, the certificate of compliance for the facility may be revoked for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.

(c) After January 1, 2012, new Class A and B operators shall be trained and registered within 30 days of assuming responsibility for an UST facility. New Class C operators shall be trained before assuming the responsibilities of a Class C operator.

(d) The Class A operator shall be an owner, operator, ~~or~~ employee, or individual designated under Subsection R311-201-12(d)(2). The Class A operator ~~who~~ has primary responsibility for the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the UST system.

(1) The Class A operator shall:

(~~1~~)A have a general knowledge of UST systems;

(~~2~~)B ensure that UST records are properly maintained according to 40 CFR 280;

(~~3~~)C ensure that yearly UST fees are paid;

(~~4~~)D ensure proper response to and reporting of emergencies caused by releases or spills from USTs;

(~~5~~)E make financial responsibility documents available to the Executive Secretary as required; and

(~~6~~)E ensure that Class B and Class C operators are trained and registered.

(2) An owner or operator may designate a third-party Class B operator as a Class A operator if:

(A) the UST owner or operator is a financial institution or person who acquired ownership of an UST facility solely to protect a security interest in that property and has not operated the USTs at the facility;

(B) all USTs at the facility are properly temporarily closed in accordance with 40 CFR 280.70 and Section R311-204-4; and

(C) all USTs at the facility are empty in accordance with 40 CFR 280.70(a).

(e) The Class B operator shall implement routine daily aspects of operation, maintenance, and recordkeeping for UST systems. The Class B operator shall be an owner, operator, employee, or third-party Class B operator. The Class B operator shall:

(1) ensure that on-site UST operator inspections are conducted according to the requirements of Subsection R311-201-12(h);

(2) ensure that UST release detection is performed according to 40 CFR 280 subpart D;

(3) ensure that the status of the UST system is monitored every seven days for alarms and unusual operating conditions that may indicate a release;

(4) document the reason for an alarm or unusual operating condition identified in Subsection R311-201-12(e)(3), if it is not reported as a suspected release according to 40 CFR 280.50;

(5) ensure that appropriate release detection and other records are kept according to 40 CFR 280.34 and 280.45, and are made available for inspection;

(6) ensure that spill prevention, overfill prevention, and corrosion protection requirements are met;

(7) be on site for facility compliance inspections, or designate another individual to be on site for inspections;

(8) ensure that suspected releases are reported according to the requirements of 40 CFR 280.50; and

(9) ensure that Class C operators are trained and registered, and are on-site during operating hours.

(f) After January 1, 2012, any individual providing services as a third-party Class B operator shall be trained and registered in accordance with Subsection R311-201-12(j) and shall:

(1) be a current certified UST installer as either a general installer or service/repair technician, or

(2) meet the training requirements of a certified UST inspector and document comprehensive or general liability insurance with limits of \$250,000 minimum per occurrence.

(g) The Class C operator is an employee and is generally the first line of response to events indicating emergency conditions. A Class C operator shall:

(1) be present at the facility at all times during normal operating hours;

(2) monitor product transfer operations according to 40 CFR 280.30(a), to ensure that spills and overfills do not occur;

(3) properly respond to alarms, spills, and overfills;

(4) notify Class A and/or Class B operators and appropriate emergency responders when necessary; and

(5) act in response to emergencies and other situations caused by spills or releases from an UST system that pose an immediate danger or threat to the public or to the environment, and that require immediate action.

(h) UST Operator Inspections.

(1) Each UST facility shall have an on-site operator inspection conducted every 30 days, or as approved under Subsection R311-201-12(h)(4) or (5). The inspection shall be performed by or under the direction of the designated Class B operator. The Class B operator shall ensure that documentation of each inspection is kept and made available for review by the Executive Secretary.

(2) The UST operator inspection shall document that:

(A) release detection systems are properly operating and maintained;

(B) spill, overflow, vapor recovery, and corrosion protection systems are in place and operational;

(C) tank top manways, tank and dispenser sumps, secondary containment sumps, and under-dispenser containment are intact, and are properly maintained to be free of water, product, and debris;

(D) ~~the tag or other identifying method issued under Subsection 19-6-411(7) is properly in place on each tank;~~

~~(E) alarm conditions that could indicate a release are properly investigated and corrected, and are reported as suspected releases according to 40 CFR 280.50 or documented to show that no release has occurred; and~~

~~(F) unusual operating conditions and other indications of a release or suspected release indicated in 40 CFR 280.50 are properly reported.~~

(3) The individual conducting the inspection shall use the form "UST Operator Inspection- Utah" to conduct on-site operator inspections. The form, dated April 30, 2009, and including information required to be completed during the inspection, is hereby incorporated by reference.

(4) The Executive Secretary may allow operator inspections to be performed less frequently in situations where it is impractical to conduct an inspection every 30 days. The owner or operator shall request the exemption, justify the reason for the exemption, and submit a plan for conducting operator inspections at the facility.

(5) An UST facility whose tanks are properly temporarily closed according to 40 CFR 280.70 and R311-204-4 shall have an operator inspection every 90 days.

(i) A facility that normally has no employee or other responsible person on site, or is open to dispense fuel at times when no employee or responsible person is on site, shall have:

(1) a sign posted in a conspicuous place, giving the name and telephone number of the facility owner, operator, or local emergency responders, and

(2) an emergency shutoff device, if the facility dispenses fuel.

(j) Operator Training and Registration

(1) Training and testing.

(A) Applicants for Class A and B operator registration shall successfully complete an approved operator training course within the six-month period prior to application.

(B) The training course shall be approved by the Executive Secretary, and shall include instruction in the following: notification, temporary and permanent closure, installation permitting, underground tank requirements of the 2005 Energy Policy Act, Class A, B, and C operator responsibilities, spill prevention, overflow prevention, UST release detection, corrosion protection, record-keeping requirements, emergency response, product compatibility, Utah UST rules and regulations, UST financial responsibility, and delivery prohibition.

(C) Applicants for Class A and B operator registration shall successfully pass a registration examination authorized by the Executive Secretary. The Executive Secretary shall determine the content of the examination.

(D) An individual applying for Class A or B operator registration may be exempted from meeting the requirements of Subsections R311-201-12(j)(1)(A) and (C) by completing the following within the six-month period prior to application:

(i) successfully passing a nationally recognized UST operator examination approved by the Executive Secretary, and

(ii) successfully passing a Utah UST rules and regulations examination authorized by the Executive Secretary. The Executive Secretary shall determine the content of the examination.

(E) Class C operators shall receive instruction in product transfer procedures, emergency response, and initial response to alarms and releases.

(2) Registration application.

(A) Applicants for Class A and B operator registration shall submit a registration application to the Executive Secretary, shall document proper training, and shall pay any applicable fees.

(B) Class C operators shall be designated by a Class B operator. The Class B operator shall maintain a list identifying the Class C operators for each UST facility. The list shall identify each Class C operator, the date of training, and the trainer. Identification on the list shall serve as the operator registration for Class C operators.

(C) A registered Class A or B operator may act as a Class C operator by meeting the training and registration requirements for a Class C operator.

(D) Class A and B registration shall be effective for a period of three years, and shall not lapse or expire if the registered operator leaves the employment of the company under which the registration was obtained.

(3) Renewal of registration.

(A) Class A and B operators shall apply for renewal of registration not more than six months prior to the expiration of the registration by:

(i) submitting a completed application form;
 (ii) paying any applicable fees; and
 (iii) documenting successful completion of any re-training required by Subsection R311-201-12(k).

(B) If the Executive Secretary determines that the operator meets all the requirements for registration, the Executive Secretary shall renew the applicant's registration for a period equal to the initial registration.

(C) Any applicant for renewal who has a registration that has been expired for more than two years prior to submitting a renewal application shall successfully satisfy the training and examination requirements for initial registration under Subsection R311-201-12(j)(1) before receiving the renewal registration.

(k) Re-training.

(1) A Class A operator shall be subject to re-training requirements if any facility for which the Class A operator has oversight is found to be out of compliance due to:

(A) lapsing of certificate of compliance;

(B) failure to provide acceptable financial responsibility;

or

(C) failure to ensure that Class B and C operators are trained and registered.

(2) A Class B operator shall be subject to re-training requirements if a facility for which the Class B operator has oversight is found to be out of compliance due to:

(A) failure to document significant operational compliance, as determined by the EPA Release Prevention Compliance Measures Matrix and Release Detection Compliance Measures Matrix, both incorporated by reference in Subsection R311-206-10(b)(1);

(B) failure to perform UST operator inspections required by Subsection R311-201-12(h); or

(C) ~~failure to have the tag or other identifying method issued under Subsection 19-6-411(7) properly in place on each tank; or~~

~~(D) failure to ensure that Class C operators are trained and registered, and are on-site during operating hours.~~

(3) To be re-trained, Class A and Class B operators shall successfully complete the appropriate Class A or B operator training course and examination, or shall complete an equivalent re-training course and examination approved by the Executive Secretary.

(4) Class A and B operators shall be re-trained within 90 days of the date of the determination of non-compliance, and shall submit documentation showing successful completion of the re-training to the Executive Secretary within 30 days of the re-training. If the documentation is not received, the Executive Secretary may revoke the certificate of compliance for the facility for failure to demonstrate substantial compliance with all state and federal statutes, rules and regulations.

(5) If the documentation of re-training is not received by the Executive Secretary within six months of the date of determination of non-compliance, the Class A or B operator's registration ~~with~~ shall lapse. To re-register, the operator shall meet the requirements of Subsection R311-201-12(j)(1) and (2).

(6) If a facility for which a Class A or B operator has oversight is found to be out of compliance under Subsections R311-201-12(k)(1) or (2), re-training shall not be required if the Class A or B operator successfully completes and documents re-training under Subsections R311-201-12(k)(3) and (4) for a prior

determination of non-compliance that occurred during the previous nine months.

(l) Reciprocity.

(1) If the Executive Secretary determines that another state's operator training program is equivalent to the operator training program provided in this rule, he may accept an applicant's Class A or Class B registration application, provided that the applicant:

(A) submits a completed application form;

(B) passes the Utah UST rules and regulations examination referenced in Subsection R311-201-12(j)(1)(D)(ii), and

(C) submits payment of any applicable registration fees.

(2) The Class A or Class B registration shall be valid until the Utah registration expiration described in Subsection R311-201-12(j)(2)(D).

KEY: hazardous substances, administrative proceedings, underground storage tanks, revocation procedures

Date of Enactment or Last Substantive Amendment: ~~January 13, 2012~~

Notice of Continuation: April 10, 2012

Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-402; 19-6-403; 63G-4-102; 63G-4-201 through 205; 63G-4-503

Environmental Quality, Environmental Response and Remediation **R311-206** Underground Storage Tanks: Financial Assurance Mechanisms

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36497

FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In Section R311-206-4, wording is removed because the 2012 Utah legislature removed the subsection in the Utah Underground Storage Tank (UST) Act to which it refers. Documentation of non-marketer status for state fiscal years 1991 through 1994 is no longer required due to the statutory change. Other references to the statute are changed because the legislative change altered the numbering of the subsections to which the rule refers. In Section R311-206-5, reference to submittal of financial assurance documents for fiscal year 1998 is removed because 1998 has passed and it is more appropriate to refer generally to the requirements that have been in place since the end of fiscal year 1998. In Section R311-206-8, this section is revised to implement a change to the Utah UST Act made by the 2012 Utah legislature. The statutory change removed the requirement that underground petroleum tanks have a tag or other means of identification to show which

tanks are eligible to receive deliveries of regulated substances, and provides for tagging only of tanks that are not eligible to receive deliveries. In Section R311-206-9, the current rule provides that an UST owner must give 60 days advance notice when the owner decides to remove a tank from coverage under the Petroleum Storage Tank (PST) Fund, and use an alternate financial assurance mechanism for the tank. The proposed change reduces this time period to 30 days, because the review of the new financial assurance mechanism generally can be done in less than 60 days. Other changes are proposed to simplify the process and allow for situations in which the owner/operator already has an alternate mechanism in place, or when the alternate mechanism review cannot be completed in 30 days. In Section R311-206-10, the current rule provides separate requirements for tanks that return to PST Fund participation without a site assessment during calendar year 2007, and those that return to fund participation after 2007. The reference to 2007 is removed because that year has passed, and those requirements no longer apply.

SUMMARY OF THE RULE OR CHANGE: In Section R311-206-4, this amendment removes wording that refers to the documentation of non-marketer status for assessment of PST Fund fees for state fiscal years 1991 through 1994. Changes one citation because the subsection to which it refers will be re-numbered. In Section R311-206-5, removes a reference to submittal of financial assurance documents for fiscal year 1998 and replaces it with general wording for subsequent years. In Section R311-206-8, section is re-named. Removes wording applying to tags placed on petroleum USTs to show that they are eligible to receive deliveries of regulated substances, and adds wording to implement changes made to the Utah UST Act by the 2012 Utah legislature. The legislative change provides for placement of tags on tanks that are not eligible to receive fuel, rather than on those that are eligible to receive fuel. Provides for a "delivery prohibition" tag to be placed on an UST whose certificate of compliance has been revoked for non-compliance or has lapsed for non-payment of fees, and on an UST that has never qualified for a certificate of compliance. The tag will also be placed on an UST that does not have required equipment in place for spill prevention, overfill prevention, leak detection, or corrosion protection. Provides for a tag to be placed on a new UST when it is installed, to ensure that no deliveries are made to the UST, unless authorized by the Division Director, until the initial certificate of compliance is issued. Provides for authorization for deliveries of fuel for tank ballasting and/or testing before the certificate of compliance is issued. Provides for penalties for deliveries of fuel to a tank that is tagged, and fees for the unauthorized removal of the delivery prohibition tag. In Section R311-206-9, allows a tank to cease participation in the PST Fund in 30 days, rather than the current 60 days, after the owner/operator notifies the Division Director of the intent to leave the fund. Provides for notification in writing from the UST owner or operator of the intent to leave the fund. Allows the Division Director to approve tanks to leave the fund in less than 30 days if the UST owner already has a current

alternate financial responsibility method in place, and allows for tanks to leave the fund after the designated 30-day period if the UST owner/operator does not properly document alternate financial responsibility within the 30-day period. In Section R311-206-10, removes reference to a one-year time period (calendar year 2007) in which UST owner/operators could return to the PST Fund without doing a site assessment, and refers only to the current requirements for returning to the fund, that have been in place since 01/01/2008.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-403 and Section 19-6-428

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed change will save the state budget the yearly cost of producing tags for all tanks, approximately \$2,000 per year. The cost of the delivery prohibition tags will be much lower each year, because fewer tags will be needed, but there may be the increased cost of using state employees to place the tags on non-compliant tanks. Approximate cost of the delivery prohibition tags is \$300 per year.

◆ **LOCAL GOVERNMENTS:** The changes regarding USTs that leave the PST Fund (Section R311-206-9) will allow a local government that is an UST owner/operator to begin receiving refunds of the 1/2 cent per gallon environmental surcharge sooner because the tank can potentially leave the fund in 30 days rather than 60, or less than 30 days if the UST owner/operator already has an alternate financial assurance mechanism in place for other tanks. The amount saved will depend on the number of tanks that leave the fund and the throughput of those tanks. The other changes (Sections R311-206-4, R311-206-5, and R311-206-10) have no costs or savings because they only modify rule wording that no longer applies due to statutory changes or the passing of a specific time period.

◆ **SMALL BUSINESSES:** The changes regarding USTs that leave the PST Fund (Section R311-206-9) will allow a small business that is an UST owner/operator to begin receiving refunds of the 1/2 cent per gallon environmental surcharge sooner because the tank can potentially leave the fund in 30 days rather than 60, or less than 30 days if the UST owner/operator already has an alternate financial assurance mechanism in place for other tanks. The amount saved will depend on the number of tanks that leave the fund and the throughput of those tanks. The other changes (Sections R311-206-4, R311-206-5, and R311-206-10) have no costs or savings because they only modify rule wording that no longer applies due to statutory changes or the passing of a specific time period.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The changes regarding USTs that leave the PST Fund (Section 9) will allow the UST owner/operator to begin receiving refunds of the 1/2 cent per gallon environmental surcharge sooner because the tank can potentially leave the fund in 30 days rather than 60, or less than 30 days if the

UST owner/operator already has an alternate financial assurance mechanism in place for other tanks. The amount saved will depend on the number of tanks that leave the fund and the throughput of those tanks. The other changes (Sections R311-206-4, R311-206-5, and R311-206-10) have no costs or savings because they only modify rule wording that no longer applies due to statutory changes or the passing of a specific time period. Non-fiscal impacts: The change that no longer requires each tank to have a compliance tag will save UST owner/operators the time and effort to place tags on their tanks each year and ensure that they remain in place. The other changes will have no material impact because they only remove wording that no longer applies, and provide for no new requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs. The changes implement a statutory change that will remove the requirement that each UST have a compliance tag, provide for an expedited process for tanks to cease participating in the PST Fund, and remove rule wording that no longer applies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The reduction of the time period for review of alternate financial responsibility mechanisms will allow UST owners and operators to remove themselves from PST Fund coverage sooner after they notify the Division and permit them to receive refunds of their environmental surcharge. The other changes should not have any material fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 ENVIRONMENTAL RESPONSE AND
 REMEDIATION
 FIRST FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Gary Astin by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at gastin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 08/15/2012 01:30 PM, Department of Environmental Quality, 195 N 1950 W, Room 1015, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 09/14/2012

AUTHORIZED BY: Brent Everett, Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-206. Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms.

R311-206-1. Definitions.

Definitions are found in Rule R311-200.

R311-206-2. Declaration of Financial Assurance Mechanism.

(a) To demonstrate financial assurance, as required by 40 CFR 280, subpart H, owners or operators of petroleum storage tanks shall:

(1) meet all requirements for participation in the Environmental Assurance Program, or

(2) demonstrate financial assurance by an allowable method specified in 40 CFR 280, subpart H.

(b) Owners or operators shall declare whether they will participate in the Environmental Assurance Program under Section 19-6-410.5, or show financial assurance by another method.

(c) For the purposes of Subsection 19-6-412(6), all tanks at a facility shall be covered by the same financial assurance mechanism, and shall be considered to be in one area, unless the Executive Secretary determines there is sufficient information so that releases from different tanks at the facility could be accurately differentiated.

R311-206-3. Requirements for Issuance of Certificates of Compliance.

(a) The Executive Secretary shall issue a certificate of compliance to an owner or operator for individual petroleum storage tanks at a facility if:

(1) the owner or operator has a certificate of registration;

(2) the tank is substantially in compliance with all state and federal statutes, rules and regulations;

(3) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;

(4) the owner or operator has submitted a letter to the Executive Secretary stating that based on customary business inventory practices standards there has been no release from the tank;

(5) the owner or operator has submitted a completed application according to a form provided and approved by the Executive Secretary, and has declared the financial assurance mechanism that will be used;

(6) the owner or operator has met all requirements for the financial assurance mechanism chosen, including payment of all applicable fees; and

(7) the owner or operator has submitted an as-built drawing that meets the requirements of R311-200-1(b)(3).

R311-206-4. Requirements for Environmental Assurance Program [p]Participants.

(a) ~~To meet the requirements of Subsections 19-6-411(1)(a)(ii) and 19-6-411(1)(b)(ii) the owner or operator shall submit:~~

~~(1) A letter to the Executive Secretary stating that the facility is not engaged in petroleum production, refining, or marketing, and~~

~~(2) Evidence, each fiscal year, of average annual throughput less than 10,000 gallons per month based on current inventory records.~~

~~(b)~~ In accordance with Subsection 19-6-411(1)(~~[e]~~~~a~~), the annual facility throughput rate, if reported, shall be reported to the Executive Secretary as a specific number of gallons, based on the throughput for the previous calendar year.

(~~[e]~~~~b~~) In accordance with Subsection 19-6-411(1)(~~[d]~~~~b~~), when a petroleum storage tank is initially registered with the Executive Secretary, any Petroleum Storage Tank fee for that tank for the current fiscal year shall be due when the tank is brought into use, as a requirement for receiving a Certificate of Compliance.

(~~[d]~~~~c~~) In accordance with Subsection 19-6-411(6), the Executive Secretary may waive all or part of the fees required to be paid on or before May 5, 1997 under Section 19-6-411 if no fuel has been dispensed from the tank on or after July 1, 1991, and if the tank has been properly closed according to Rules R311-204 and R311-205, or in other circumstances as approved by the Executive Secretary.

(~~[e]~~~~d~~) In accordance with Subsection 19-6-411(2)(a)(i), if an installation company receives its annual permit after the beginning of the fiscal year, the annual fee must be paid for the entire year.

(~~[f]~~~~e~~) Auditing of UST facility throughput records for fiscal year 1998.

(1) Owners and operators shall retain for seven years the monthly tank throughput records of the facility for the months of July 1997 through June 1998. Tank throughput records shall include all financial and product documentation for receipts, dispositions and inventories.

(2) The executive secretary may audit or order an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.

(A) Records shall be made available at the Department for inspection within 30 calendar days after receiving notice from the Executive Secretary.

(B) Audits may be determined by random selection or for particular reasons, including suspicion or discovery of inaccuracies in throughput reports, aggregating throughput reports, having a release, or filing a claim.

(C) Auditing tank throughput may be accomplished by any method approved by the Executive Secretary.

(D) All costs of an independent audit shall be paid by the owner or operator.

(~~[g]~~~~f~~) Owners or operators eligible for coverage by the Fund shall demonstrate financial assurance for the difference between coverage provided by the Fund and coverage amounts required by 40 CFR 280 Subpart H. If the owner or operator chooses self insurance as the mechanism for demonstrating financial assurance for the difference, the owner or operator must document a tangible net worth of \$10,000 upon request and to the satisfaction of the Executive Secretary. An owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference. The processing fee requirement referenced in Subsection R311-206-5(b) is not applicable because the administrative cost is covered by the

PST fund fee. However, the Executive Secretary may require the owner or operator to submit an independent audit to demonstrate net worth for self insurance. The owner or operator shall bear the expense for the audit. The criteria for an audit are the same as set forth in Subsection R311-206-4(~~[f]~~~~e~~)(2).

R311-206-5. Requirements for Owners and Operators Demonstrating Financial Assurance by Other Methods.

(a) Owners and operators who elect to utilize an alternate form of financial assurance shall use one or a combination of mechanisms specified in 40 CFR 280.94. Owners and operators shall submit to the Executive Secretary the documents required by 40 CFR 280.111 to be kept and maintained for the mechanism used.

(1) Formats, calculations, letters, reporting, and record keeping shall be done in accordance with each applicable financial assurance mechanism specified in 40 CFR 280 subpart H.

(2) If the financial assurance documentation submitted to the Executive Secretary is not in accordance with 40 CFR 280 subpart H, it shall be rejected and shall be invalid.

(b) The processing fee established in Subsection 19-6-408(2)(a) for each new or changed financial assurance document submitted for approval shall be included with the financial assurance document and shall be payable to the Department. Processing fees for subsequent yearly review of a financial assurance document shall be due on July 1 annually.

(1) Pursuant to 40 CFR 280.97, if the financial assurance mechanism is an insurance policy, the insurer is liable for payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with right of reimbursement by the insured for such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.107. A showing of financial assurance for the deductible, if such a showing is made, shall be treated as a separate financial assurance mechanism subject to the processing fee requirement referenced in Subsection R311-206-5(b) above.

(2) If an owner or operator desires to make any material change to the financial assurance document, the change shall be approved by the Executive Secretary, and an additional processing fee shall be paid in circumstances as determined by the Executive Secretary.

(c) Evidence of a current and approved financial assurance mechanism shall be reported to the Executive Secretary each year as follows:

~~(1) [For State fiscal year 1998 evidence of financial assurance for all mechanisms shall be due to the Executive Secretary by June 15, 1997.~~

~~(2) Thereafter, proof of financial assurance shall be reported to the Executive Secretary and shall include:~~

~~(A)~~ Owners and operators using the financial test of self insurance shall submit the "Letter from Chief Financial Officer" to the Executive Secretary within the maximum 120 day period specified in 40 CFR 280.95.

(~~[B]~~~~2~~) Owners and Operators using insurance and risk retention group coverage for financial assurance shall submit the coverage policy in its entirety, with the current Certificate of Insurance or Endorsement specified in 40 CFR 280.97(b), to the

Executive Secretary within 30 days of acceptance of such policy by the insurer or risk retention group.

(~~(F)~~1)A) If the insurance policy or risk retention group coverage is cancelled, the insurer or risk retention group shall provide written notice of cancellation or other termination of coverage required by 40 CFR 280.97(b)(1)2.d. and 40 CFR 280.97(b)(2)2.d. to the Executive Secretary as well as the insured.

(~~(F)~~2)B) The insurer shall have a rating of A- or greater by A.M.Best Co.

(~~(F)~~3) Owners and operators using an irrevocable letter of credit shall submit proof of the letter of credit, standby trust fund, and formal certification of acknowledgement to the Executive Secretary within 30 days of issuance from the issuing institution.

(~~(F)~~4) Owners and operators using a fully funded trust fund for financial assurance shall submit proof of the trust fund and formal certification of acknowledgement to the Executive Secretary within 30 days after implementation of the trust fund.

(~~(F)~~5) Owners and operators using a guarantee for financial assurance shall submit the Guarantee document, standby trust fund, and certification of acknowledgement to the Executive Secretary within 30 days of issuance. The owner or operator shall also submit the guarantor's letter from chief financial officer within the 120-day period specified in 40 CFR 280.95.

(~~(F)~~6) Owners and operators using a surety bond for financial assurance shall submit the surety bond document, standby trust fund, and certification of acknowledgement to the Executive Secretary within 30 days of issuance.

(~~(F)~~7) Guarantees and surety bonds may be used as financial assurance mechanisms in Utah only if the requirement of 40 CFR Part 280.94(b) is met.

(~~(F)~~8) Owners and operators using one of the local government methods specified in 40 CFR 280.104 through 107 shall submit the letter from chief financial officer and associated documents to the Executive Secretary within 120 days of the end of the owner/operator's or guarantor's fiscal year.

(d) The Executive Secretary may require reports of financial condition or any other information relative to justification of the financial assurance mechanism from the owner or operator at any time. Information requested shall be reported to the Executive Secretary within 30 calendar days after receiving the request.

(1) Owners and operators shall maintain evidence of all financial assurance mechanisms as specified in 40 CFR 280.111.

(2) Owners and operators shall keep records of all financial assurance mechanisms for a period of three years.

(3) The Executive Secretary may audit or order an audit of records supporting the financial assurance mechanism at any time.

(A) Audits may be determined by random selection or for specific reasons, including the occurrence of a release or suspected release, deficiencies in complying with regulations or orders, or the suspension or discovery of inaccuracies.

(B) Auditing of financial assurance methods may be accomplished by any method approved by the Executive Secretary.

(e) Any and all costs of securing a selected financial assurance mechanism and generating and providing the necessary reporting evidence of an assurance mechanism to the Executive Secretary shall be the sole responsibility of the owner or operator.

(f) Processing of the alternate financial assurance mechanism documents may be accomplished utilizing any method approved by the Executive Secretary.

R311-206-6. Voluntary Admission of Eligible Exempt Underground Storage Tanks and above-ground storage tanks to the Environmental Assurance Program.

(a) Owners or operators of eligible exempt underground storage tanks specified in Subsection 19-6-415(1)(a) may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(1) and Subsection R311-206-3(a);

(2) properly performing release detection according to the requirements of 40 CFR Part 280 Subpart D; and

(3) meeting the upgrade requirements in 40 CFR 280.21 or the new tank requirements in 40 CFR 280.20, as applicable.

(b) Owners or operators of above-ground storage tanks may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(2) and Subsection R311-206-3(a);

(2) meeting applicable requirements of the Utah State Fire Code adopted pursuant to Section 53-7-106;

(3) performing an annual line tightness test of all underground product piping, or documenting monthly monitoring of sensor-equipped double-walled underground product piping; and

(4) performing a tightness test of all above-ground tanks every five years, using a tightness test method capable of properly testing the tank.

R311-206-7. Revocation and Lapsing of Certificates.

(a) The Executive Secretary shall revoke a certificate of compliance or registration if he determines that the owner or operator has willfully submitted a fraudulent application or is not in compliance with any requirement pertaining to the certificate.

(b) A petroleum storage tank owner or operator who has had a certificate of compliance revoked under Section 19-6-414 or Subsection R311-206-7(a) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Subsection 19-6-412(2), Subsection 19-6-428(3), and Section R311-206-3.

(c) A petroleum storage tank owner or operator who has had a certificate of compliance lapse under Subsection 19-6-408(5)

(c) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Subsection 19-6-412(2) and Section R311-206-3.

(d) A petroleum storage tank owner or operator who has had eligibility to receive payments for claims against the fund lapse under Section 19-6-411(3)(c)(ii) shall meet the requirements of Subsection 19-6-428(3) and pay all fees, interest, and penalties due to reinstate eligibility.

(e) Upon permanent closure of a tank which is covered by the Fund, the eligibility to make a claim against the Fund shall terminate as specified in Section R311-207-2. Permanently closed tanks are not eligible to be reissued a certificate of compliance.

(f) In accordance with Section 19-6-414, the Executive Secretary may revoke a certificate of compliance for the owner's or

operator's failure to comply with 40 CFR 280, which requires release reporting, abatement, investigation, corrective action, or other measures to bring the release site under control.

R311-206-8. ~~[Proof of Certification]~~ Delivery Prohibition.

(a) ~~[In accordance with Subsection 19-6-411(7), a tag or other means of identification shall be issued to each petroleum storage tank or underground storage tank which has demonstrated current compliance with Section 19-6-412 and Section R311-206-3 or Section R311-206-6. The tag or other means of identification shall be displayed for view of the person delivering or placing petroleum product into an underground storage tank for which the tag was issued.~~

~~(b) A tank shall not be issued a tag or other means of identification if the owner or operator has not satisfied the requirements of Section 19-6-412. An owner or operator shall not allow a tag to be displayed on a tank for which the Certificate of Compliance has been revoked or has lapsed, or on a tank for which the eligibility to receive payment for claims against the fund has lapsed unless the owner or operator has demonstrated compliance with financial assurance requirements.]~~ In accordance with Subsection 19-6-411(7), the Director shall authorize the placement of a delivery prohibition tag identifying a tank:

(1) for which the certificate of compliance has been revoked in accordance with Section 19-6-414, or

(2) for which the certificate of compliance has lapsed for non-payment of fees in accordance with Subsection 19-6-408(5), or

(3) that has never qualified for a certificate of compliance, and is not a new installation under Subsection R311-206-8(a)(4), or

(4) that is a new installation, and has not been issued a certificate of compliance.

(b) In accordance with Subsection 19-6-403(1)(b)(i), the Director shall authorize the placement of a delivery prohibition tag to be placed on the tank as soon as practicable after the determination is made that a tank:

(1) does not have spill prevention equipment required under 40 CFR 280.20(c) or 40 CFR 280.21(d), or

(2) does not have overfill prevention equipment required under 40 CFR 280.20(c) or 40 CFR 280.21(d), or

(3) does not have equipment required for tank or piping leak detection in accordance with 40 CFR 280 Subpart D, or

(4) does not have equipment required for tank or piping corrosion protection in accordance with 40 CFR 280 Subpart B or C.

(c) The delivery prohibition tag shall be placed on the tank fill or in a visible location near the tank fill.

(d) A person who delivers or accepts delivery of a regulated substance or petroleum into a tank marked with a delivery prohibition tag shall be subject to the penalties outlined in Section 19-6-416, unless authorized under R311-206-8(e).

(e) The Director may issue written approval for a delivery of petroleum to:

(1) provide ballast for a new tank during installation, or

(2) allow for the tank tightness test required under Section 19-6-413.

(f) The delivery prohibition tag shall remain in place until the Director issues:

(1) for tanks that have a tag in place in accordance with Subsection R311-206-8(a);

(A) a new certificate of compliance for the tank, and

(B) written authorization to remove the delivery prohibition tag, or

(2) for tanks that have a tag in place in accordance with Subsection R311-206-8(b):

(A) written authorization to remove the delivery prohibition tag.

(g) If a delivery prohibition tag is removed without the authorization specified in Subsection R311-206-8(f)(1)(B) or Subsection R311-206-8(f)(2)(A), the UST owner or operator shall be subject to:

(1) a re-inspection and any applicable fees, and

(2) placement of a new delivery prohibition tag on the tank.

R311-206-9. Removing Participating Tanks from the Environmental Assurance Program.

~~(a) [At any time after May 1, 1997, o] Owners and operators of petroleum storage tanks who have voluntarily elected to participate in the Environmental Assurance Program may cease participation in the program and be exempted from the requirements described in Section R311-206-4 by:~~

~~(1) permanently closing tanks as outlined in 40 CFR 280, subpart G, Rule R311-204, and Rule R311-205, or~~

~~(2) meeting the following requirements:~~

~~(i) A demonstrating compliance with Section R311-206-5, and~~

~~(ii) B notifying the Executive Secretary in writing at least [6]30 days before the date of cessation of participation in the program, and specifying the date of cessation.~~

~~(i) The Director may waive the 30-day requirement if the owner or operator has already documented current financial assurance under R311-206-5 for other USTs owned or operated by the owner or operator.~~

~~(ii) The date of cessation of participation in the program may occur after the date designated in Subsection R311-206-9(a)(2) (B) if the owner or operator does not document compliance with R311-206-5 by the date originally designated.~~

~~(b) The fund will not give pro-rata refunds.~~

~~(c) For tanks being removed voluntarily from the program, the date of cessation of participation in the program shall be the date on which coverage under the program ends. Subsequent claims for payments from the fund must be made in accordance with Section 19-6-424 and Section R311-207-2.~~

R311-206-10. Participation in the Environmental Assurance Program After a Period of Voluntary Non-participation.

(a) Owners and operators who choose not to participate in the Environmental Assurance Program shall, before any subsequent participation in the program, meet the following requirements:

(1) notify the Executive Secretary of the intent to participate in the program;

(2) comply with the requirements of Subsection 19-6-428(3), and

(3) meet the requirements of Subsection R311-206-3(a) to qualify for a new certificate of compliance.

(b) ~~[Effective January 1, 2007, and until December 31, 2007]~~ In accordance with Subsection 19-6-428(3)(b), the Executive Secretary may determine that there is reasonable cause to believe that no petroleum has been released if the owner or operator, for each UST to participate in the program, meets the following requirements at the time the owner or operator applies for participation:

(1) The last two compliance inspections verify significant operational compliance, and verify that no release has occurred. Significant operational compliance status shall be determined using the EPA Release Prevention Compliance Measures Matrix and Release Detection Compliance Measures Matrix, both dated March 3, 2005 and incorporated herein by reference. The matrices contain leak prevention and leak detection criteria to be used by inspectors in determining compliance status of underground storage tanks.

(2) The owner or operator documents compliance with all release prevention and release detection requirements that are required for the time period since the last compliance inspection, and the records submitted do not give reason to suspect a release has occurred. The owner or operator shall submit:

- (i) tank and piping leak detection records, or a tank and line tightness test performed within the last six months;
- (ii) the most recent simulated leak test for all automatic line leak detectors;
- (iii) cathodic protection tests, if applicable, and
- (iv) internal lining inspections, if applicable.

~~[(c) Effective January 1, 2008, the Executive Secretary may determine that reasonable cause exists if:~~

~~(1) the owner or operator meets the requirements of Subsections (b)(1) and (b)(2) above, and~~

~~]~~ ~~[(2)]~~ ~~[t]~~ The period of non-participation in the Program is less than six months, or the UST is less than ten years old.

KEY: hazardous substances, petroleum, underground storage tanks

Date of Enactment or Last Substantive Amendment: ~~[February 14, 2011]~~ 2012

Notice of Continuation: April 10, 2012

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-428

Environmental Quality, Water Quality R317-1-7 TMDLs

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 36502
FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference the completed and recently approved Jordan River Total Maximum Daily Load (TMDL) water quality study and determination into the rule.

SUMMARY OF THE RULE OR CHANGE: This section incorporates by reference the completed and approved Jordan River TMDL into the rule. This TMDL document has gone through an individual public review process and has been approved by the Water Quality Board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-105

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Jordan River Total Maximum Daily Load Water Quality Study - Phase 1, published by Utah Division of Water Quality, 06/27/2012

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The proposed amendment will be addressed using existing resources.

◆ **LOCAL GOVERNMENTS:** No cost impacts to local governments are anticipated. No activities that would result in costs or savings to local governments are mandated by the approved TMDL.

◆ **SMALL BUSINESSES:** No cost impacts to small businesses are anticipated. This is a phased TMDL. Potential strategies and management options for reducing sources of pollutants are identified, but are not specifically mandated at this time. Implementation projects and strategies will be addressed in subsequent phases of the Jordan River TMDL.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost impacts to other persons are anticipated. This is a phased TMDL. Potential strategies and management options for reducing sources of pollutants are identified, but are not specifically mandated at this time. Implementation projects and strategies will be addressed in subsequent phases of the Jordan River TMDL.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No direct compliance costs are anticipated for affected persons. This is a phased TMDL. No compliance requirements are implemented for sources of pollutants as a result of the approved TMDL. Potential strategies and management options for reducing sources of pollutants are identified, but are not specifically mandated at this time. Implementation projects and strategies will be addressed in subsequent phases of the Jordan River TMDL.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated as a result of the approved TMDL. This is a phased TMDL. Potential strategies and management options for reducing sources of pollutants are identified, but are not specifically mandated at this time. No compliance requirements were implemented for point sources of pollutants as a result of the approved TMDL. Implementation projects and strategies will be addressed in subsequent phases of the Jordan River TMDL.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WATER QUALITY
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Dave Wham by phone at 801-536-4337, by FAX at 801-536-4301, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-1. Definitions and General Requirements.
R317-1-7. TMDLs.

The following TMDLs are approved by the Board and hereby incorporated by reference into these rules:

- 7.1 Middle Bear River -- February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- September 14, 2010
- 7.7 East Canyon Reservoir -- September 14, 2010
- 7.8 Kents Lake -- September 1, 2000
- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002
- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003

- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004
- 7.40 Upper Bear River -- August 4, 2006
- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010
- 7.58 Pariette Draw -- September 28, 2010
- 7.59 Emigration Creek -- September 1, 2011
- 7.60 Jordan River -- June 27, 2012

KEY: water pollution, waste disposal, industrial waste, effluent standards

Date of Enactment or Last Substantive Amendment:
~~November 7, 2011~~ **2012**

Notice of Continuation: October 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-5

Health, Family Health and Preparedness, Licensing
R432-270
Assisted Living Facilities

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 36445
 FILED: 07/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change in Section R432-270-12 is to remove an unnecessary requirement so facilities are able to comply with the rule. The change in Section R432-270-16 is to remove a requirement that the facility have a form approved prior to use. The changes in Section R432-270-19 are: at Subsection (2)(c), remove a requirement that the facility is unable to enforce; at Subsection (2)(d)(ii), clarify the

requirements so the facilities are able to comply; and at Subsection (2)(5), remove a requirement that is impossible for the facility to comply with and replacing it with a requirement that still ensures resident safety. These amendments were approved by the Health Facilities Committee on 02/08/2012. This committee has representation from a broad cross section of the entities affected by this rule.

SUMMARY OF THE RULE OR CHANGE: The change in Section R432-270-12 is to remove the requirement of the facility to require a resident to have a physician prior to admit. The change in Section R432-270-16 is to remove the requirement for a wander risk agreement to be approved by the department prior to use. The changes to Section R432-270-19 are: at Subsection (2)(c), remove part of the rule that regulates who can set up medication when a family member is responsible for the residents medications; at Subsection (2)(d)(ii), change the rule to state that medication are administered according to the order not to the service plan; and at Subsection (2)(5), the change gives the health care professional 72 hours to co-sign on a medication change.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rule amendments will have no effect on state budgets since there will be no change in current practice.
- ◆ **LOCAL GOVERNMENTS:** These rule amendments will have no effect on local government budgets since there will be no change in current practice.
- ◆ **SMALL BUSINESSES:** These rule amendments will have no effect on small businesses since there will be no change in current practice.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule amendments will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule amendments will have no effect on persons since there will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Eliminating unenforceable outdated requirements will be beneficial to business and not compromise the rights or safety of residents.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
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 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R432. Health, Family Health and Preparedness, Licensing.

R432-270. Assisted Living Facilities.

R432-270-12. Resident Assessment.

~~[(1) Each person admitted to an assisted living facility shall have a personal physician or a licensed practitioner prior to admission.~~

[(2)] A signed and dated resident assessment shall be completed on each resident prior to admission and at least every six months thereafter.

[(3)] In Type I and Type II facilities, the initial and six-month resident assessment must be completed and signed by a licensed health care professional.

[(4)] The resident assessment must include a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

[(5)] The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

[(6)] The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition.

R432-270-16. Secure Units.

(1) A Type II assisted living facility with approved secure units may admit residents with a diagnosis of Alzheimer's/dementia if the resident is able to exit the facility with limited assistance from one person.

(2) Each resident admitted to a secure unit must have an admission agreement that indicates placement in the secure unit.

(a) The secure unit admission agreement must document that a ~~[Department-approved]~~wander risk management agreement has been negotiated with the resident or resident's responsible person.

(b) The secure unit admission agreement must identify discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility is able to provide.

(3) There shall be at least one staff with documented training in Alzheimer's/dementia care in the secure unit at all times.

(4) Each secure unit must have an emergency evacuation plan that addresses the ability of the secure unit staff to evacuate the residents in case of emergency.

R432-270-19. Medication Administration.

(1) A licensed health care professional must assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on each resident's assessment.

(2) Each resident's medication program must be administered by means of one of the methods described in (a) through (d) in this section:

(a) The resident is able to self-administer medications.

(i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility must assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct medication administration by:

(i) reminding the resident to take the medication;

(ii) opening medication containers; and

(iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may administer medications ~~from a package set up by a licensed practitioner or licensed pharmacist which identifies the medication and time to administer~~. If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.

(d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with the Nurse Practice Act and R156-31B-701.

(ii) The medications must be administered according to the prescribing order ~~service plan~~.

(iii) The delegating authority must provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(iv) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(3) The facility must have a licensed health care professional or licensed pharmacist review all resident medications at least every six months.

(4) Medication records shall include the following:

(a) the resident's name;

(b) the name of the prescribing practitioner;

(c) medication name including prescribed dosage;

(d) the time, dose and dates administered;

(e) the method of administration;

(f) signatures of personnel administering the medication;

and

(g) the review date.

~~(5) The licensed health care professional or licensed pharmacist should document any change in the dosage or schedule of medication in the medication record. When changes in the medication are documented by the facility staff the licensed health care professional must co-sign within 72 hours. The licensed health care professional must notify all unlicensed assistive personnel who administer medications of the medication change. [Each facility must have a licensed health care professional or licensed pharmacist document any change in the dosage or schedule of medication in the medication record. The delegating authority must notify all unlicensed assistive personnel who administer medications of the medication change.]~~

(6) Each resident's medication record must contain a list of possible reactions and precautions for prescribed medications.

(7) The facility must notify the licensed health care professional when medication errors occur.

(8) Medication error incident reports shall be completed when a medication error occurs or is identified.

(9) Medication errors must be incorporated into the facility quality improvement process.

(10) Medications shall be stored in a locked central storage area to prevent unauthorized access.

(a) If medication is stored in a central location, the resident shall have timely access to the medication.

(b) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(c) The facility must develop and implement policies for the security and disposal of narcotics. Any disposal of controlled substances by a licensee or facility staff shall be consistent with the provisions of 21 CFR 1307.21.

(11) The facility shall develop and implement a policy for disposing of unused, outdated, or recalled medications.

(a) The facility shall return a resident's medication to the resident or to the resident's responsible person upon discharge.

(b) The administrator shall document the return to the resident or the resident's responsible person of medication stored in a central storage.

KEY: health care facilities

Date of Enactment or Last Substantive Amendment: ~~February 8, 2011~~ **2012**

Notice of Continuation: December 16, 2009

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-1

Insurance, Administration
R590-130
Rules Governing Advertisements of
Insurance

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 36493

FILED: 07/12/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being updated to include electronic forms of advertising that are now common.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made in the rule: the definition of "Advertisement" is being expanded to include advertising on the website and emails; a new Enforcement Date Section is being added to the rule; the Severability Provision section is being changed to follow the wording that is now being used in this section; and due to the addition of a new section, the last three sections are being re-numbered.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-23a-402 and Subsection 31A-2-201(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** It is anticipated that by including the terms "website" and "email" in the definition of advertising it will be easier to regulate advertising violations that take place on the website and in emails. If this is the case, then a few more fines may be added to the General Fund, although it should be noted that oftentimes when a violation is found, the licensee is asked to correct the violation and no fine is imposed. It is when the violation is egregious and/or has been done multiple times that a fine is levied. The department will not need to hire additional employees.

◆ **LOCAL GOVERNMENTS:** This rule only affects licensees of the Insurance Department. It will have no effect on local governments.

◆ **SMALL BUSINESSES:** This rule will have a fiscal impact on individuals and agencies licensed to sell insurance in Utah who are found to be violating this rule. Normally when a violation is found, the licensee is asked to correct the situation and if they do then no fine is imposed. It is when the violation is egregious and/or has been done multiple times that a fine is levied. Currently violations are occurring weekly. The amount of a fine for an individual can go as high as \$2,500 and for an agency \$5,000.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Almost all of the 1,600 Utah licensed insurers are large businesses. They will also be required to comply with this rule. However, at this time they are not violating this law by email or on the web.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have a fiscal impact on individuals and agencies licensed to sell insurance in Utah who are found to be violating this rule. Normally when a violation is found, the licensee is asked to correct the situation and if they do then no fine is imposed. It is when the violation is egregious and/or has been done multiple times that a fine is levied. Currently violations are occurring weekly. The amount of a fine for an individual can go as high as \$2,500 and for an agency \$5,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will only affect those violating the advertising law and rule. The majority of those found to be in violation will receive instruction on the law and will be asked to correct the problem. First time violators will not normally be fined.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.**R590-130. Rules Governing Advertisements of Insurance.****R590-130-4. Definitions.**

A (1) An "Advertisement" for the purpose of this rule shall include:

(a) printed and published material, audio or visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, websites, emails, billboards and similar displays; and

(b) prepared sales talks, presentations and material for use by producers and solicitors whether prepared by the insurer or the producer or solicitor, when used for members of the insurance buying public, whether mailed or delivered in person.

(2) The definition of advertisement includes promotional material included with a policy when the policy is delivered as well as material used in the solicitation of renewals and reinstatements.

B. "Institutional Advertisement" for the purpose of this rule shall mean an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of insurance, or the promotion of the insurer as a seller of insurance.

C. "Invitation to Contract" for the purpose of this rule shall mean an advertisement regarding a specific insurance product and which describes one or more of the provisions of the contract for that product.

D. "Invitation to Inquire" for the purpose of this rule shall mean an advertisement having as its objective the creation of a desire to inquire further about insurance and which is limited to a

brief description of coverage, and which shall contain a provision in the following or substantially similar form:

"This policy has (exclusions) (limitations) (reduction of benefits) (terms under which the policy may be continued in force or discontinued). For costs and complete detail of the coverage, call (or write) your insurance agent or the company (whichever is applicable)."

E. "Preneed funeral contract" shall mean an agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services, which is funded, at least in part, by insurance.

R590-130-15. Enforcement Date.

The commissioner shall begin enforcing the revised provisions of this rule on the effective date.

R590-130-[15]16. Severability Provision.

If any provision or clause of this rule or the application of it to any person or situation is 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 provision of this rule are declared to be severable[section or portion of a section of these rules, or the applicability thereof to any person or circumstance is held invalid by a Utah or Federal court, the remainder of the rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby].

R590-130-[16]17. Filing for Prior Review.

The commissioner may, at his discretion, require the filing with the department, for review prior to use, of advertising material, for informational purposes only.

KEY: insurance law

Date of Enactment or Last Substantive Amendment: ~~[1990]~~2012

Notice of Continuation: September 15, 2010

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402

**Insurance, Administration
R590-225-7
Procedures for Form Filings**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36458

FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being changed due to passage this year of H.B. 29, Insurance Amendments, that changed Section 31A-35-607 requiring a 30-day waiting period after bail bond forms are filed before using them.

SUMMARY OF THE RULE OR CHANGE: This rule is being changed requiring a 30-day waiting period after filing bail bond forms before using them. Prior to this an insurer could file a bail bond form and then use it immediately.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-19a-203 and Section 31A-2-201.1 and Subsection 31A-2-201(3) and Subsection 31A-2-202(2)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This change will encourage the department to review bail bond form filings within 30 days of receiving them to make sure they are in compliance with the law and if not, notify the insurer so they can make the necessary changes before using them. Currently there are just nine surety insurance companies that do bail bond business in Utah. This will have little impact on the department's workload and no fiscal impact.

♦ **LOCAL GOVERNMENTS:** Since this rule deals with the relationship between the department and its licensees, specifically bail bond sureties, it will have no fiscal impact on local governments.

♦ **SMALL BUSINESSES:** This rule only affects bail bond agencies that are small businesses in that a surety insurer will no longer be able to issue bail bond forms for them to use that are not first reviewed by the department to make sure they are in compliance. Previously, new forms could be used when they were filed with the department. If they were not in compliance with the law they would have to then be retrieved from clients and replaced with compliant forms. The change will save what time and money is involved in replacing an incorrect form given to a client.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Surety insurers who sell bail bonds will now be required to file their new and amended forms with the Insurance Department and wait 30 days before using them. This will require them to wait 30 days when they were previously able to file and use immediately. However, it will also save them time and replacement issues when their forms are found to be out of compliance with Utah law. This will only affect nine surety insurance companies selling bail bonds in Utah. The change will save what time and money is involved in replacing noncompliant form given to an agency and client.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Surety insurers who sell bail bonds will now be required to file their new and amended forms with the Insurance Department and wait 30 days before using them. This will require them to wait 30 days when they were previously able to file and use immediately. However, it will also save them time and replacement issues when their forms are found to be out of compliance with Utah law. This will only affect 9 surety insurance companies selling bail bonds in Utah. The change will save what time and money is involved in replacing non-compliant form given to an agency and client.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule may save bail bond insurers and agencies time and money replacing non-compliant forms. This will only affect nine surety insurers who are required to file their forms with us and wait 30 days before using them. The savings will likely be minimal.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-7. Procedures for Form Filings.

(1) Forms in general:

(a) Forms are "File And Use" filings. EXCEPTION: service contracts, bail bonds, and guaranteed asset protection waivers are "File Before Use".

(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.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt or alter the filing in any way.

(b) Your filing must be received by the department before the RSO effective date.

(c) We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing a letter stating your intent to adopt any RSO forms for your use.

(a) Copies of the RSO forms are not required.

(b) Your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, bail bond agency, or service contract provider is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal:

(a) only one copy of each form is required;

(b) If the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

KEY: property casualty insurance filing

Date of Enactment or Last Substantive Amendment: [December 8, 2011]2012

Notice of Continuation: March 12, 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203

Natural Resources, Water Rights R655-5-4 Mapping Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36455

FILED: 07/10/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The current rule requires clarification and update to current industry practice. The survey method is no longer required on mapping standards.

SUMMARY OF THE RULE OR CHANGE: These rules are promulgated pursuant to Subsection 73-2-1(3)(b)(i) and Sections 73-3-2, 73-3-3, and 73-3-16. The purpose of this rule is to establish when maps must be submitted and the minimum standards that must be met for the maps to be accepted by the State Engineer.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-3-16 (4)(C)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The survey method is no longer required on mapping standards. No prior fees required in prior procedures and none required now.

- ◆ LOCAL GOVERNMENTS: The survey method is no longer required on mapping standards. No prior fees required in prior procedures and none required now.
- ◆ SMALL BUSINESSES: The survey method is no longer required on mapping standards. No prior fees required in prior procedures and none required now.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The survey method is no longer required on mapping standards. No prior fees required in prior procedures and none required now.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost involved--The survey method is no longer required on mapping standards and therefore does not require a dollar figure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No physical impact--The survey method is no longer required on mapping standards and therefore does not require a dollar figure.

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

NATURAL RESOURCES
WATER RIGHTS
ROOM 220
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Michael Styler, Executive Director

R655. Natural Resources, Water Rights.

R655-5. Maps Submitted to the Division of Water Rights.

R655-5-4. Mapping Standards.

4.1 Acceptability of Maps. The State Engineer will determine the suitability of any proof map or application map submitted to the Division of Water Rights.

4.2 Standards for Maps to be Submitted with Proof of Beneficial Use of Water, Diligence Claims, or Evidence of Pre-Statutory Water Use.

4.2.1 Maps shall be prepared by a Utah-licensed professional engineer or a Utah-licensed professional land surveyor and must be based on a competent survey. The professional

engineer or professional land surveyor shall affix his/her seal and shall sign and date the map.

4.2.2 Standard mapping conventions must be used in completing the map, including the following: there must be a north arrow, the scale must be indicated in both written and graphic form, and there must be a legend describing any symbols used on the map. All information included on the map must be legible. The line quality used on the drawings must be distinct. Shading or hatching may be used to show irrigated acreage; however, the boundary of the irrigated area must be delineated.

4.2.3 All surveys must be tied to a section corner (NE,SE,SW,NW) or a quarter section corner (N1/4,E1/4,S1/4,W1/4) of the section-township-range survey for the area of use, and the map must indicate the basis of bearing for the bearings shown. ~~[The survey method must be specified on the map.]~~ Any public roads adjacent to or near the property surveyed should be shown on the map. If within a legally platted subdivision, the subdivision name and lot/block designations of the subject parcels shall also be shown.

4.2.4 The title block must include the following: water right number, application number, date of the survey, name of the applicant, name and license number of the professional engineer/land surveyor, and the section, township, and range where the parcel in question is located.

4.2.5 Maps must be submitted on standard drafting medium that is durable and reproducible. All information shown on the map must be in black permanent drafting ink or other media of equivalent durability and opacity.

4.2.5.1 Small sized maps. The preferred map sizes are 8 1/2 x 11 inches or 8 1/2 x 14 inches. Maps of this size should be used whenever possible and particularly for all irrigated acreage of five acres or less. Small sized maps may be created on material that is translucent or opaque. Maps of small parcels shall be drawn to the largest scale practical. The smallest scale allowable on small maps is 1"=300' (1:3600). There must be a margin of at least 1-1/4 inches at the top and 1/2 inch on the sides and bottom. The title block shall appear on the lower right-hand side of the page (the short side being the bottom). For mailing or transport, smaller maps must not be folded.

4.2.5.2 Large sized maps. If a larger sized map is needed, the dimensions shall be 24 x 36 inches. Maps of this size must be created on a translucent drafting medium. The title block shall appear in the lower right-hand corner (the long side of the map being the bottom). Larger maps shall be rolled for mailing or transport. If mailed, a protective mailing tube or box shall be used.

4.3 Standards for Maps to be Submitted with Applications to Appropriate, Temporary Applications to Appropriate, Applications for Permanent Change of Water, Applications for Temporary Change of Water, or Applications to Exchange Water.

4.3.1 The application map may be based upon any of the following:

- 1) A map based on a competent survey as defined herein;
- 2) All or part of a County Recorder's ownership plat map;
- 3) All or part of a USGS topographic quadrangle map;
- 4) All or part of a recorded subdivision plat map;
- 5) An aerial photograph with adequate land location information (section-township-range).
- 6) All or part of a previously filed proof map;

7) All or part of a hydrographic survey map prepared by the Division of Water Rights in a general adjudication;

8) Any other type of reference map that adequately depicts the land location and provides the necessary location information (section-township-range).

4.3.2 The water user is responsible for the accuracy of the map. After the map is filed, any corrections or adjustments are the responsibility of the applicant. Amendments may be made at the time proof is filed, or earlier by filing an amended map. Amended maps filed prior to proof shall be prepared in accordance with the standards governing the initial submittal, shall be clearly labeled as "amended," and shall bear the date of amendment.

4.3.3 Standard mapping conventions should be used in completing the map, including the following: there should be a north arrow, the scale should be indicated, and there must be a legend describing any symbols used on the map. All information included on the map must be legible. The line quality used on the drawings must be distinct. Shading or hatching may be used to show irrigated acreage; however, the boundary of the irrigated area must be delineated.

4.3.4 Any referenced land boundaries must be tied to a section corner (NE,SE,SW,NW) or a quarter section corner (N1/4,E1/4,S1/4,W1/4) of the section-township-range survey for the area of use. Any public roads adjacent to or near the depicted place(s) of beneficial use should be shown on the map. If the place of beneficial use is within a legally platted subdivision, the subdivision name and the lot/block designations of the subject parcels shall also be shown. The map must contain, at minimum, adequate information to determine the quarter-quarter section(s) (i.e., 40-acre tracts) for the places of beneficial use.

4.3.5 A signed applicant's certificate shall be included upon or attached to each application map submitted. The certificate shall read: "I/we,, hereby acknowledge that this map (or, the map attached to this application), consisting of pages numbered to, was prepared in support of Application, I/we hereby accept and submit this map as a true representation of the facts shown thereon to the best of my/our knowledge and belief."

4.3.6 Map Sizes.

4.3.6.1 Small sized maps. The preferred map sizes are 8 1/2 x 11 inches or 8 1/2 x 14 inches. Maps of this size should be used whenever possible and particularly for all irrigated acreage of five acres or less. Maps of small parcels shall be drawn to the largest scale practical. The smallest scale allowable on small maps is 1"=300' (1:3600).

4.3.6.2 Large sized maps. If a larger sized map is needed, the dimensions shall be 24 x 36 inches.

KEY: water right, proof, maps, applications

Date of Enactment or Last Substantive Amendment: ~~May 18, 1998~~2012

Notice of Continuation: April 8, 2008

Authorizing, and Implemented or Interpreted Law: 73-3-2; 73-3-3; 73-3-16

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36494

FILED: 07/16/2012

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 for taking public input and reviewing the Division of Wildlife's zoological animal program.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule: 1) add a definition of "Ornamental aquatic animal species"; 2) add a definition of "Domestic" and exclude domestic cats, dogs, and swine; 3) add Pilose crayfish and *Stygobromus utahensis* to the prohibited species list; 4) clarify California floater to include all floaters of the *Anodonta* species; 5) include all springsnails of the *Pyrgulopsis* species as controlled; 6) list Southern tightcoil as controlled for collection, importation, and possession; 7) list Western pearlshell as prohibited for collection, importation, and possession; 8) list Red-rimmed melania as prohibited for collection, importation, and possession; 9) list Blue catfish, Emerald shiner and Burbot as prohibited; 10) made the Collection, Importation, Transportation, and Possession of Zoological Animals rule consistent with the non-game mammals rule; 11) removed the option to capture and relocate porcupine, striped skunk and squirrels; 12) removed the requirement to obtain a certificate of registration or federal permit to kill Black-billed Magpies, Cowbirds, House Sparrows, European Starlings and Domestic Pigeons when found damaging person or real property; 13) update language to reflect recent federal changes to Utah's Falconry Rule; 14) allow agencies and landowners who register online to destroy Canada goose nests and eggs on their property within urban environments from March 1 through June 30; 15) remove "zoological" from rule text; and 16) make technical corrections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-18 and Section 23-14-19 and Section 23-20-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The amendment makes necessary clarifications and classification changes to some species and places the rule in line with federal guidelines. 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: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: These amendments clarify wording and classification changes for some species. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or savings impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These amendments clarify wording and classification changes for some species. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification and to become in step with federal guidelines. DWR determines that there are no additional compliance costs associated with this amendment.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ 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 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

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

R657-3-1. Purpose and Authority.

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

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

(3) In addition to this rule, the Wildlife Board may allow the collection, importation, transportation, propagation and possession of species of ~~zoological animals~~ animal species under specific circumstances as provided in Rules R657-4 through R657-6, R657-9 through R657-11, R657-13, R657-14, R657-16, R657-19, R657-20 through R657-22, R657-33, R657-37, R657-38, R657-40, R657-41, R657-43, R657-44, R657-46 and R657-~~53~~ 52 through R657-60. Where a more specific provision has been adopted, that provision shall control.

(4) ~~Holding raccoons and coyotes in captivity is governed by the Department of Agriculture and Food under Section 4-23-11 and Rule R58-14.]~~ The importation, distribution, relocation, holding in captivity or possession of coyotes and raccoons ~~into~~ in Utah is governed by the Agricultural and Wildlife Damage Prevention Board and is prohibited under ~~this rule~~ Section 4-23-11 and Rule R657-14, except as permitted by the Utah Department of Agriculture and Food.

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

(6) The English and scientific names used throughout this rule for animals are, at the time of publication, the most widely accepted names. The English and the scientific names of animals change, and the names used in this rule are to be considered synonymous with names in earlier use and with names that, at any time after publication of this rule, may supersede those used herein.

R657-3-2. Species Not Covered by This Rule.

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

- (1) Alpaca (Lama pacos);
- (2) Ass ~~and~~ or donkey (Equus asinus);
- (3) ~~Bison~~ American bison, privately owned (Bos bison);
- (4) Camel (Camelus bactrianus and Camelus dromedarius);
- (5) Cassowary (~~an~~ All species) (Casuaris);
- (6) Cat, domestic, including ~~any domestic breed~~ breeds that are recognized by The International Cat Association as Preliminary New, Advanced New, Non-championship, and Championship Breeds (Felis catus);

- (7) Cattle (*Bos taurus* [~~and *Bos indicus*]~~taurus);
- (8) Chicken (*Gallus gallus*);
- (9) Chinchilla (*Chinchilla laniger*);
- (10) Dog [~~and dog~~, domestic including hybrids between wild and domestic species and subspecies (*Canis familiaris*);
- (11) Ducks distinguishable morphologically from wild birds (Anatidae);
- (12) Elk, privately owned (*Cervus elaphus canadensis*);
- (13) Emu (*Dromaius novaehollandiae*);
- (14) Ferret or polecat, European [~~ferret~~] (*Mustela putorius*);
- (15) Fowl (guinea) (*Numida meleagris*);
- (16) Fox, privately owned, [~~ranch~~] domestically bred and raised [~~amber, blue and silver forms~~] (*Vulpes vulpes*);
- (17) Geese, distinguishable morphologically from wild geese (Anatidae);
- (18) "Gerbils" or Mongolian jirds (*Meriones unguiculatus*);
- (19) Goat (*Capra hircus*);
- (20) Hamster (~~[Syrian or golden]~~ All species) (*Mesocricetus auratus* and *Mesocricetus brandti* spp.);
- (21) Hedgehog (white bellied) (*Erinaceidae atelerix albiventris*);
- (22) Horse (*Equus caballus* [~~and hybrids with *Equus asinus*]~~);
- (23) Llama (*Lama glama*);
- (24) [~~Mice (*Mus musculus*)~~];
- (~~25~~) American Mink, privately owned, ranch-raised (~~[*Mustela vison*]~~ Neovison vison);
- (~~25~~) Mouse, house (*Mus musculus*);
- (26) Mule and hinny (hybrids of *Equus caballus* and *Equus asinus*);
- (~~27~~) Ostrich (*Struthio camelus*);
- (~~27~~)~~28~~ Peafowl (*Pavo cristatus*);
- (~~28~~)~~29~~ Pig, [~~{}~~guinea~~{}~~] (*Cavia porcellus*);
- (~~29~~)~~30~~ Pigeon (*Columba livia*);
- (~~30~~)~~31~~ Rabbit, [~~{}~~European~~{}~~] (*Oryctolagus cuniculus*);
- (~~31~~)~~32~~ Rats, Norway and Black (*Rattus norvegicus* and *Rattus rattus*);
- (~~32~~)~~33~~ Rhea (*Rhea americana*);
- (~~33~~)~~34~~ Sheep (*Ovis aries*);
- (~~34~~)~~35~~ Sugar glider (*Petaurus breviceps*);
- (~~35~~) Swine, domestic (*Sus scrofa domesticus*);
- (~~35~~)~~37~~ Turkey, privately owned, pen-raised domestic varieties (*Meleagris gallopavo*). Domestic varieties means any turkey or turkey egg held under human control and which is imprinted on other poultry or humans and which does not have morphological characteristics of wild turkeys;
- (~~36~~)~~38~~ Water buffalo (*Bubalis arnee*);
- (~~37~~)~~39~~ Yak (*Bos mutus*); and
- (~~38~~)~~40~~ Zebu, or "Brahma" (*Bos taurus indicus*)

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

(1) The division, the Department of Agriculture and Food, and the Department of Health work cooperatively through memorandums of understanding to:

- (a) protect the health, welfare, and safety of the public;
- (b) protect the health, welfare, safety, and genetic integrity of wildlife, including environmental and ecological impacts; and
- (c) protect the health, welfare, safety, and genetic integrity of domestic livestock, poultry, and other animals.
- (2) The division is responsible for:
- (a) issuing certificates of registration for the collection, possession, importation, and transportation of [~~zoological~~] animals;
- (b) maintaining the integrity of wild and free-~~[roaming]~~ ranging protected wildlife;
- (c) determining the species of [~~aquatic~~] animals [~~which~~ that] may be imported [~~into~~], possessed, and transported within the state;
- (d) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities;
- (e) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to aquatic wildlife, other animals, and humans; [~~and~~]
- (f) preventing the spread of disease-causing pathogens from aquatic animals to other aquatic animals transferred from one site to another in the wild;
- (g) investigating and preventing the outbreak and controlling the spread of disease-causing pathogens in terrestrial wildlife;
- (h) preventing the spread of disease-causing pathogens from terrestrial animals to other terrestrial animals transferred from one site to another; and
- (i) enforcing laws and rules made by the Wildlife Board governing the collection, importation, transportation, and possession of [~~zoological~~] animals.
- (3)(a) The Utah Department of Agriculture and Food is responsible for eliminating, reducing, and preventing the spread of diseases among livestock, fish, poultry, wildlife, and other animals by providing standards for:
- (i) the importation of livestock, fish, poultry, and other animals, including wildlife, as provided in Section R58-1-4;
- (ii) the control of predators and depredate animals as provided in Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act;
- (iii) enforcing laws and rules made by the Wildlife Board governing species of [~~aquatic~~] animals which may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities;
- (iv) preventing the outbreak and controlling the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and
- (v) preventing the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to aquatic wildlife, or other animals, and humans.
- (b) The Department of Agriculture and Food may [~~make regulatory decisions~~] quarantine any infected domestic animal or area within the state to prevent the spread of infectious or contagious disease as provided in Title 4, Chapter 31, Section 17.

(c) In addition to the authority and responsibilities listed in Subsection (3)(a) and (b), the Department of Agriculture and Food may make recommendations to the division concerning the collection, importation, transportation, and possession of ~~zoological~~ animals if a disease is suspected of endangering livestock, fish, poultry, or other domestic animals.

(4) The Utah Department of Health is responsible for promoting and protecting public health and welfare and may make recommendations to the division concerning the collection, importation, transportation, and possession of ~~zoological~~ animals if a disease or animal is suspected of endangering public health or welfare.

R657-3-4. Definitions.

(1) Terms used ~~in~~ for purposes of this rule are defined in Section 23-13-2 and Subsection (2) through Subsection (29).

(2)(a) "Animal" means:

(i) native, naturalized, and nonnative animals belonging to a species that naturally occurs in the wild, including animals captured from the wild or born or raised in captivity;

(ii) hybrids of any native, naturalized, or nonnative species or subspecies of animal, including hybrids between wild and domestic species or subspecies; and

(iii) viable embryos or gametes (eggs or sperm) of any native, naturalized, or nonnative species or subspecies of animals.

(b) "Animal" does not include species listed in Subsection R657-3-2, domestic species, or amphibians or reptiles as defined in Rule R657-53.

(3) "Aquaculture" means the controlled cultivation of aquatic animals.

(3)(4)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(4)(5) "Aquatic animal" means a member of any species of fish, mollusk, or crustacean, including their ~~gametes~~eggs or sperm.

(5)(6) "Captive-bred" means any privately owned ~~zoological~~ animal, which is born inside of and has spent its entire life in captivity and is the offspring of privately owned ~~zoological~~ animals that are born inside of and have spent their entire life in captivity.

(6)(7) "Certificate of registration" means an official document issued by the division authorizing the collection, importation, transportation, and possession of an animal or animals. A certificate of registration number may be issued in order to obtain an entry permit number and the entry permit number must in turn be provided to the division before final approval and issuance of the certificate of registration.

(8) "Certificate of veterinary inspection" means an official health authorization issued by an accredited veterinarian required for the importation of ~~zoological~~ animals, as provided in Rule R58-1.

(7)(9) "CFR" means the Code of Federal Regulations.

(8)(10) "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

(a) Appendix I of CITES protects threatened species from all international commercial trade; and

(b) Appendix II of CITES regulates trade in species not threatened with extinction, but which may become threatened if trade goes unregulated.

(c) CITES appendices are published periodically by the CITES Secretariat and ~~reprinted by the U.S. Fish and Wildlife Service in 50 CFR 23.23, 2002, ed.,~~ may be viewed at <http://www.cites.org/> which is incorporated herein by reference.

(9)(11) "Collect" means to take, catch, capture, salvage, or kill any ~~zoological~~ animal within Utah.

(10)(12) "Commercial use" means any activity through which a person in possession of ~~a zoological~~ an animal:

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

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

(11)(13) "Controlled species" means a species or subspecies of ~~zoological~~ animal that if taken from the wild, introduced into the wild, or held in captivity, poses a possible significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is required.

(12)(14) "Domestic" means an animal that belongs to a species which is notably different from its wild ancestors through generations of selective breeding and taming in captivity by humans for food, commodities, transportation, assistance, work, protection, companionship, display and other beneficial purposes.

(15) "Educational use" means the possession and use of ~~a zoological~~ an animal for conducting educational activities concerning wildlife ~~and wildlife-related activities~~.

(13)(16) "Entry permit number" means a number issued by the state veterinarian's office to a veterinarian signing a certificate of veterinary inspection. The entry permit number must be written on the certificate of veterinary inspection before the importation of the ~~zoological~~ animal. This number must be provided to the division prior to final approval and issuance of a certificate of registration. The entry permit is valid only for 30 days after its issuance.

(14)(17) "Export" means to move or cause to move any ~~zoological~~ animal from Utah by any means.

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

(16)(19) "Import" means to bring or cause ~~a zoological~~ an animal to be brought into Utah by any means.

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

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

(~~19~~22) "Noncontrolled species" means a species or subspecies of [~~zoological~~] animal that if taken from the wild, introduced into the wild, or held in captivity, poses no detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration is not required, unless otherwise specified.

(~~20~~23)(a) "Nonnative species" means a species or subspecies of [~~zoological~~] animal that is not native to Utah.

(b) "Nonnative species" does not include domestic animals or naturalized species of [~~zoological~~] animals.

(~~21~~(a) "Ornamental fish" means fish that are raised or kept for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi.)
(24)(a) "Ornamental aquatic animal species" means any species of fish, mollusk, or crustacean that is commonly cultured and sold in the United States' aquarium industry for display.

(b) "Ornamental [fish] does not include any aquatic animal species" does not include:

(i) fresh water;

(A) sport fish - aquatic animal species commonly angled or harvested for recreation or sport;

(B) baitfish - aquatic animal species authorized for use as bait in R657-13-12, and any other species commonly used by anglers as bait in sport fishing;

(C) food fish - aquatic animal species commonly cultured or harvested from the wild for human consumption; or

(D) native species; or

(ii) aquatic animal species prohibited for importation or possession by any state, federal, or local law; or

(iii) aquatic animal species listed as prohibited or controlled in Sections R657-3-22 and R657-3-23.

(~~22~~25) "Personal use" means the possession and use of [~~a zoological~~] an animal for a hobby or for its intrinsic pleasure and where no consideration for the possession or use of the animal is received by selling, bartering, trading, exchanging, breeding, hunting or any other use.

(~~23~~26) "Possession" means to physically retain or to exercise dominion or control over [~~a zoological~~] an animal.

(~~24~~27) "Prohibited species" means a species or subspecies of [~~zoological~~] animal that if taken from the wild, introduced into the wild, or held in captivity, poses a significant detrimental impact to wild populations, the environment, or human health or safety, and for which a certificate of registration shall only be issued in accordance with [~~Sections R657-3-20(1)(b) or R657-3-36;~~] this rule and any applicable federal laws.

(~~25~~28) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the division, U.S. Fish and Wildlife Service, a school, or an institution of higher education.

(~~26~~29) "Resident Canada Goose" means Canada geese that nest within Utah in urban environments during the months of March, April, May or June.

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

(~~27~~31) "Transport" means to move or cause to move any [~~zoological~~] animal within Utah by any means.

(~~28~~32) "Wildlife Registration Office" means the division office in Salt Lake City responsible for processing applications and issuing certificates of registration.

[~~_____~~(29)(a) "Zoological animal" means:

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

(ii) hybrids of any native, naturalized, or nonnative species or subspecies of animals; and

(iii) viable embryos or gametes of any native, naturalized, or nonnative species or subspecies of animals.

(b) "Zoological animal" does not include species listed as domestic in Subsection R657-3-2, or amphibians or reptiles as defined in Rule R657-53.

]

R657-3-5. Liability.

(1)(a) Any person who accepts a certificate of registration assumes all liability and responsibility for the collection, importation, transportation, [~~and~~] possession and propagation of the authorized [~~zoological~~] animal and for any other activity authorized by the certificate of registration.

(b) To the extent provided under the Utah Governmental Immunity Act, the division, Department of Agriculture and Food, and Department of Health shall not be liable in any civil action for:

(i) any injury, disease, or damage caused by or to any animal, person, or property as a result of any activity authorized under this rule or a certificate of registration; or

(ii) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue, deny, suspend, or revoke any certificate of registration or similar authorization.

(2) It is the responsibility of any person who obtains a certificate of registration to read, understand and comply with this rule and all other applicable federal, state, county, city, or other municipality laws, regulations, and ordinances governing [~~zoological~~] animals.

R657-3-6. Animal Welfare.

(1) Any [~~zoological~~] animal held in possession under the authority of a certificate of registration shall be maintained under humane and healthy conditions, including the humane handling, care, confinement, transportation, and feeding, as provided in:

(a) 9 CFR Section 3 Subpart F, 2002 ed., which is adopted and incorporated by reference;

(b) Section 76-9-301; and

(c) Section 7 CFR 2.17, 2.51, and 371.2(g), 2002 ed., which are incorporated by reference.

(2) A person commits cruelty to animals under this section if that person intentionally, knowingly, or with criminal negligence, as defined in Section 76-2-103:

(a) tortures or seriously overworks an animal; or

(b) fails to provide necessary food, care, or shelter for any animal in that person's custody.

(3) Adequate measures must be taken for the protection of the public when handling, confining, or transporting any [~~zoological~~] animal.

R657-3-7. ~~Take of Nuisance Birds [—Nuisance Poreupine, Striped Skunk, and Squirrel] and Mammals.~~

(1)(a) A person is not required to obtain a certificate of registration or a federal permit to kill ~~[American Crows or]~~ Black-billed Magpies ~~[—when found committing, or about to commit, depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife,].~~ Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) when found damaging personal or real property, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided:

(i) strict observance of all local and other state and federal laws is adhered to;

(ii) none of the birds killed pursuant to this section, nor their plumage, are sold or offered for sale; and

(iii) any person killing ~~[American Crows or]~~ Black-billed Magpies, Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) shall:

(A) allow any federal warden or conservation officer unrestricted access over the premises where ~~[American Crows or]~~ Black-billed Magpies, Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) are killed; and

(B) furnish any information concerning the control operations to the division or federal official upon request.

(b) A person may kill ~~[American Crows or]~~ Black-billed Magpies, Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) by any means, excluding bait, explosives or poison, and only on or over the threatened area.

(c) ~~[American Crows and]~~ Black-billed Magpies, Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) killed pursuant to this section ~~[shall be collected immediately and]~~ including their plumage and other parts may be retained for noncommercial, personal use;

(d) Black-billed Magpies, Cowbirds, House Sparrows, European Starlings, or Domestic Pigeons (Rock Doves) killed pursuant to this section and disposed of must be disposed of at a landfill that accepts wildlife carcasses or must be ~~[buried]~~ burned or incinerated.

(e) This subsection incorporates Section 50 CFR ~~21.41, 21.42 and 21.43, [2002,]2007~~, ed., by reference.

(2)(a) ~~A person may capture, transport, and kill or release a nuisance poreupine, striped skunk, or squirrel without obtaining a certificate of registration.] A person may kill nongame mammals as provided in R657-19~~

~~(b) A nuisance poreupine, striped skunk, or squirrel may be released only as follows:~~

~~(i) within 48 hours of capture;~~

~~(ii) within the county in which it was captured; and~~

~~(iii) in a location where it does not pose a risk to human health or safety, or create other conflict with humans, agriculture, or other animals.~~

R657-3-8. Collection, Importation, and Possession of Threatened and Endangered Species and Migratory Birds.

(1) The following species are prohibited from collection, possession, and importation into Utah without first obtaining a certificate of registration from the division, a federal permit from the U.S. Fish and Wildlife Service, and an entry permit number from the Department of Agriculture and Food if importing:

(a) any species which have been determined by the U.S. Fish and Wildlife Service to be endangered or threatened pursuant to the federal Endangered Species Act, as amended; and

(b) any species of migratory birds protected under the Migratory Bird Treaty Act.

(2) Federal laws and regulations apply to threatened and endangered species and migratory birds in addition to state and local laws.

(3) Neither a federal permit nor a state certificate of registration is required to destroy the nests and eggs of resident Canada geese provided:

(a) the landowner or agent qualifies, registers and complies with all provisions of the Federal Nest and Egg Registry located at www.fws.gov/permits/mbpermits/GooseEggRegistration.html.

(b) The landowner reports to the state the date, location (including county) and number of eggs and nests destroyed, by October 1 of each year to the Wildlife Registration Coordinator.

R657-3-9. Release of ~~Zoological~~ Animals to the Wild -- Capture or Disposal of Escaped Wildlife.

(1)(a) Except as provided in this rule, the rules and regulations of the Wildlife Board, or Title 4, Chapter [37, the Aquaculture Act and Subsection R657-3-7(2)]37 of the Utah Code, a person may not release to the wild or release into any public or private waters any ~~zoological~~ animal, including fish, without first obtaining authorization from the division.

(b) A violation of this section is punishable under Section 23-13-14.

(2) The division may seize or dispose of any illegally held ~~zoological~~ animal.

(3)(a) Any peace officer, division representative, or authorized animal control officer may seize or dispose of any live ~~zoological~~ animal that escapes from captivity.

(b) The division may retain custody of any recaptured ~~zoological~~ animal until the costs of recapture or care have been paid by its owner or keeper.

R657-3-10. Inspection of ~~Documentation~~ Animals, Facilities, and ~~Zoological Animals~~ Documentation.

(1) A conservation officer or any other peace officer may require any person engaged in activities ~~covered~~ regulated by this rule to exhibit:

(a) any documentation related to activities covered by this rule, including certificates of registration, permits, certificates of veterinary inspection, certification, bills of sale, or proof of ownership or legal possession;

(b) any ~~zoological~~ animal; or

(c) any device, apparatus, or facility used for activities covered by this rule.

(2) Inspection shall be made during ~~reasonable~~ business hours.

R657-3-11. Certificate of Registration ~~Required~~.

(1)(a) A person shall obtain a certificate of registration before collecting, importing, transporting, ~~—or~~ possessing or propagating any species of ~~zoological~~ animal or its parts classified as prohibited or controlled, except as otherwise ~~provided by the~~

~~Wildlife Board] provided in this rule, statute or rules and orders of the Wildlife Board[as provided in Subsection R657-3-1(3)].~~

(b) A certificate of registration is not required:

(i) to collect, import, transport, ~~[or] possess, or propagate~~ any species or subspecies of ~~[zoological]~~ animal classified as noncontrolled;

(ii) to export any species or subspecies of ~~[zoological]~~ animal from Utah, provided that the ~~[zoological]~~ animal is held in legal possession; or

(iii) to collect, transport or possess brine shrimp and brine shrimp eggs for personal use, provided:

(A) the brine shrimp and brine shrimp eggs are collected, transported and possessed together with water in a container no larger than one gallon;

(B) no more than a one gallon container of brine shrimp and brine shrimp eggs, including water, is collected during any consecutive seven day period; and

(C) the brine shrimp or brine shrimp eggs following possession are not released live into the Great Salt Lake, Sevier River or any of their tributary waters.

(c) Applications for ~~[zoological]~~ animals classified as prohibited shall not be accepted by the division without providing written justification describing how the applicant's proposed collection, importation, or possession of the ~~[zoological]~~ animal meets the criteria provided in Subsections R657-3-20(1)(b) or R657-3-18(4)(b).

(2)(a) Certificates of registration are not transferable and expire December 31 of the year issued, except as otherwise designated on the certificate of registration.

(b) If the holder of a certificate of registration is a representative of an institution, organization, business, or agency, the certificate of registration shall ~~[end]~~ expire effective upon the date of the representative's discontinuation of association with that entity.

(c) Certificates of registration do not provide the holder ~~[with]~~ any rights of succession and any certificate of registration issued to a business or organization shall be void upon the termination of the business or organization or upon bankruptcy or transfer or death of the COR holder.

(3)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for ~~[et]~~ periodic regulation and monitoring by the division.

(4) ~~[A single certificate of registration may authorize more than one activity.~~

~~————(5)(a)]~~ In addition to this rule, the division may impose specific requirements on the holder of the certificate of registration necessary for the safe and humane handling and care of the ~~[zoological]~~ animal involved, including requirements for veterinary care, cage or holding pen sizes and standards, feeding requirements, social grouping requirements, and other requirements considered necessary by the division for the health and welfare of the ~~[zoological]~~ animal or the public.

~~(b) The authorizations on the face of the certificate of registration setting forth specific times, dates, places, methods of take, numbers and species of zoological animals, location of~~

~~activity, authorization for certain circumscribed transactions, or other designated conditions are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.~~

~~————(6)]~~ (a) Upon or before the expiration date of a certificate of registration, the holder must apply for a ~~[new]~~ renewal of the certificate of registration to continue the activity.

(b) The division ~~[shall]~~ may use the criteria provided in Section R657-3-14 in determining whether to ~~[issue]~~ renew the ~~[new]~~ certificate of registration.

~~(c) It is unlawful for a person to possess an animal for which a certificate of registration is required if that person:~~

~~(i) does not have a valid certificate of registration authorizing possession of the animal; or~~

~~(ii) fails to submit a renewal application to the division prior to the expiration of an existing certificate of registration authorizing possession of the animal.~~

~~(d) If [an] a renewal application is not [made] submitted to the division by the expiration date, live or dead [zoological] animals held in possession under the expired certificate of registration shall be considered unlawfully held and may be seized by the division.~~

~~([e]) If [an] a renewal application [for a new certificate of registration] is submitted to the division before the expiration date[;] of the existing certificate of registration, continued possession of the animal under the expired certificate of registration shall remain [valid] lawful while the renewal application is pending.~~

~~([7])~~ Failure to submit timely, accurate, or valid reports as required under Section R657-3-16 ~~[and]~~ or the terms of a certificate of registration may disqualify a person from renewing an existing certificate of registration or obtaining a new certificate of registration.

~~([8])~~ A certificate of registration may be ~~[revoked]~~ suspended as provided in this rule, Section 23-19-9 and Rule R657-26.

R657-3-12. Application Procedures -- Fees.

(1)(a) ~~[Applications]~~ Initial and renewal applications for certificates of registration are available from, and must be submitted to, the Wildlife Registration Office in Salt Lake City or any regional division office.

(b) ~~[The application]~~ Applications may require ~~[up to]~~ a minimum of 45 days for review and processing from the date the application is received.

(c) Applications that are incomplete, completed incorrectly, or submitted without the appropriate fee or other required information may be returned to the applicant.

(2)(a) Legal tender in the correct amount must accompany the application.

(b) The certificate of registration fee includes a nonrefundable handling fee.

(c) ~~[Fees]~~ Upon request, applicable fees may be waived for wildlife rehabilitation, educational or scientific activities, or for state or federal agencies ~~[upon request]~~ if, in the opinion of the division, the activity ~~[is]~~ will significantly ~~[beneficial to]~~ benefit the division, wildlife, or wildlife management.

R657-3-13. Retroactive Effect on Possession.

A person lawfully possessing ~~[a zoological]~~ an animal prior to the effective date of any species reclassification may

receive a certificate of registration from the division for the continued possession of that ~~[zoological]~~ animal where the animal's species classification has changed hereunder from noncontrolled to controlled or prohibited~~[, or from controlled to prohibited]~~. The certificate of registration shall be obtained within six months of the reclassification~~[, or]~~. If a certificate of registration is not obtained possession of the ~~[zoological]~~ animal thereafter shall be unlawful.

R657-3-14. Issuance Criteria.

(1) The following factors shall be considered before the division may issue or renew a certificate of registration for the collection, importation, transportation, possession or propagation of an animal:

- (a) the health, welfare, and safety of the public;
- (b) the health, welfare, safety, and genetic integrity of wildlife, domestic livestock, poultry, and other animals;
- (c) ecological and environmental impacts;
- (d) the suitability of the applicant's holding facilities;
- (e) the experience of the applicant for the activity requested; and
- (f) ecological or environmental impact on other states.

(2) In addition to the criteria provided in Subsection (1), the division shall use the following criteria for the issuance or renewal of a certificate of registration for a scientific use of ~~[a zoological]~~ an animal;

- (a) the validity of the objectives and design;
- (b) the likelihood the project will fulfill the stated objectives;
- (c) the applicant's qualifications to conduct the research, including~~[the requisite]~~ education or experience;
- (d) the adequacy of the applicant's resources to conduct the study; and
- (e) whether the scientific use is in the best interest of the ~~[zoological]~~ animal, wildlife management, education, or the advancement of science without unnecessarily duplicating previously documented scientific research.

(3) In addition to the criteria provided in Subsection (1), the division may use the following criteria for the issuance or renewal of a certificate of registration for an educational use of ~~[a zoological]~~ an animal:

- (a) the objectives and structure of the educational program; and
- (b) whether the applicant has written approval from the appropriate official if the activity is conducted in a school or other educational facility~~[,]~~; and
- (c) whether the individual is in possession of the required federal permits.

(4) The division may deny issuing or renewing a certificate of registration to any applicant, if:

- (a) the applicant has violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, proclamation or guidebook, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and responsibilities of collecting, importing, possessing or propagating ~~[a zoological]~~ an animal bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities;

(b) the applicant has previously been issued a certificate of registration and failed to submit any report or information required by this rule, the division, or the Wildlife Board;

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

(d) holding the ~~[zoological]~~ animal at the proposed location violates federal, state, or local laws.

(5) The collection or importation and subsequent possession of ~~[a zoological]~~ an animal ~~[shall]~~ may be granted only upon a clear demonstration that the criteria established in this section have been met by the applicant.

(6) The division, in making a determination under this section, may ~~[use]~~ consider any available facts or information ~~[available]~~ that is relevant to the issuance or renewal of the certificate of registration, including independent inquiry or investigation to verify information or substantiate the qualifications asserted by the applicant.

(7) If an application is denied, the division shall provide the applicant with written notice of the reasons for denial.

(8) An appeal of the denial of an application may be made as provided in Section R657-3-37.

R657-3-15. Amendment to Certificate of Registration.

(1)(a) If ~~[material]~~ circumstances materially change, requiring a modification of the terms of the certificate of registration, the holder may request an amendment by submitting written justification and supporting information.

(b) The division may amend the certificate of registration or deny the request based on the criteria for initial and renewal applications provided in Section R657-3-14, and, if the request for an amendment is denied, shall provide the applicant with written notice of the reasons for denial.

(c) The division may charge a fee for amending the certificate of registration.

(d) An appeal of a request for an amendment may be made as provided in Section R657-3-37.

(2) The division reserves the right to amend any certificate of registration for good cause upon notification to the holder and written findings of necessity.

(3)(a) Each holder of a certificate of registration shall notify the division within 30 days of any change in mailing address.

(b) ~~[Zoological animals]~~ Animals or activities authorized by a certificate of registration may not be held at any location not specified on the certificate of registration without prior written permission from the division.

R657-3-16. Records and Reports.

(1)(a) From the date of issuance or renewal of the certificate of registration, the holder shall maintain complete and accurate records of any taking, possession, transportation, propagation, sale, purchase, barter, or importation authorized pursuant to this rule or the certificate of registration.

(b) Records must be kept current and shall include the names, phone numbers, and addresses of persons ~~[with]~~ to whom any ~~[zoological]~~ animal has been sold, bartered, or otherwise transferred or received, and the dates of the transactions.

(c) The records required under this section must be maintained for two years from the expiration date of the certificate of registration.

(2) Reports of activity must be submitted to the Wildlife Registration Office as specified on the certificate of registration.

(3) Failure to submit the appropriate records and reports may result in ~~revocation or~~ denial or suspension of a certificate of registration.

R657-3-17. Collection, Importation or Possession for Personal Use.

(1) A person may collect, import or possess live or dead~~[-zoological]~~ animals or their parts for a personal use only as follows:

(a) Certificates of registration are not issued for the collection, importation or possession of any live or dead~~[-zoological]~~ animals or their parts classified as prohibited, except as provided in R657-3-36 or the rules and guidebooks of the Wildlife Board.

(b) A certificate of registration is required for collecting, importing or possessing any live or dead~~[-zoological]~~ animals or their parts classified as controlled, except as otherwise provided by this rule or the rules and guidebooks of the Wildlife Board.

(c) A certificate of registration is not required for collecting, importing or possessing live or dead~~[-zoological]~~ animals or their parts classified as noncontrolled.

(2) Notwithstanding Subsection (1), a person may import or possess any dead~~[-zoological]~~ animal or its parts, except as provided in Section R657-3-8, for~~[-a]~~ personal use without obtaining a certificate of registration, provided the animal was legally taken, is held in legal possession, and a valid license, permit, tag, certificate of registration, bill of sale, or invoice is available for inspection upon request.

R657-3-18. Collection, Importation or Possession of a Live ~~[Zoological]~~ Animal for a Commercial Use.

(1)(a) ~~[Pursuant to Sections 23-13-13 and 23-20-3, a]~~ A person may not collect or possess a live~~[-zoological]~~ animal for a commercial use or commercial venture for ~~[pecuniary]~~ financial gain, unless otherwise provided in the rules and proclamations of the Wildlife Board~~[-, a certificate of registration or a memorandum of understanding with the division].~~

(b) Use of brine shrimp for culturing ornamental ~~[fish]~~ aquatic animal species is not a commercial use if the brine shrimp eggs or cysts are not sold, bartered, or traded and no more than 200 pounds are collected annually.

(2)(a) A person may import or possess a live~~[-zoological]~~ animal or parts thereof classified as non-controlled for a commercial use or a commercial venture, except native or naturalized species of~~[-zoological]~~ animals may not be sold or traded unless they originate from a captive-bred population.

(b) Complete and accurate records for native or naturalized species must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the ~~[zoological]~~ animal has been obtained.

(3)(a) A person may not import, collect or possess a live~~[-zoological]~~ animal classified as controlled for a commercial

use or commercial venture, without first obtaining a certificate of registration.

(b) A certificate of registration will not be issued to sell or trade a native or naturalized species of ~~[zoological]~~ animal classified as controlled unless it originates from a captive-bred population.

(c) It is unlawful to transfer a live ~~[zoological]~~ animal classified as controlled to a person who does not have a certificate of registration to possess the~~[-zoological]~~ animal.

(d) Complete and accurate records must be maintained and available for inspection for two years from the date of transaction, documenting the date, name, phone number, and address of the person from whom the~~[-zoological]~~ animal has been obtained.

(e) Complete and accurate records must be maintained and available for inspection for two years from the date of transfer, documenting the date, name, address and certificate of registration number of the person receiving the~~[-zoological]~~ animal.

(4)(a) A certificate of registration will not be issued for importing or possessing a live ~~[zoological]~~ animal classified as prohibited for a commercial use or commercial venture, except as provided in Subsection (b)~~[-]~~ or R657-3-36.

(b) The division may issue a certificate of registration to a zoo, circus, amusement park, aviary, aquarium, or film company to import, collect or possess live species of ~~[zoological]~~ animals classified as prohibited if, in the opinion of the division, the importation for a commercial use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(c) The division's authority to issue a certificate of registration to a zoo, circus, amusement park, ~~[or]~~ aquarium, aviary or film company under this Subsection is restricted to those facilities that keep the prohibited species of~~[-zoological]~~ animals in a park, building, cage, enclosure or other structure for the primary purpose of public exhibition~~[-or]~~, viewing, or filming.

(5) An entry permit, and a certificate of veterinary inspection are required by the Department of Agriculture to import a live ~~[zoological]~~ animal classified as noncontrolled, controlled or prohibited.

R657-3-19. Collection, Importation or Possession of Dead ~~[Zoological]~~ Animals or Their Parts for a Commercial Use.

(1) Pursuant to Sections 23-13-13 and 23-20-3, a person may not collect, import or possess any dead ~~[zoological]~~ animal or its parts for a commercial use or commercial venture for ~~[pecuniary]~~ financial gain, unless otherwise provided in the rules and proclamations of the Wildlife Board, or a memorandum of understanding with the division.

(2) The restrictions in Subsection (1) do not apply to the following:

(a) the commercial use of a dead coyote, jackrabbit, muskrat, raccoon, or its parts;

(b) a business entity that has obtained a certificate of registration from the division to conduct nuisance wildlife control or carcass removal~~[-is allowed]~~; and

(c) dead~~[-zoological]~~ animals sold or traded for educational use.

R657-3-20. Collection, Importation or Possession for Scientific or Educational Use.

(1) A person may collect, import or possess live or dead ~~zoological~~ animals or their parts for a scientific or educational use only as follows:

(~~1~~) (a) Certificates of registration are not issued for collecting, importing or possessing live or dead ~~zoological~~ animals classified as prohibited, except as provided in Subsection (b) ~~of this section~~, or R657-3-36.

(b) The division may issue a certificate of registration to a university, college, governmental agency, bona fide nonprofit institution, or a person involved in wildlife research to collect, import or possess live or dead ~~zoological~~ animals classified as prohibited if, in the opinion of the division, the scientific or educational use is beneficial to wildlife or significantly benefits the general public without material detriment to wildlife.

(2) A person shall obtain a certificate of registration before collecting, importing or possessing live or dead ~~zoological~~ animals or their parts classified as controlled.

(3) A certificate of registration is not required to collect, import or possess live or dead ~~zoological~~ animals classified as noncontrolled.

R657-3-21. Classification and Specific Rules for Birds.

(1) The following birds are classified as noncontrolled for collection, importation and possession:

(a) Penguins, family Spheniscidae ~~[Family]~~, (All species);

(b) Megapodes (Mound-builders), family Megapodiidae ~~[Family]~~ (All species);

(c) Coturnix quail, family Phasianidae ~~[Family]~~ (Coturnix spp.);

(d) Buttonquails, family Turnicidae ~~[Family]~~ (All species);

(e) Turacos (including Plantain eaters and Go-away-birds), family Musophagidae ~~[Family]~~ (All species);

(f) Pigeons and Doves, family Columbidae ~~[Family]~~ (All species not native to North America);

(g) Parrots, family Psittacidae ~~[Family]~~ (All species not native to North America);

(h) Rollers, family Coraciidae ~~[Family]~~ (All species);

(i) Motmots, family Momotidae ~~[Family]~~ (All species);

(j) Hornbills, family Bucerotidae ~~[Family]~~ (All species);

(k) Barbets, families Capitonidae and Rhamphastidae ~~[Families]~~ (Capitoninae) (All species not native to North America);

(l) Toucans, families Ramphastidae and Rhamphastidae ~~[Families]~~ (Ramphastinae) (All species not native to North America);

(m) Broadbills, family Eurylaimidae ~~[Family]~~ (All species);

(n) Cotingas, family Cotingidae ~~[Family]~~ (All species);

(o) Honeyeaters, Meliphagidae Family (All species);

(p) Leafbirds and Fairy-bluebirds, family Irenidae ~~[Family]~~ (Irena spp., Chloropsis spp., and Aegithina spp.);

(q) ~~[Starlings, Sturnidae Family (All species, except European Starling);~~

~~(r) Babblers, family Timaliidae [Family] (All species);~~

(~~[s]~~) White-eyes, family Zosteropidae ~~[Family]~~ (All species);

(~~[t]~~) Sunbirds, family Nectariniidae ~~[Family]~~ (All species);

(~~[u]~~) Sugarbirds, family Promeropidae ~~[Family]~~ (All species)

(~~[v]~~) Weaver finches, family Ploceidae ~~[Family]~~ (All species);

(~~[w]~~) Estrildid finches (Waxbills, Mannikins, and Munias) family Estrildidae ~~[Family]~~, (Estrildidae) (Estrildinae) (All species); and

(~~[x]~~) Vidua finches (Indigobirds and Whydahs) family Viduidae ~~[Family]~~, Estrildidae (Viduinae) (All species);

(~~[y]~~) Finches and Canaries, family Fringillidae ~~[Family]~~ (All species not native to North America);

(~~[z]~~) Tanagers (including Swallow-tanager), family Thraupidae ~~[Family]~~ (All species not native to North America); and

(~~[aa]~~) Icterids (Troupials, Blackbirds, Orioles, etc.), family Icteridae ~~[Family]~~ (All species not native to North America, except Central and South American Cowbirds).

(2) The following birds are classified as noncontrolled for collection and possession, and controlled for importation:

(a) ~~[European Starling, Sturnidae Family (Sturnus vulgaris); and] Cowbirds (Molothrus spp.) family Icteridae;~~

(b) European Starling, family Sturnidae (Sturnus bulgaris);

(c) House (English) Sparrow, family Passeridae [Family] (Passer domesticus); and

(d) Domestic Pigeon (Rock Dove) (Columba livia) family Columbidae.

~~(3) The following birds are classified as prohibited for collection and importation, and controlled for possession:~~

~~(a) Icteridae (Molothrus spp. and Scaphidura oryzivora);~~

~~(4) The following birds are classified as prohibited for collection, importation and possession:~~

(a) Ocellated turkey, family Phasianidae ~~[Family]~~, (Meleagris ocellata).

(~~[5]~~) All species and subspecies of birds and their parts, including feathers, not listed in Subsection (1) through Subsection (~~[4]~~)~~3~~:

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

(d) destruction of resident Canada goose eggs and nests is allowed provided the landowner complies with R657-3-8(3).

(5) Destruction of resident Canada goose eggs and nests is allowed provided the landowner complies with R657-3-8(3).

R657-3-22. Classification and Specific Rules for Crustaceans and Mollusks.

(1) Crustaceans are classified as follows:

(a) Asiatic (Mitten) Crab, family Grapsidae~~[Family]~~ (Eriocheir, All species) are prohibited for collection, importation and possession;

(b) Brine shrimp, family Mysidae~~[Family]~~ (All species) are classified as controlled for collection, and noncontrolled for importation and possession;

~~(c) [Red-claw crayfish, Astacidae Family (Cherax quadricarinatus) is prohibited for collection, and controlled for importation and possession;~~

~~(d)] Crayfish, families Astacidae, Cambaridae and Parastacidae~~~~[Families]~~ (All species except Cherax quadricarinatus) are prohibited for collection, importation and possession;

~~(d) Pilose crayfish, (Pacifastacus gambelii) is prohibited for collection, importation, and possession;~~

(e) Daphnia, family Daphnidae~~[Family]~~ (Daphnia lumholztii) is prohibited for collection, importation and possession;

(f) Fishhook water flea, family Cercopagidae~~[Family]~~ (Cercopagis pengoi) is prohibited for collection, importation and possession; and

(g) Spiny water flea, family Cercopagidae ~~[Family]~~ (Bythotrephes cederstroemii) is prohibited for collection, importation and possession.

(h) Stygobromus utahensis, family Crangonnyctidae is prohibited for collection, importation and possession.

(2) Mollusks are classified as follows:

(a) ~~[African giant snail,]Family Achatinidae [Family (Achatina fulica)](All species)~~ is prohibited for collection, importation and possession;

(b) Brian ~~[head]Head~~ mountainsnail, family Oreohelicidae~~[Family]~~ (Oreohelix parawanensis) is controlled for collection, importation and possession;

(c) ~~[California floater, Anodontidae Family (Anodonta californiensis)]Dark falsemussel, (Mytilopsis leucophaeta) family Dreissenidae~~ is controlled for collection, importation and possession;

(d) ~~[Corrugated]Deseret~~ mountainsnail, family Oreohelicidae ~~[Family (Oreohelix haydeni corrugata) (Oreohelixperipherica)]~~ is controlled for collection, importation and possession;

(e) ~~[Cummings' mountainsnail, Oreohelicidae Family (Oreohelix yavapai cummingsi)]Desert springsnail, (Pyrgulopsis deserta) family Hydrobiidae~~ is controlled for collection, importation and possession;

(f) ~~[Deseret mountainsnail, Oreohelicidae Family (Oreohelix peripherica) is controlled]Desert valvata, (Valvata utahensis) family Valvatidae~~ is prohibited for collection, importation and possession;

(g) ~~[Desert springsnail, Hydrobiidae Family (Pyrgulopsis deserta)]Eureka mountainsnail, (Oreohelix eurekaensis) family Oreohelicidae~~ is controlled for collection, importation and possession;

(h) ~~[Desert valvata, Valvatidae Family (Valvata utahensis) is prohibited]Fat-whorled pondsnailed, (Stagnicola bonnevillensis) family Lymnaeidae~~ is controlled for collection, importation and possession;

(i) ~~[Eureka mountainsnail, Oreohelicidae Family (Oreohelix eurekaensis)]Fish Lake physa, (Physella microstriata) family Physidae~~ is controlled for collection, importation and possession;

~~(j) [Fat-whorled pondsnailed, Lymnaeidae Family]Fish Springs marshsnail, (Stagnicola [bonnevillensis] is controlled]pilsbryi) family Lymnaeidae~~ is prohibited for collection, importation and possession;

~~(k) [Fish lake physa, Physidae Family (Physella microstriata)]Floater, (Anodonta spp. All species) family Anodontidae~~ is controlled for collection, importation and possession;

~~(l) [Fish springs marshsnail, Lymnaeidae Family (Stagnicola pilsbryi) is prohibited]Glossy valvata, (Valvata humeralis) family Valvatidae~~ is controlled for collection, importation and possession;

~~(m) [Glossy valvata, Valvatidae Family (Valvata humeralis) is controlled]Kanab ambersnail, (Oxyloma kanabense) family Succineidae~~ is prohibited for collection, importation and possession;

~~(n) [Kanab ambersnail, Succineidae Family (Oxyloma kanabense) is prohibited]Lyrate mountainsnail, (Oreohelix haydeni) family Oreohelicidae~~ is controlled for collection, importation and possession;

~~(o) [Lyrate mountainsnail, Oreohelicidae Family (Oreohelix haydeni) is controlled]New Zealand mudsnail, (Potamopyrgus antipodarum) family Hydrobiidae~~ is prohibited for collection, importation and possession;

~~(p) [New Zealand Mudsnail, Hydrobiidae Family (Potamopyrgus antipodarum)]Quagga mussel, (Dreissena bugenses) family Dreissenidae~~ is prohibited for collection, importation and possession;

~~(q) [Quagga mussel, Dreissenidae Family (Dreissena bugenses)]Red-rimmed melania, (Melanoides tuberculatus) family Thiaridae~~ is prohibited for collection, importation and possession;

~~(r) [Spruce snail, Thysanophoridae Family (Microphysula ingersolli) is]Springsnails or pyrgs (Pyrgulopsis spp. All species) family Hydrobiidae~~ are controlled for collection, importation and possession[;].

~~(s) [Thickshell pondsnailed, Lymnaeidae Family (Stagnicola utahensis) is prohibited]Southern tightcoil, (Ogaridiscus subrupicola) family Zonitidae~~ is controlled for collection, importation and possession;

~~(t) [Utah physa, Physidae Family (Physella utahensis)]Spruce snail, (Microphysula ingersolli) family Thysanophoridae~~ is controlled for collection, importation and possession;

~~(u) [Wet-rock physa, Physidae Family (Physella zionis) is controlled]Thickshell pondsnailed, (Stagnicola utahensis) family Lymnaeidae~~ is prohibited for collection, importation and possession;

~~(v) Utah physa, (Physella utahensis) family Physidae~~ is controlled for collection, importation and possession;

~~(w) Western pearlshell, (Margaritifera falcata) family Margaritiferidae~~ is prohibited for collection, importation and possession;

~~(x) Wet-rock physa, (Physella zionis) family Physidae~~ is controlled for collection, importation and possession;

~~(y) Yavapai mountainsnail, [Oreohelicidae Family (Oreohelix yavapai) family Oreohelicidae~~ is controlled for collection, importation and possession; and

(~~[w]~~[z]) Zebra mussel, [~~Dreissenidae Family~~](~~Dreissena polymorpha~~) [~~is prohibited for collection, importation and possession.~~

(~~x~~) Red-Rimmed Melania, ~~Thiaridae Family~~ (~~Melanoides tuberculatus~~) [~~is prohibited for collection, importation and possession.~~

(~~y~~) Western Pearlshell, ~~Margaritiferidae Family~~ (~~Margaritifera falcata~~) [~~family Dreissenidae~~] is prohibited for collection, importation and possession.

(3) All native species and subspecies of crustaceans and mollusks not listed in Subsection (1) and (2), excluding ornamental aquatic animal species, are classified as [~~noncontrolled~~]controlled for collection, importation and possession.

(4) All nonnative species and subspecies of crustaceans and mollusks not listed in Subsection (1) and (2), excluding ornamental aquatic animal species, are classified as prohibited for collection, importation and possession.

R657-3-23. Classification and Specific Rules for Fish.

(1) All species of fish listed in Subsections (2) through (30) are classified as prohibited for collection, importation and possession, except:

(a) Koi, [~~Cyprinidae Family~~] (~~Cyprinus carpio~~) family Cyprinidae is prohibited for collection, and noncontrolled for importation and possession;

(b) all species and subspecies of ornamental [~~fish~~]aquatic animal species not listed in Subsections (2) through (30) are classified as prohibited for collection, and noncontrolled for importation and possession; and

(c) all native and nonnative species and subspecies of [~~non~~]fish that are not ornamental [fish (native and/or nonnative)]aquatic animal species and not listed in Subsections (2) through (30) are classified as prohibited for collection, and controlled for importation and possession.

(2) Carp, including hybrids, family Cyprinidae [~~Family~~]; (All species, except Koi).

(3) Catfish:

(a) Blue catfish, (ictalurus furcatus) family Ictaluridae;

(b) Flathead catfish, [~~Ictaluridae Family~~] (Pylodictus olivaris) family Ictaluridae;

(~~[b]~~[c]) Giant walking catfish (airsac), family Heteropneustidae [~~Family~~](All species);

(~~[e]~~[d]) Labyrinth catfish (walking), family Clariidae [~~Family~~](All species); and

(~~[d]~~[e]) Parasitic catfish (candiru, carnero) family Trichomycteridae [~~Family~~](All species);

(~~e~~) Blue catfish, Ictaluridae Family (Ictalurus fureatus).

(4) Herring:

(a) Alewife, [~~Clupeidae Family~~](Alosa pseudoharengus) family Clupeidae; and

(b) Gizzard shad, [~~Clupeidae Family~~](Dorosoma cepedianum) family Clupeidae.

(5) Killifish, family Fundulidae [~~Family~~] (All species).

(6) Pike killifish, [~~Poeciliidae Family~~](Belonesox belizanus) family Poeciliidae.

(7) Minnows:

(a) Bonytail, [~~Cyprinidae Family~~](Gila elegans) family Cyprinidae;

(b) Colorado pikeminnow, [~~Cyprinidae Family~~] (Ptychocheilus lucius) family Cyprinidae;

(c) Creek chub, [~~Cyprinidae Family~~](Semotilus atromaculatus) family Cyprinidae;

(d) Emerald shiner, (Notropis atherinoides) family Cyprinidae;

(~~e~~) Humpback chub, [~~Cyprinidae Family~~](Gila cypha) family Cyprinidae;

(~~[e]~~[f]) Least chub, [~~Cyprinidae Family~~] (Iotichthys phlegethontis) family Cyprinidae;

(~~[f]~~[g]) Northern [~~Leatherside~~]leatherside chub, [~~Cyprinidae Family~~] (Lepidomeda copei);

(~~g~~) Southern Leatherside chub,] family Cyprinidae [~~Family (Lepidomeda aliciae)~~];

(h) Red shiner, [~~Cyprinidae Family~~] (Cyprinella lutrensis) family Cyprinidae;

(i) Redside shiner, [~~Cyprinidae Family~~] (Richardsonius balteatus) family Cyprinidae;

(j) Roundtail chub, [~~Cyprinidae Family~~](Gila robusta) family Cyprinidae;

(k) Sand shiner, [~~Cyprinidae Family~~] (Notropis stramineus) family Cyprinidae;

(l) Southern leatherside chub, (Lepidomeda aliciae) family Cyprinidae;

(~~m~~) Utah chub, [~~Cyprinidae Family~~](Gila atraria) family Cyprinidae;

(~~[m]~~[n]) Virgin River chub, [~~Cyprinidae~~](Gila seminuda) family Cyprinidae; and

(~~[n]~~[o]) Virgin spinedace, Cyprinidae Family (Lepidomeda mollispinis).

[~~(o)~~] Emerald shiner, Cyprinidae Family (Notropis atherinoides);

(p) Woundfin, [~~Cyprinidae Family~~] (Plagopterus argentissimus) family Cyprinidae.

(8) Burbot, [~~Lotidae Family~~] (Lota lota) family Lotidae.

(9) Suckers:

(a) Bluehead sucker, [~~Catostomatidae Family~~] (Catostomus discobolus) family Catostomidae;

(b) Desert sucker, [~~Catostomatidae Family~~](Catostomus clarki) family Catostomidae;

(c) Flannelmouth sucker, [~~Catostomatidae Family~~] (Catostomus latipinnis) family Catostomidae;

(d) June sucker, [~~Catostomatidae Family~~](Chasmistes liorus) family Catostomidae;

(e) Razorback sucker, [~~Catostomatidae Family~~] (Xyrauchen texanus) family Catostomidae;

(f) Utah sucker, [~~Catostomatidae Family~~](Catostomus ardens) family Catostomidae; and

(g) White sucker, [~~Catostomatidae Family~~](Catostomus commersoni) family Catostomidae.

(10) White perch, [~~Moronidae Family~~](Morone americana) family Moronidae.

(11) Cutthroat trout, [~~Salmonidae Family~~](Oncorhynchus clarki) (All subspecies) family Salmonidae.

(12) Bowfin, (All species) family Amiidae [~~Family (All species)~~].

(13) Bull shark, [~~Carcharhinidae Family~~](Carcharhinus leucas) family Carcharhinidae.

(14) Drum (All freshwater forms species), family Sciaenidae [~~Family (All species)~~].

(15) Gar, (All species) family Lepidososteidae [~~Family (All species)~~].

(16) Jaguar guapote, [~~Cichlidae Family~~](Cichlasoma managuense) family Cichlidae.

(17) Lamprey, (All species) family Petromyzontidae [~~Family (All species)~~].

(18) Mexican tetra, [~~Characidae Family~~](Astyanax mexicanus, except blind form) family Characidae.

(19) Mooneye, (All species) family Hiodontidae [~~Family (All species)~~].

(20) Nile perch, [~~Centropomidae Family~~](Lates, luciolates) (All species) family Centropomidae.

(21) Northern pike, [~~Esoeidae Family~~](Esox lucius) family Esocidae.

(22) [~~Pirhana, Characidae Family~~]Piranha, (Serrasalmus, All species) family Characidae.

(23) Round goby, [~~Gobiidae Family~~](Neogobius melanostomus) family Gobiidae.

(24) Ruffe, [~~Percidae Family~~](Gymnocephalus cernuus) family Percidae.

(25) Snakehead, [~~Channidae Family~~](All species) family Channidae.

(26) Stickleback, (All species) family Gasterosteidae [~~Family (All species)~~].

(27) Stingray (All freshwater[:]) species family Dasyatidae [~~Family (All species)~~].

(28) Swamp eel, (All species) family Synbranchidae [~~Family (All species)~~].

(29) Tiger fish[:] or guavinus, [~~Erythrinidae Family~~](Hoplias malabaricus) family Erythrinidae.

(30) Tilapia, [~~Cichlidae Family~~](Tilapia and Sarotherodon) (All species) family Cichlidae.

R657-3-24. Classification and Specific Rules for Mammals.

(1) Mammals are classified as follows:

(a) Monotremes ([~~Platypus~~]platypus and [~~Spiny~~]spiny anteaters), (All species) families Ornithorhynchidae and Tachyglossidae [~~Families (All species)~~] are prohibited for collection, and controlled for importation and possession;

(b) Marsupials are classified as follows:

(i) [~~Opossum, Didelphidae Family~~]Virginia opossum, (Didelphis virginiana) family Didelphidae is noncontrolled for collection, prohibited for importation and controlled for possession;

(ii) [~~Sugar glider, Petauridae Family (Petaurus breviceps)~~] is noncontrolled for collection, importation or possession;

(iii) [~~Wallabies, wallaroos and kangaroos, (All species) family Macropodidae (Family (All species))~~] are prohibited for collection, importation and possession;

(c) Bats and flying foxes (All families, All species) (order Chiroptera), [~~All families (All species)~~] are prohibited for collection, importation and possession;

(d) Insectivores ([~~Insectivora~~]all groups, All species) are controlled for collection, importation and possession;

(e) Hedgehogs and [~~Tenrees,tenrecs, families Erinaceidae and Tenrecidae (Families,)~~] except white bellied hedgehogs are controlled for collection, importation and possession;

(f) Shrews, [~~Sorexidae Family~~](Sorex spp. and Notisorex spp.) family Soricidae are controlled for collection, importation and possession;

(g) Anteaters, [~~Slotts~~]slotts and [~~Armadillos (Xenartha),~~]armadillos (All families, ([All species) (order Xenartha)), are prohibited for collection, and controlled for importation and possession;

(h) Aardvark ([~~Tubidentata~~), Orycteropodidae Family (Orycteropus afer) family Orycteropodidae is prohibited for collection, and controlled for importation and possession;

(i) Pangolins or [~~Scaly Anteaters (Philodota),~~]scaly anteaters (Manis spp.) (order Philodota) are prohibited for collection and importation, and controlled for possession;

(j) Tree shrews ([~~Seandentia~~),Tupalidae Family (All species) family Tupalidae are prohibited for collection, and controlled for importation and possession;

(k) Lagomorphs ([~~Rabbits, Hares and Pikas~~]rabbits,hares andpikas) are classified as follows:

(i) Jackrabbits, [~~Leporidae Family~~](Lepus spp.) family Leporidae are noncontrolled for collection, and controlled for importation and possession;

(ii) Cottontails, [~~Leporidae Family~~](Syvilagus spp.) family Leporidae are prohibited for collection, and controlled for importation and possession;

(iii) Pygmy rabbit, [~~Leporidae Family~~](Brachylagus idahoensis) family Leporidae is prohibited for collection, and controlled for importation and possession;

(iv) Snowshoe hare, [~~Leporidae Family~~](Lepus americanus) family Leporidae is prohibited for collection, and controlled for importation and possession;

(v) Pika, [~~Ochotonidae Family~~](Ochotona princeps) family Ochotonidae is controlled for collection, importation and possession;

(l) Elephant shrews ([~~Macroscelidea~~),All species) family Macroscelididae [~~Family (All species)~~] are prohibited for collection, and controlled for importation and possession;

(m) Rodents (order Rodentia) are classified as follows:

(i) Beaver, [~~Castoridae Family~~](Castor canadensis) family Castoridae is controlled for collection, importation and possession;

(ii) Muskrat, [~~Crietididae Family~~](Ondatra zibethicus) family Muridae are noncontrolled for collection, and controlled for importation and possession;

(iii) Deer mice and related species, [~~Crietididae Family~~](Peromyscus spp.) family Muridae are controlled for collection, importation and possession;

(iv) Grasshopper mice, [~~Crietididae Family~~](Onychomys spp.) family Muridae are controlled for collection, importation and possession;

(v) [~~Heather vole, Crietididae Family (Phenacomys intermedius) is~~]Voles (All genera and species), family Muridae, subfamily Microtinae are controlled for collection, importation and possession;

(vi) [~~Meadow vole, Crietididae Family (Microtus pennsylvanicus) is noncontrolled~~]Western harvest mouse, (Reithrodontomys megalotis) family Muridae is controlled for collection, [~~and controlled for~~] importation and possession;

(vii) ~~[Red-backed vole, Cricetidae Family— (Clethrionomys gapperi) is]~~ Woodrats, (Neotoma spp.) family Muridae are controlled for collection, importation and possession;

(viii) ~~[Sagebrush vole, Cricetidae Family (Lemmiscus eurtatus) is controlled for collection, importation and possession;~~

~~(ix) Other voles, Cricetidae Family (Microtus spp.) are controlled for collection, importation and possession;~~

~~(x) Western harvest mouse, Cricetidae Family (Reithrodontomys megalotis) is controlled for collection, importation and possession;~~

~~(xi) Woodrats, Cricetidae Family (Neotoma spp.) are controlled for collection, importation and possession;~~

~~(xii)]Nutria or coypu, [Myocastoridae Family] (Myocastor coypus) family Myocastoridae is noncontrolled for collection, prohibited for importation and controlled for possession;~~

~~([xiii]ix) Pocket gophers ([aH]All species); Geomyidae Family], except the Idaho pocket gopher (Thomomys [spp-]idahoensis)) family Geomyidae are noncontrolled for collection, and controlled for importation and possession;~~

~~([xiv]x) Pocket mice, [Heteromyidae Family—] (Perognathus spp. and Chaetodipus intermedius) family Heteromyidae are controlled for collection, importation and possession;~~

~~([xv]xi) Dark kangaroo mouse, [Heteromyidae Family—] (Microdipodops pallidus) family Heteromyidae is controlled for collection, importation and possession;~~

~~([xvi]xii) Kangaroo rats, [Heteromyidae Family—] (Dipodomys spp.) family Heteromyidae are controlled for collection, importation and possession;~~

~~([xvii] Desert kangaroo rat, Heteromyidae Family— (Dipodomys deserti) is controlled for collection, importation and possession;~~

~~(xviii) Merriam's kangaroo rat, Heteromyidae Family— (Dipodomys merriami) is controlled for collection, importation and possession;~~

~~(xix) Ord's kangaroo rat, Heteromyidae Family— (Dipodomys ordii) is controlled for collection, importation and possession;~~

~~(xx [xiii] Abert's squirrel, [Sciuridae Family—] (Sciurus aberti[—navajo]) family Sciuridae is prohibited for collection, importation and possession;~~

~~([xxi]xiv) Black-tailed prairie dog, [Sciuridae Family—] (Cynomys ludovicianus) family Sciuridae is controlled for collection, and prohibited for importation and possession;~~

~~([xxii]xv) Gunnison's prairie dog, [Sciuridae Family—] (Cynomys gunnisoni) family Sciuridae is controlled for collection, importation and possession;~~

~~([xxiii]xvi) Utah prairie dog, [Sciuridae Family—] (Cynomys parvidens) family Sciuridae is prohibited for collection, importation and possession;~~

~~([xxiv]xvii) White-tailed prairie dog, [Sciuridae Family—] (Cynomys leucurus) family Sciuridae is controlled for collection, importation and possession;~~

~~([xxv]xviii) Chipmunks, All species except [Yellow]yellow-pine chipmunk[;] (Neotamias amoenus) family Sciuridae[—Family (Tamias and Eutamias)] are noncontrolled for collection, and controlled for importation and [possession]possession;~~

~~([xxvi](xix) Yellow-pine chipmunk, [Sciuridae Family— (Tamias)](neotamias amoenus) family Sciuridae is controlled for collection, importation and possession;~~

~~([xxvii]xx) Northern flying squirrel, [Sciuridae Family—] (Glaucomys sabrinus) family Sciuridae is controlled for collection, importation and possession;~~

~~([xxviii]xxi) Southern flying squirrel, [Sciuridae Family—] (Glaucomys volans) family Sciuridae is prohibited for collection, importation and possession;~~

~~([xxix]xxii) Fox squirrel or eastern fox squirrel (Sciurus niger) family Sciuridae is prohibited for collection, importation, and possession;~~

~~(xxiii) Ground squirrel and rock squirrel, and antelope squirrels (All species, All genera), family Sciuridae are controlled for collection, importation and possession, except nuisance squirrels[;] which are noncontrolled for collection[;—Sciuridae Family (Spermophilus spp. and Ammospermophilus leucurus) are controlled for collection, importation and possession];~~

~~([xxx]xxiv) Red squirrel[—or chickaree, except for nuisance animals, which are noncontrolled for collection, Sciuridae Family], (Tamiasciurus hudsonicus) family Sciuridae are controlled for collection, importation and [possession]possession, except for nuisance animals, which are noncontrolled for collection;~~

~~([xxxi]xxv) Yellow-bellied marmot, [Sciuridae Family—] (Marmota flaviventris) family Sciuridae is controlled for collection, importation and possession;~~

~~([xxxii]xxvi) Western jumping mouse,[—Zapodidae Family—](Zapus princeps) family Zapodidae is controlled for collection, importation and possession;~~

~~([xxxiii]xxvii) Porcupine, [Erethizontidae Family—] (Erethizon dorsatum) family Erethizontidae is controlled for collection, importation and possession;~~

~~([xxxiv] Other [xxviii] Degus and other South American rodents,[—Degus and]family Octodontidae [Families—](All species) are prohibited for collection, importation and possession;~~

~~([xxxv]xxvix) Dormice, families Gliridae and Selevinidae [Families—](All species) are prohibited for collection, importation and [possession]possession;~~

~~([xxxvi]xxx) African pouched rats, family Muridae [Family—](All species) are prohibited for collection, importation and possession;~~

~~([xxxvii]xxxii) Jirds, [Muridae Family—](Meriones spp.) family Muridae are prohibited for collection, importation and possession;~~

~~([xxxviii] Pygmy mice, Muridae Family (Mus triton) [xxxii] Mice, (All species of Mus) family Muridae, except Mus musculus are prohibited for collection, importation and possession;~~

~~([xxxix]xxxiii) Spiny mice, [Muridae Family—](Acomys spp.) family Muridae are prohibited for collection, importation and possession;~~

~~([xl]xxxiv) Hyraxes ([Hyracoidea]; All species) family Procaviidae[—Family (All species)] are prohibited for collection, and controlled for importation and possession;~~

~~(xxxv) Idaho pocket gopher, (Thomomys idahoensis) family Geomyidae is controlled for collection, importation and possession.~~

(n) Hoofed mammals (Artiodactyla and Perissodactyla) are classified as follows:

(i) ~~[Bison]~~American bison or ~~[Buffalo (Wild)]~~"buffalo" wild and free ranging[}], ~~(Bos bison) family Bovidae~~ family Bovidae ~~Family (Bison bison)~~ is prohibited for collection, importation and possession;

(ii) Collared peccary or javelina, ~~(Tayassu tajacu) family Tayassuidae~~ Family (Pecari tajacu) is prohibited for collection, importation and possession;

(iii) Axis deer, ~~[Cervidae Family]~~(Cervus axis) family Cervidae is prohibited for collection, importation and possession;

(iv) Caribou, wild and free ranging, ~~[Cervidae Family]~~ (Rangifer tarandus) family Cervidae is prohibited for collection, importation and possession;

(v) Caribou, captive-bred, ~~[Cervidae Family]~~(Rangifer tarandus) family Cervidae is prohibited for collection, and controlled for importation and possession;

(vi) Elk or red deer (Cervus elaphus), wild and free ranging, ~~family Cervidae~~ Family (Cervus elaphus) is prohibited for collection, importation and possession;

(vii) Fallow deer, ~~(Cervus dama)~~ wild and free ranging, ~~family Cervidae~~ Family (Cervus dama) is prohibited for collection, importation and possession;

(viii) Fallow deer, ~~(Cervus dama)~~ captive-bred, ~~family Cervidae~~ Family (Cervus dama) is prohibited for collection, and controlled for importation and possession;

(ix) Moose, ~~[Cervidae Family]~~(Alces alces) family Cervidae is prohibited for collection, importation and possession;

(x) Mule deer, ~~[Cervidae Family]~~(Odocoileus hemionus) family Cervidae is prohibited for collection, importation and possession;

(xi) ~~[Red]~~White-tailed deer[;] ~~(Odocoileus virginianus)~~ family Cervidae ~~Family (Cervus elaphus)~~ is prohibited for collection, importation and possession;

(xii) Rusa deer, ~~[Cervidae Family]~~(Cervus timorensis) family Cervidae is prohibited for collection, importation and possession;

(xiii) Sambar deer, ~~[Cervidae Family]~~(Cervus unicolor) family Cervidae is prohibited for collection, importation and possession;

(xiv) Sika deer, ~~[Cervidae Family]~~(Cervus nippon) family Cervidae is prohibited for collection, importation and possession;

(xv) ~~[White-tailed deer, Cervidae Family (Odocoileus virginianus)]~~Muskox, (Ovibos moschatus), wild and free ranging, family Bovidae is prohibited for collection, importation and possession;

(xvi) Muskox, ~~[wild and free ranging, Bovidae Family]~~ (Ovibos moschatus) ~~is prohibited for collection, importation and possession;~~

~~(xvii) Muskox]~~, captive-bred, ~~family Bovidae~~ Family (Ovibos moschatus) is prohibited for collection, and controlled for importation and possession;

~~(xviii)~~xvii) Pronghorn, [Antilocapridae Family] (Antilocapra americana) family Antilocapridae is prohibited for collection, importation and possession;

~~(xviii)~~xviii) Barbary sheep or aoudad, (Ammotragus lervia) family Bovidae is prohibited for collection, importation and possession;

(xix) ~~[Barbary]~~Bighorn sheep [or Aoudad;] ~~(Ovis canadensis) (including hybrids) family Bovidae~~ Family (Ammotragus lervia) ~~is~~ are prohibited for collection, importation and possession;

(xx) ~~[Bighorn]~~ Dall's and Stone's sheep (Ovis dalli) (including hybrids) family Bovidae ~~Family (Ovis canadensis)~~ are prohibited for collection, importation and possession;

(xxi) ~~[Dall's and Stone's sheep (including hybrids) Bovidae Family (Ovis dalli)]~~ are prohibited for collection, importation and possession;

~~(xxii)] Exotic wild sheep (including [hybrids], Bovidae Family (Including Mouflon)]~~mouflon, Ovis musimon; Asiatic or red sheep, Ovis orientalis; [Urial]urial, Ovis vignei; [Argali]argali, Ovis ammon; and [Snow Sheep, Ovis nivicola) are] snow sheep, Ovis nivicola, including hybrids, family Bovidae are prohibited for collection, importation and possession;

~~(xxii) Rocky Mountain goat, (Oreamnos americanus) family Bovidae~~ is prohibited for collection, importation and possession;

(xxiii) ~~[Rocky Mountain goat;]~~ibex, (Capra ibex) family Bovidae ~~Family (Oreamnos americanus)~~ is prohibited for collection, importation and possession;

(xxiv) ~~[ibex, Bovidae Family (Capra ibex)]~~ is Wild boar or pig (Sus scrofa), including hybrids, are prohibited for collection, importation and possession;

(o) Carnivores (Carnivora) are classified as follows:

(i) Bears, ~~[Ursidae Family (Ursus, all)]~~(All species) family Ursidae are prohibited for collection, importation and possession;

(ii) Coyote, ~~[Canidae Family]~~(Canis latrans) family Canidae is prohibited for importation, and is controlled by the Utah Department of Agriculture for collection and possession;

(iii) Fennec ~~[fox, Canidae Family]~~, (Vulpes zerda) family Canidae is prohibited for collection, importation and possession;

(iv) Gray fox, ~~[Canidae Family]~~(Urocyon cinereoargenteus) family Canidae is prohibited for collection, importation and possession;

(v) Kit fox, ~~[Canidae Family]~~(Vulpes macotis) family Canidae is prohibited for collection, importation and possession;

(vi) Red fox, ~~[Canidae Family]~~(Vulpes vulpes) family Canidae, as applied to animals in the wild or taken from the wild, is noncontrolled for ~~[collection;]~~ lethal take and prohibited for ~~[importation and]~~ live collection, possession, or importation;

(vii) Gray wolf, ~~(Canis lupus)~~ except hybrids with domestic dogs, ~~family Canidae~~ Family (Canis lupus) is prohibited for collection, importation and possession;

(viii) Wild Cats (All species, including hybrids) ~~family Felidae~~ Family (All species) are prohibited for collection, importation, and possession;

(ix) Bobcat, ~~(Lynx rufus)~~ wild and free ranging, ~~family Felidae~~ Family (Felis rufus) is prohibited for collection, importation and possession;

(x) Bobcat, ~~(Lynx rufus)~~ captive-bred, ~~family Felidae~~ Family (Felis rufus) is prohibited for collection, and controlled for importation and possession;

(xi) Cougar, ~~[Felidae Family (Felis)]~~puma or mountain lion, (Puma[}) concolor) family Felidae is prohibited for collection, importation and possession;

(xii) Canada lynx, (Lynx[:]lynx) wild and free ranging, family Felidae [~~Family (Felis lynx)~~] is prohibited for collection, importation and possession;

(xiii) Eurasian lynx, (Lynx[:]lynx) captive-bred, family Felidae [~~Family (Felis lynx)~~] is prohibited for collection, and controlled for importation and possession;

(xiv) [~~Badger, Mustelidae Family~~]American badger, (Taxidea taxus) family Mustelidae is prohibited for collection, importation and possession;

(xv) Black-footed ferret, [~~Mustelidae Family~~](Mustela nigripes) family Mustelidae is prohibited for collection, importation or possession;

(xvi) Ermine, stout or short-tailed weasel, [~~Mustelidae Family~~](Mustela erminea) family Mustelidae is prohibited for collection, importation and possession;

(xvii) Long-tailed weasel [~~Mustelidae Family~~] (Mustela frenata) family Mustelidae is prohibited for collection, importation and possession;

(xviii) [~~Marten, American marten, (Martes americana)~~] wild and free ranging, family Mustelidae [~~Family (Martes americana)~~] is prohibited for collection, importation and possession;

(xix) [~~Marten, American marten, (Martes americana)~~] captive-bred, family Mustelidae [~~Family (Martes americana)~~] is prohibited for collection, controlled for importation and possession;

(xx) [~~Mink, American mink, (Neovison vison)~~] except domestic forms, family Mustelidae [~~Family (Mustela vison)~~] is prohibited for collection, importation and possession;

(xxi) Northern River Otter, [~~Mustelidae Family~~] (Lutra river otter, (Lontra canadensis)) family Mustelidae is prohibited for collection, importation and possession;

(xxii) Striped skunk, [~~except nuisance skunks, which are noncontrolled for collection, Mustelidae Family~~] (Mephitis mephitis) family Mephitidae is prohibited for collection, importation, and possession, except nuisance skunks, which are noncontrolled for collection;

(xxiii) Western spotted skunk, [~~Mustelidae Family~~] (Spilogale gracilis) family Mephitidae is prohibited for collection, importation, and possession;

(xxiv) Wolverine, [~~Mustelidae Family~~](Gulo gulo) family Mustelidae is prohibited for collection, importation and possession;

(xxv) Coatis, [~~Procyonidae Family~~](Nasua spp. and Nasuella spp.) [~~is~~]family Procyonidae are prohibited for collection, importation and possession;

(xxvi) Kinkajou, [~~Procyonidae Family~~](Potos flavus) family Procyonidae is prohibited for collection, importation and possession;

(xxvii) Northern Raccoon, [~~Procyonidae Family~~] (Procyon lotor) family Procyonidae is prohibited for importation, and controlled by the Department of Agriculture for collection and possession;

(xxviii) Ringtail, [~~Procyonidae Family~~](Bassariscus astutus) family Procyonidae is prohibited for collection, importation and possession;

(xxix) Civets, [~~Genets~~]genets and related forms, [~~Viverridae Family~~](All species) family Viverridae are prohibited for collection, importation and possession;

(p) Primates [~~(Prosimians) (Lower Primates)~~] are classified as follows:

(i) Lemurs, [~~Lemuridae Family~~](All species) family Lemuridae are prohibited for collection, importation and possession;

(ii) Dwarf and mouse lemurs, (All species) family Cheirogaleidae [~~Family (All species)~~] are prohibited for collection, importation and possession;

(iii) Indri and sifakas, [~~Indriidae Family~~](All species) family Indriidae are prohibited for collection, importation and possession;

(iv) Aye aye, [~~Daubentonidae Family~~](Daubentonia madagascensis) family Daubentonidae is prohibited for collection, importation and possession;

(v) Bush babies, pottos and lorises, (All species) family Lorisidae [~~Family (All species)~~] are prohibited for collection, importation and possession;

(vi) Tarsiers, (All species) family Tarsiidae [~~Family (All species)~~] are prohibited for collection, importation and possession;

(vii) [~~Capuchin-like~~]New World monkeys, [~~Cebidae Family~~](All species) family Cebidae are prohibited for collection, importation and possession;

(viii) Marmosets and tamarins, (All species) family Callitrichidae [~~Family (All species)~~] are prohibited for collection, importation and possession;

(ix) Old-world monkeys, (All species) which includes baboons and macaques, [~~Cercopitheidae Family (All species)~~]family Cercopitheidae are prohibited for collection, importation and possession;

(x) Great apes ([~~Gorilla, chimpanzee and orangutan, Pongidae Family (All species)~~] are [All species], which include gorillas, chimpanzees and orangutans, family Hominidae are prohibited for collection, importation and possession;

(xi) Lesser apes (Siamang and gibbons[:], All species), family Hylobatidae [~~Family (All species)~~] are prohibited for collection, importation and possession;

(2) All species and subspecies of mammals and their parts, not listed in Subsection (1):

(a) and not listed in Appendix I or II of CITES are classified as prohibited for collection and controlled for importation and possession;

(b) and listed in Appendix I of CITES are classified as prohibited for collection and importation and controlled for possession;

(c) and listed in Appendix II of CITES are classified as prohibited for collection and controlled for importation and possession.

R657-3-25. Importation of [Zoological] Animals into Utah.

(1) As provided in Rule R58-1, the Department of Agriculture and Food requires a valid certificate of veterinary inspection and an entry permit number before any [~~zoological~~] animal may be imported into Utah.

(2)(a) All live fish imported into Utah and not destined for an aquaculture facility or fee fishing facility must be accompanied by the following documentation:

(i) common or scientific names of fish;

(ii) name and address of the consignor and consignee;

- (iii) origin of shipment;
- (iv) final destination; ~~and~~
- (v) number of fish shipped; and
- (vi) certificate of veterinary inspection, Utah entry permit number issued by the Utah Department of Agriculture and Food, and any other health certifications.

(b) A person may import live fish destined for an aquaculture facility or fee fishing facility only as provided by Title 4, Chapter 37, Aquaculture Act and the rules promulgated thereunder.

(3) Subsection (2)(a) does not apply to dead fish or crayfish caught in Lake Powell, Bear Lake, or Flaming Gorge reservoirs under the authority of a valid fishing license and in accordance with Rule R657-13 and the proclamation of the Wildlife Board for taking fish and crayfish.

R657-3-26. Transporting Live~~[Zoological]~~ Animals Through Utah.

(1) Any controlled or prohibited ~~[zoological]~~ species of animal may be transported through Utah without a certificate of registration if:

(a) the ~~[zoological]~~ animal remains in Utah no more than 72 hours; and

(b) the ~~[zoological]~~ animal is not sold, transferred, exhibited, displayed, or used for a commercial venture while in Utah~~[-]; and~~

(c) the animal is a raptor used for falconry purposes in compliance with the requirements in R657-20.

(2) A certificate of veterinary inspection is required from the state of origin as provided in Rule R58-1 and proof of legal possession must accompany the ~~[zoological]~~ animal.

(3) If delays in transportation arise, an extension of the 72 hours may be requested by contacting the Wildlife Registration Office in Salt Lake City.

(4) None of the provisions in this section will be construed to supersede R657-20-14 and R657-20-30.

R657-3-27. Importing~~[Zoological]~~ Animals into Utah for Processing.

(1) A person shipping ~~[zoological]~~ animals directly to a state or federally regulated establishment for immediate euthanasia and processing is not required to obtain a certificate of registration or certificate of veterinary inspection provided the animals or their parts are accompanied by a waybill or other proof of legal ownership describing the animals, their source, and indicating the destination.

(2) Any water used to hold or transport fish may not be emptied into a stream, lake, or other natural body of water.

R657-3-28. Transfer of Possession.

(1) A person may possess ~~[a zoological]~~ an animal classified as prohibited or controlled only after applying for and obtaining a certificate of registration from the division or Wildlife Board as provided in this rule.

(2) Any person who possesses ~~[a zoological]~~ an animal classified as prohibited or controlled may transfer possession of that ~~[zoological]~~ animal only to a person who has first applied for and obtained a certificate of registration for that ~~[zoological]~~ animal from the division or Wildlife Board.

(3) The division may issue a certificate of registration granting the transfer and possession of that ~~[zoological]~~ animal only if the applicant meets the issuance criteria provided in Section R657-3-14.

(4) A certificate of registration does not provide the holder any rights of succession.

R657-3-29. Propagation.

(1) A person may propagate~~[zoological]~~ animals classified as noncontrolled for possession.

(2) A person may propagate~~[zoological]~~ animals classified as controlled for possession only after obtaining a certificate of registration from the division, or as otherwise authorized in Sections R657-3-30, R657-3-31, and R657-3-32.

(3) A person may not propagate~~[zoological]~~ animals classified as prohibited for possession, except as authorized in Sections R657-3-30, R657-3-~~[31]~~R657-3-32, and R657-3-~~[32-]36~~.

R657-3-30. Propagation of Raptors.

(1) A person may propagate raptors only as provided in this section, R657-20-30, and~~[Section]~~ 50 CFR 21.30, ~~[2002, ed.,]2011~~ which ~~[is]are~~ incorporated herein by reference. All applicants for captive breeding permits must become familiar with this rule and ~~[the]other~~ applicable state and federal regulations.

(2) A person must apply for a federal raptor propagation permit and a certificate of registration from the division to propagate raptors.

(3) If the applicant requests authority to use raptors taken from the wild, the ~~[regional director of the U.S. Fish and Wildlife Service in consultation with the]division's~~ avian program coordinator must determine the following:

(a) whether issuance of the permit would have significant effect on any wild population of raptors;

(b) the length of time the wild caught raptor has been in captivity;

(c) whether suitable captive stock is available; and

([e]d) whether wild stock is needed to enhance the genetic variability of captive stock; and

(e) whether a federal permit to use a wild caught raptor for propagation has been issued.

(4) Raptors may not be taken from the wild for captive breeding, except as provided in Subsection (3)~~[-] and R657-20-30.~~

(5) A person must obtain authorization from the division before importing raptors or raptor semen into Utah~~[or importing captive-raised raptors for sale]~~. The authorization shall be noted on the certificate of registration.

(6) A person may sell a captive-bred raptor properly marked with a band approved by the U.S. Fish and Wildlife Service or issued by the U.S. Fish and Wildlife Service to a resident raptor breeder or falconer who has a valid ~~[federal and state license or to]Utah falconry certificate of registration or to a nonresident~~ state and federally licensed apprentice, general or master class falconer or raptor breeder.

(7) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(8) ~~Each captive-bred~~ A raptor ~~brought~~ imported into Utah ~~must be accompanied by a valid~~ is required to have:

~~(a) a certificate of veterinary inspection [issued by an accredited veterinarian] from the state, tribe, country or territory of origin; and~~

~~(b) an import authorization number issued through the Utah Department of Agriculture and Food.~~

(9) A permittee may use raptors held in possession for propagation in the sport of falconry only if such use is designated on both the permittee's propagation permit and the [permittee's] falconry [permit] certificate of registration.

~~[(10) Raptors used for falconry on temporary loan to a breeding project, with the division's authorization and accompanied by a Form 3-186A, Migratory Bird Acquisition and Disposition Report, provided by the U.S. Fish and Wildlife Service, must be included in the loaning falconer's bird number limitation as permitted in the license class designation.]~~ a) Formal approval from the division is required to transfer a raptor from a falconry certificate of registration to propagation use that exceeds 8 months in duration.

~~[(11)(a) Hybridization with the female of a species which is endangered or threatened is prohibited.]~~ b) A licensed raptor propagator may temporarily possess and use a falconry raptor for propagation without division approval, provided the propagator possesses:

(i) a signed and dated statement from the falconer authorizing the temporary possession; and

~~(b) Interspecific hybridization between species is authorized only if each raptor produced is either imprinted on humans or surgically sterilized.]~~ (ii) a copy of the falconer's original FWS Form 3-186A for that raptor.

~~(i) "Imprinted on humans" means hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered.~~

~~(c) Documentation of imprinting on humans required under Subsection (b) must be provided by the propagator.~~

~~(12) [(10) Raptors considered unsuitable for release to the wild from rehabilitation projects, and certified as not releasable by the rehabilitator and a licensed veterinarian, may be placed [in a captive breeding project] with a licensed propagator upon written request [from an authorized breeder and with concurrence of] to the division from the licensed propagator that is endorsed by the rehabilitator and in concurrence with the U.S. Fish and Wildlife Service [and the division].~~

~~[(13) [(11) A copy of the propagator's annual report of activities required by the U.S. Fish and Wildlife Service must be sent to the division as specified on the certificate of registration.~~

~~(12) None of the provisions in this section will be construed to supersede R657-20-30.~~

R657-3-31. Propagation of Bobcat, Lynx, and Marten.

(1)(a) A person may propagate captive-bred bobcat, lynx (Canada and/or Eurasian), or American marten only after obtaining a certificate of registration from the division.

(b) The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating:

(i) the number of progeny produced;

(ii) the animal's disposition; and

(iii) a certificate of inspection by a licensed veterinarian verifying that the animals are ~~being~~ maintained under healthy and nutritionally adequate conditions.

(2)(a) Any person engaged in propagation must keep at least one male and one female in possession.

(b) Live bobcat, lynx, and American marten may not be obtained from the wild for use in propagation.

(c) Bobcat, lynx, and American marten held for propagation shall not be maintained as pets and shall not be declawed or defanged.

(3) The progeny and descendants of any bobcat, lynx, or American marten may be pelted or sold.

(4)(a) If any bobcat, lynx, or American marten is sold live to a person residing in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live bobcat, lynx, or American marten to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(5)(a) Each pelt must have attached to it a permanent possession tag before being sold, bartered, traded, or transferred to another person.

(b) Permanent possession tags may be obtained at any regional division office and shall be affixed to the pelt by a division employee.

(6) The progeny of bobcat, lynx, or American marten may not be released to the wild.

(7) Nothing in this section shall be construed to allow a person holding a certificate of registration for propagation to use or possess a bobcat, lynx, or American marten for any purpose other than propagation without express authorization on the certificate of registration.

R657-3-32. Propagation of Caribou, Fallow Deer, Musk-ox, and Reindeer.

(1)(a) A person may propagate captive-bred caribou, fallow deer, musk-ox, or reindeer only after obtaining a certificate of registration from the division.

~~(b) Any person engaged in the propagation of caribou, fallow deer, musk-ox, or reindeer must submit an annual report identifying.]~~ The certificate of registration must be renewed annually.

(c) Renewal of a certificate of registration will be subject to submission of a report indicating:

(i) the disposition of each animal held in possession during the year[-]; and

(ii) a certificate of inspection by a licensed veterinarian verifying that the animals are maintained under healthy and nutritionally adequate conditions.

(2)(a) If any live caribou, fallow deer, musk-ox, or reindeer is sold, traded, or given to another person as a gift in Utah, the purchaser must have first obtained a certificate of registration from the division and must show proof of this fact to the seller.

(b) The offense of selling or transferring a live caribou, fallow deer, musk-ox, or reindeer to a person who has not obtained a certificate of registration shall be punishable against both the transferor and the transferee.

(3) If, at any time, the division determines that the possession or propagation of caribou, fallow deer, musk-ox, or reindeer has a significantly detrimental effect to the health of any population of wildlife, the division may:

- (a) terminate the authorization for propagation; and
- (b) require the removal or destruction of the animals at the owner's expense.

R657-3-33. Violations.

(1) Any violation of this rule ~~[is a class C misdemeanor,]~~ shall be punishable as provided in Section 23-13-11.

(2) Nothing in this rule shall be construed to supersede any provision of Title 23, ~~[Wildlife Resources Code]~~ of Utah Code which establishes a penalty greater than ~~[a class C misdemeanor]~~ an infraction. Any provision of this rule which overlaps a provision of ~~[that title]~~ Title 23 is intended only as a clarification or to provide greater specificity needed for the administration of the provisions of this rule.

R657-3-34. Certification Review Committee.

(1) The division shall establish a Certification Review Committee which shall be responsible for:

- (a) reviewing:
 - (i) petitions to reclassify species and subspecies of ~~[zoological]~~ animals;
 - (ii) appeals of certificates of registration; and
 - (iii) requests for variances to this rule; and
- (b) making recommendations to the Wildlife Board.

(2) The committee shall consist of the following individuals:

- (a) the division director or the director's designee who shall represent the director's office and shall act as chair of the committee;
- (b) the chief of the Aquatic Section;
- (c) the chief of the Wildlife Section;
- (d) the chief of the Public Services Section;
- (e) the chief of the Law Enforcement Section;
- ~~(f) the state veterinarian or his designee; and~~
- ~~(f)g~~ a person designated by the Department of Health.

(3) The division shall require a fee for the submission of a request provided in Section R657-3-35 and R657-3-36.

R657-3-35. Request for Species Reclassification.

(1) A person may ~~[make a]~~ request to change the classification of a species or subspecies of ~~[zoological]~~ animal provided in this rule.

(2) A request for reclassification must be made to the Certification Review Committee by submitting an application for reclassification.

- (3)(a) The application shall include:
 - (i) the petitioner's name, address, and phone number;
 - (ii) the species or subspecies for which the application is made;
 - (iii) the name of all interested parties known by the petitioner;
 - (iv) the current classification of the species or subspecies;
 - (v) a statement of the facts and reasons forming the basis for the reclassification; and

(vi) copies of scientific literature or other evidence supporting the change in classification.

(b) In addition to the information required under Subsection (a), the ~~[petitioner]~~ applicant must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3)(a) The committee shall, within a reasonable time, consider the request for reclassification and shall submit its recommendation to the Wildlife Board.

(b) The committee shall send a copy of its recommendation to the ~~[petitioner]~~ applicant and other interested parties specified on the application.

(4)(a) At the next available Wildlife Board meeting, the Wildlife Board shall:

- (i) consider the committee recommendation; and
- (ii) any information provided by the ~~[petitioner]~~ applicant or other interested parties.

(b) The Wildlife Board shall approve or deny the request for reclassification based on the issuance criteria provided in Section R657-3-14.

(5) A change in species classification shall be made in accordance with Title 63G, Chapter ~~[4,]~~ 3, Administrative Rulemaking Act.

~~[(6) A request for species reclassification shall be considered a request for agency action as provided in Subsection 63G-4-201(3) and Rule R657-2.]~~

R657-3-36. Request for Variance.

(1) A person may ~~[make a]~~ request ~~[for]~~ a variance to this rule for the collection, importation, propagation, or possession of ~~[a zoological]~~ an animal classified as prohibited under this rule by submitting a ~~[request for]~~ variance request to the Certification Review Committee.

(2)(a) A ~~[request for]~~ variance request shall include the following:

- (i) the name, address, and phone number of the person making the request;
- (ii) the species or subspecies of ~~[zoological]~~ animal and associated activities for which the request is made; and
- (iii) a statement of the facts and reasons forming the basis for the variance.

(b) In addition to the information required under Subsection (a), the person making the request must provide any information requested by the committee necessary to formulate a recommendation to the Wildlife Board.

(3) The committee shall, within a reasonable time, consider the request and shall submit its recommendation to the Wildlife Board.

(4) At the next available Wildlife Board meeting the Wildlife Board shall:

- (a) consider the committee recommendation; and
- (b) any information provided by the person making the request.

(5)(a) The Wildlife Board shall approve or deny the request based on the issuance criteria provided in Section R657-3-14.

(b) If the request applies to a broad class of persons and not to the unique circumstances of the applicant, the Wildlife Board

shall consider changing the species classification before issuing a variance to this rule.

(6)(a) If the request is approved, the Wildlife Board may impose any restrictions on the person making the request considered necessary for that person to maintain the standards upon which the variance is made.

(b) Any restrictions imposed on the person making the request shall be included in writing on the certificate of registration which shall be signed by the person making the request before its issuance.

~~(7) A request for variance shall be considered a request for agency action as provided in Subsection 63G-4-201(3) and Rule R657-2.~~

R657-3-37. Appeal of Certificate of Registration Denial.

(1) A person may appeal the division's denial of a certificate of registration by submitting an appeal request to the Certification Review Committee.

(2) The request must be made within 30 days after the date of the denial.

(3) The request shall include:

(a) the name, address, and phone number of the ~~petitioner~~ applicant;

(b) the date the request ~~was~~ is mailed;

(c) the species or subspecies of ~~zoological~~ animals and the activity for which the application ~~was~~ is made; and

(d) supporting facts and other evidence applicable to resolving the issue.

(4) The committee shall review the request within a reasonable time after it is received.

(5) Upon reviewing the application and the reasons for its denial, the committee may:

(a) overturn the denial and approve the application; or

(b) uphold the denial.

(6) The committee may overturn a denial if the denial ~~was~~ is:

(a) based on insufficient information;

(b) inconsistent with prior ~~action~~ actions of the division or the Wildlife Board;

(c) arbitrary or capricious; or

(d) contrary to law.

(7)(a) Within a reasonable time after making its decision, the committee shall mail a notice to the ~~petitioner~~ applicant specifying the reasons for its decision.

(b) The notice shall include information ~~that a person may seek~~ on the procedures for seeking Wildlife Board review of that decision.

(8)(a) If the committee upholds the denial, the ~~petitioner~~ applicant may seek Wildlife Board review of the decision by submitting a request for Wildlife Board review within 30 days after its issuance.

(b) The request must include the information provided in Subsection (3).

(9)(a) Upon receiving a request for Wildlife Board review, the Wildlife Board shall, within a reasonable time, hold a hearing to consider the request.

(b) The Wildlife Board may:

(i) overturn the denial and approve the application; or

(ii) uphold the denial.

(c) The Wildlife Board shall provide the petitioner with a written decision within a reasonable time after making its decision.

~~(10) An appeal contesting initial division determination of eligibility for a certificate of registration shall be considered a request for agency action as provided in Subsection 63G-4-201(3) and Rule R657-2.~~

KEY: wildlife, animal protection, import restrictions, zoological animals

Date of Enactment or Last Substantive Amendment: ~~May 8, 2008~~ 2012

Notice of Continuation: March 11, 2008

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-20-3; 23-13-14; 63G-7-101 et seq.

**Regents (Board of), Administration
R765-626
Lender-of-Last-Resort Program**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 36447

FILED: 07/05/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule pertains to the Federal Family Education Loan Program (FFELP) which ended on 07/01/2010 with the passage of the Health Care and Education Reconciliation Act of 2010. All federal student loans are now made directly through the US Department of Education with funding provided by the Treasury. Therefore, no federal student loans are now made through commercial lenders, and there is no use or purpose to have a lender of last resort as was required under the FFELP.

SUMMARY OF THE RULE OR CHANGE: Repeal of rule is necessary since it applied to a federal program that no longer exists. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B, Chapter 12

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no costs nor savings to state budgets as this rule did not rely on state funding.

◆ **LOCAL GOVERNMENTS:** There are no costs nor savings to local governments since this rule applied to a federal program that did not require any local government funding or budgets.

◆ **SMALL BUSINESSES:** This rule never applied small businesses and therefore its repeal has no effect on costs nor savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing this rule presents no costs or savings to any

individual since it pertains to a now defunct program that was replaced by a federal program offering student loans directly to students through schools. The lender of last resort program was a safeguard for borrowers who may have been denied a loan from a local lender but still needed a loan and were eligible. The new process using the Direct Loan Program does not require a lender of last resort since there is only one lender which must provide loans to all eligible applicants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any individual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There were no fiscal impacts on businesses when this rule was valid and therefore will be no fiscal impacts with its repeal.

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 rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: William Sederburg, Commissioner

**R765. Regents (Board of), Administration.
[R765-626. Lender of Last Resort Program.]**

~~R765-626-1. Purpose:~~

~~The purpose of this rule is to provide the terms and conditions under which UHEAA will provide Lender of Last Resort (LLR) loans to borrowers who have otherwise been unable to obtain a subsidized or unsubsidized Federal Stafford Loan from a lender participating in the UHEAA loan program.~~

~~R765-626-2. References:~~

~~2.1 Utah Code, Title 53B, Utah System of Higher Education, Chapter 12.~~

~~2.2 U.S. Congress, Title IV of the Higher Education Act of 1965, as amended.~~

~~2.3 U.S. Department of Education, Code of Federal Regulations, 34 CFR Part 682.401(c).~~

~~R765-626-3. General:~~

~~3.1 A student who meets eligibility requirements set forth in 34 CFR Part 682.201, but is unable to obtain a subsidized or unsubsidized Federal Stafford Loan from a lender participating in the UHEAA loan program, shall be eligible for a LLR loan if the school the student is attending is:~~

~~3.1.1 located in Utah; and~~

~~3.1.2 an eligible institution as determined by the U.S. Department of Education.~~

~~3.2 Notwithstanding 3.1.1, a Utah resident who attends an out-of-state school shall be eligible for a LLR loan.~~

~~3.3 The minimum amount for which UHEAA will authorize a loan guarantee for an LLR loan is \$200.~~

~~3.4 LLR loans guaranteed by UHEAA shall be originated by the Utah State Board of Regents Loan Purchase Program (LPP).~~

~~3.5 For LLR purposes, the LPP shall maintain office hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on state and federal holidays.~~

~~R765-626-4. Application Procedures:~~

~~4.1 To apply for an LLR loan, the student or school shall provide UHEAA with documentation verifying an eligible student has been unable to obtain a subsidized or unsubsidized Federal Stafford Loan for attendance at an eligible school from at least two eligible lenders.~~

~~4.2 Upon receipt of documentation described in 4.1, UHEAA shall approve the LLR loans and notify the school of the approval.~~

~~4.3 Once the LLR loans have been approved, UHEAA shall send an LLR loan information packet to the student.~~

~~4.4 The LLR information packet shall include:~~

~~4.4.1 an application and promissory note for an LLR loan with instructions to complete the application form and return it to UHEAA; and~~

~~4.4.2 counseling materials which include information relating to the borrower's loan obligation.~~

~~4.5 Once UHEAA receives the original, properly completed application and promissory note for an LLR loan, UHEAA shall inform the student as to the final status of the student's application within 60 days of receiving the properly completed form.~~

~~R765-626-5. Information Dissemination:~~

~~5.1 UHEAA shall disseminate to schools and lenders participating in the UHEAA loan program a copy of the final UHEAA LLR rule and notice of the effective date.~~

KEY: higher education, student loans*

Date of Enactment or Last Substantive Amendment: February 1, 1997

Notice of Continuation: April 13, 2010

Authorizing, and Implemented or Interpreted Law: 53B-12-101(6)

**Workforce Services, Employment
Development
R986-700-716
CC in Unusual Circumstances**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36498

FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to better meet the needs of clients.

SUMMARY OF THE RULE OR CHANGE: Currently, special permission is needed before a client can use a license exempt child care provider if child care is needed between the hours of 9 p.m. and 6 a.m. This proposed amendment will make it so special permission is only necessary for child care between midnight and 6 a.m. Many of our clients work later in the day or work swing shifts. This will make it easier for our clients to obtain child care.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-301(3)

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.
- ◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to the 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 to persons other than small businesses, businesses or local government entities 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 affected 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 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-716. CC in Unusual Circumstances.

(1) CC may be provided for study time, to support clients in education or training activities if the parent has classes scheduled in such a way that it is not feasible or practical to pick up the child between classes. For example, if a client has one class from 8:00 a.m. to 9:00 a.m. and a second class from 11:00 a.m. to noon it might not be practical to remove the child from care between 9:00 a.m. and 11:00 a.m.

(2) An away-from-home study hall or lab may be required as part of the class course. A client who takes courses with this requirement must verify study hall or lab class attendance. The Department will not approve more study hall hours or lab hours in this setting than hours for which the client is enrolled in school. For example: A client enrolled for ten hours of classes each week may not receive more than ten hours of this type of study hall or lab.

(3) CC will not be provided for private kindergarten or preschool activities when a publicly funded education program is available.

(4) CC may be authorized to support employment for clients who work graveyard shifts and need child care services during the day for sleep time. If no other child care options are available, child care services may be authorized for the graveyard shift or during the day, but not for both. A maximum of six hours per day will be approved for sleep time.

(5) CC may be authorized to support employment for clients who work at home, provided the client makes at least minimum wage from the at home work, and the client has a need for child care services. The client must choose a provider setting outside the home.

(6) CC with an provider that is not licensed, accredited, certified, or a licensed exempt center will not be approved between the hours of [9 p.m.]12 midnight and 6 a.m. except;

(a) for a child under the age of 24 months old,
 (b) to accommodate a special needs child, or
 (c) under unusual circumstances and then only if approved by the Department program specialist on a case by case basis.

KEY: child care

Date of Enactment or Last Substantive Amendment: [~~April 1,~~ 2012

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-310

**Workforce Services, Employment
 Development
 R986-900-902
 Options and Waivers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36499

FILED: 07/16/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect proposed program changes for food stamps.

SUMMARY OF THE RULE OR CHANGE: The Department will no longer exempt able-bodied adults with no dependent children from the work requirements regardless of where they live. Additionally, the Department is also correcting information about when the offices are open. Finally, a new pilot program where no interview will be needed for eligibility for food stamps is being announced.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-103 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Food stamps are federally-funded so there are no costs or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** Food stamps are federally-funded so there are no costs or savings to the budget of local governments.

◆ **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 to persons other than small businesses, businesses or local government entities 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 affected 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 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-900. Food Stamps.

R986-900-902. Options and Waivers.

The Department administers the Food Stamp Program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to use the Simplified Standard Utility Allowance found in 7 USC 2014(e)(7)(C)(iii) as amended by 2002 H.R. 2646 known as Section 4104 of the Farm Bill. The Department has a mandatory standard utility allowance. This means the customer is eligible for an appropriate utility allowance at the time of application and eligibility for the appropriate allowance is re-determined at recertification or if the household moves to a different place of residence. The customer does not have the choice of using "actual" utility expenses. The

Department has three utility standards that are updated annually and are available upon request. This Farm Bill option allows households in subsidized housing and households in shared living arrangements to receive the full appropriate utility allowance.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

(i) The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

(j) A client may waive his or her right to an administrative disqualification hearing.

(k) A client may deduct actual, allowable expenses from self employment, or may opt to deduct 40% of the gross income from self employment to determine net income.

(l) The Department has opted to align food stamps with FEP in determining how to count educational assistance income. That income is counted for food stamps as provided in R986-200-235(3)(q).

(m) The Department has opted to do simplified reporting as provided in 7 CFR 273.12(a)(1)(vii).

(n) The Department has opted to operate a Mini Simplified Food Stamp Program under 7 CFR 273.25. Under this option, a client receiving food stamps and FEP or FEPTP, must participate as required in R986-200-210. A client found ineligible due to non-compliance under R986-200-212 will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

(o) Effective July 1, 2010, the Department will count the full income of an ineligible alien household member for both the gross and net income tests and for determining the level of benefits. The deductible expenses of the ineligible alien household member will no longer be prorated and the full value of all assets will continue to be counted. This also applies to ineligible aliens who are unable or unwilling to provide documentation of their alien status. This does not apply to the following ineligible aliens:

(i) An alien who is lawfully admitted as a permanent resident.

(ii) An alien who is granted asylum under Section 208 of the INA.

(iii) An alien who is admitted as a refugee under Section 207 of the INA.

(iv) An alien who is paroled in accordance with Section 212(d)(5) of the INA.

(v) An alien whose deportation or removal has been withheld in accordance with Section 243 of the INA.

(vi) An alien who is aged, blind or disabled and is admitted for temporary or permanent residency under Section 245A(b)(1) of the INA.

(vi) An alien who is a special agricultural worker admitted for temporary residence under Section 210 (a) of the INA.

For an ineligible alien listed in this subparagraphs (i) through (vi), a prorated share of the ineligible alien's income and expenses will be counted for purposes of applying the gross and net income tests and to determine the level of benefits. The full amount of the ineligible alien's assets will count.

([e]p) The Department allows the following exemptions from the Employment and Training (E and T) program for individuals who:

(i) are Refugee Cash Assistance (RCA) participants;

(ii) are on a temporary layoff from their place of employment;

(iii) are unemployed for less than 6 months;

(iv) live more than 35 miles from an employment center;

(v) lack child care, either because it is not available or the customer is not eligible for child care assistance;

(vi) are not appropriate for E & T as determined by a manager or designee;

(vii) are age 47 through the month of their 60th birthday;

(viii) are low functioning/have developmental disabilities/are socially dysfunctional and who have obvious functional limitations that are a substantial handicap to employment;

(ix) have current domestic violence issues;

(x) have limited language skills or individuals whose primary language is other than English;

(xi) lack public and/or private transportation;

(xii) are in the application or appeals process for SSI;

(xiii) work 80 hours a month regardless of the amount earned;

(A) if the individual is working less than 80 hours a month but is making at least minimum wage times 80 hours per month, the individual is considered to be meeting the 80 hours per month exemption

(B) if an individual is self-employed and working less than 80 hours a month, the gross income before expenses must be minimum wage times 80 hours a month. An individual working but being paid in-kind does not meet this exemption.

(xiv) have no fixed address;

(xv) do not have a GED or high school diploma;

(xvi) are pregnant regardless of trimester;

(xvii) are on probation or parole who are required to complete court ordered activities such as work release and drug court; or

(xvii) are participating in a program with a Department partner such as case management by Vocational Rehabilitation, or are participating in a Title V or Choose to Work program.

([f]q) Beginning July 1, 2012, individuals who meet the requirements of an exemption will no longer be allowed to receive services on a voluntary basis or receive a work reimbursement.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

~~[(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section~~

~~824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.~~

[(b)a] The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

[(e)b] The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

[(d)c] The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

[(e)d] The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

[(f)e] If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

[(g)f] A household which had its food stamps terminated can be reinstated during the calendar month following the month assistance was terminated without completing a new application if the reason for the termination is fully resolved. The reason for the termination does not matter. Assistance will be prorated to the date on which the client reported that the disqualifying condition was resolved if verification is received within ten days of the report. Assistance is reinstated for the remaining months of the certification period and the certification period must not be changed.

[(h)g] If the Department is unable to obtain proper documentary evidence from an employer, the Department may use Utah quarterly wage data as the primary verification of income when calculating overpayments.

[(i)h] The Department will hold disqualification hearings by telephone.

[(j)i] All initial interviews, and recertification interviews for households certified for 12 months or less, will have their initial or recertification interviews conducted by telephone, rather than in person, unless the household requests an in-person interview or the Department determines that an in-person interview is necessary to resolve issues that would be better facilitated face-to-face.

[(k)j] The federal regulation that requires all interviews be scheduled for a specific date and time is waived for initial telephone interviews. This allows clients to call anytime Monday through ~~Friday~~~~Thursday~~ from 8 a.m. to 5 p.m. to complete the required initial interview. Households selected for the "Assessment of the Contributions of an Interview to the Supplemental Nutrition Assistance Program (SNAP) Eligibility and Benefits Determinations" study, also known as the No Interview Pilot, will be exempt from the interview requirement. Customer contact may be needed to complete the application and/or recertification process. This waiver will be in place September 1, 2012 - November 30, 2013.

[(l)k] To meet the student work exemption, a student enrolled in post-secondary education half-time or more must work an average of 20 hours per week. The work hours must be averaged

over the 30 days immediately prior to the date of application or recertification.

KEY: food stamps, public assistance

Date of Enactment or Last Substantive Amendment: ~~July 1,~~ 2012

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-103

Workforce Services, Housing and Community Development **R990-12** State Small Business Credit Initiative Program Fund

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36487

FILED: 07/12/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with statutory authority to establish small business credit initiative.

SUMMARY OF THE RULE OR CHANGE: This rule identifies processes and procedures on providing loans and loan guarantees to small businesses, establishes a loan loss reserve fund and credit advisory committee, and notifies the public how the funds will be administered. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of 07/12/2012 is under DAR No. 36486 in this issue, August 1, 2012, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-8-1202

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget not already contemplated by the statute.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. This program is currently funded entirely by federal funds. Any costs will be paid from the federal funding.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to any small business but should improve the availability of credit to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to local government. This program is entirely funded by federal funds. Any costs will be paid from the federal funding. The program is for funding small businesses and will not impact local government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded.

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 except it may help small businesses. This is a federally-funded program to help small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 HOUSING AND COMMUNITY DEVELOPMENT
 140 E BROADWAY
 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 08/31/2012

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R990. Workforce Services, Housing and Community Development.

R990-12. State Small Business Credit Initiative Program Fund.

R990-12-1. Authority.

(1) Pursuant to Section 35A-8-1201 et seq., the Housing and Community Development Division is the administrator of the State Small Business Credit Initiative Program Fund. The Division may provide these services, in whole or in part, under contract as determined by competitive bid.

(2) The legal authority for these rules is found in Section 35A-8-1202.

R990-12-2. Purpose.

The State Small Business Credit Initiative Program Fund provides loans and loan guarantees to encourage lending from financial institutions to eligible small businesses within the state as defined by the funding sources contributing to the Fund.

R990-12-3. Definitions.

(1) "Annual Receipts" to the fund include grants made by the federal government and state legislative appropriations if any, but does not include program income.

(2) "Program Income" is defined as fees and interest income generated by participation in the program.

R990-12-4. Credit Advisory Committee.

The Division will establish a Credit Advisory Committee. Utah financial institutions may submit an application of a small business borrower for private funding to the Committee. The Committee will evaluate the application and make recommendations to the Division on the size, scope, and loan or loan loss reserve participation amount suitable for the applicant. Additionally, the Committee will advise on application processes, underwriting criteria and procedure of the Fund to ensure that program objectives are met.

R990-12-5. Eligibility.

(1) Only those applications for funding assistance which are submitted by an eligible applicant for an eligible project shall be considered by the Division.

(2) Eligible applicants include Small Businesses (defined as having no more than 750 employees), which:

(a) applied for a credit product and were denied by a financial institution; and

(b) the financial institution sponsors the application to the Fund as described in the Application Procedures; or

(c) directly respond to a specific Request for Applications (RFA) published by the Division.

R990-12-6. Application Requirements.

(1) Applications shall be submitted on forms published, and in accordance with the procedures outlined by the Division with the advice of the Committee. Completed applications which have been accepted for processing will be placed on the next available Committee agenda for review and recommendation.

(2) The primary process for submitting an application to the fund is as follows:

(a) An Eligible Small Business must apply for a credit product at a financial institution which has signed a State Small Business Credit Initiative Program Fund Participation Agreement with the Division.

(b) The small business applicant must have been deemed ineligible for current banking products offered by the financial institution.

(c) The participating financial institution will submit an application form, in addition to the relevant documentation and underwriting criteria, to the Division and specify the type, amount and reason for a loan participation or loan guarantee on the transaction.

(d) The Committee at its discretion may interview parties involved in the transaction to further clarify any information as part of the application review prior to issuing a recommendation to the Director.

(3) An applicant may respond to a specific Request for Applications issued by the Division on forms prescribed by the Division.

R990-12-7. Application Review Procedures.

(1) The Committee will review applications and make recommendations on whether to fund a loan or loan guarantee at regularly scheduled review meetings as published on the Division's website.

(2) The process for review of new applications for loans and loan guarantees shall be as follows:

(a) Submission of an application, on or before the applicable deadline to the Division program staff for technical review and analysis.

(b) Incomplete applications will be held by the staff pending submission of required information.

(c) Complete applications accepted for processing will be placed on the next available review agenda.

(d) At the review the Committee may either recommend:

(i) denial of the application;

(ii) the issuance of the requested loan or loan guarantee

(iii) a modified issuance of a loan or loan guarantee

(iv) further analysis of the viability of the project through further collection of documentation prior to issuing a decision on the funding request.

(e) Final recommendations of the Committee on issuance or denial of applications will be forwarded to the Director.

(f) The Director may issue loans or loan guarantees after reviewing the recommendation of the Committee.

R990-12-8. Loan Loss Reserve Fund.

There is created a loan loss reserve fund to be used to secure the loan guarantees issued by the Division. The Division

may issue guarantees in an amount up to a ten to one ratio of balances within the loan loss reserve fund. Neither the State nor the Division are liable for guarantees issued beyond the balance of the reserve fund. Each participating financial institution shall be informed of this stipulation via a participation agreement with the Division prior to participating in the loan guarantee program.

R990-12-9. Procedures for Electronic Meetings.

(1) These provisions govern any meeting at which one or more members of the Committee or one or more applicants appear telephonically or electronically pursuant to Section 52-4-207.

(2) If one or more members of the Committee or one or more applicants or sponsors can not attend a regularly scheduled Committee meeting in person, that member, applicant or sponsor may participate in the meeting electronically or telephonically.

KEY: small business loans, loan guarantees

Date of Enactment or Last Substantive Amendment: 2012

Authorizing, and Implemented or Interpreted Law: 35A-8-1201 et seq.

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (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.

Agriculture and Food, Regulatory Services **R70-330** Raw Milk for Retail

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 36465
FILED: 07/11/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule's regulatory procedures are in conflict with the regulatory procedure mandated in Subsection 4-3-14(6)(a). This section requires that the raw milk producer's permit be suspended whenever his raw milk violates standards. However, in Subsection R70-330-6(A)(2)(a), the regulatory action is the issuance of a warning letter and probation.

SUMMARY OF THE RULE OR CHANGE: The rule change clarifies the bacteriological standard, and implements suspension as the regulatory action.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-3-14(5)(a) and Subsection 4-3-14(6)(a)

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: This emergency is needed because the department Rule R70-330 is in conflict with Title 4, Chapter 3. This conflict has created confusion among regulators and the regulated community and needs to be rectified immediately.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No cost or savings will be incurred, as the agency is already using the regulatory action specified in the statute.

◆ **LOCAL GOVERNMENTS:** No cost or savings to local governments. Local governments are not involved in raw milk regulation.

◆ **SMALL BUSINESSES:** There will be no change in how the agency interfaces with small businesses. No cost or savings will be incurred. The agency is already using the procedure specified in Subsection 4-3-14(6)(a). There should be no additional costs or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No other affected persons have been identified. No cost or saving has been identified. The agency is already using the procedure specified in Subsection 4-3-14(6)(a). There should be no additional costs or savings to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance for affected persons will not change. The agency is already using the procedure specified in Subsection 4-3-14(6)(a). There should be no additional costs or savings to small businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Division has identified an emergency need to make this rule congruent with state law. It will not change the

enforcement procedures or costs. As the Division is already using the regulatory procedures specified in Subsection 4-3-14(6)(a), there should be no additional costs or savings to the dairies.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmcclellan@utah.gov
◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

EFFECTIVE: 07/11/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-330. Raw Milk for Retail.

R70-330-1. Authority.

A. Promulgated under the authority of Section 4-3-2.

B. Scope: This rule establishes the requirements for the production, distribution, and sale of raw milk for retail.

C. History: The Utah Department of Agriculture and Food, with the concurrence of the U.S. Food and Drug Administration (FDA) strongly advises against the consumption of raw milk. There are numerous documented outbreaks of milkborne disease involving Salmonella and Campylobacter infections directly linked to the consumption of un-pasteurized milk. Cases of raw milk associated campylobacteriosis have been reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New Mexico, Oregon, Pennsylvania, and Utah. An outbreak of salmonellosis, involving 50 cases was confirmed in Ohio in 2002. Recent cases of Escherichia coli (E. coli) 0157:H7, Listeria monocytogenes, and Yersinia enterocolitica infections have also been attributed to raw milk consumption.

R70-330-2. Definitions.

A. "Raw milk" means milk as defined by law that has not been pasteurized, or heat treated. The word milk shall be interpreted to include the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy hoofed mammals.

B. "Properly staffed" means a person or persons on premise available to sell milk, exchange money, and lock and secure the retail store.

C. "Quarterly pathogen testing verification" means a sample from the Raw for Retail batch is aseptically split by the

Regulatory agency and tested for the prescribed pathogens at both the independent laboratory and the department laboratory and the results are evaluated and compared.

D. "Department" means the Utah Department of Agriculture and Food.

R70-330-3. Permits.

A permit shall be required to sell raw milk for retail. Such permit shall be suspended when these rules or applicable sections of the Utah Dairy Act, Utah Code Annotated (UCA), Vol. 1, Title 4, Chapter 3, are violated. Cow-share programs, as defined in the Utah Dairy Act, shall not be allowed, either in conjunction with a permitted raw for pasteurization dairy, a permitted raw milk for retail dairy, or in lieu of a permit to sell raw milk for retail.

R70-330-4. Building and Premises Requirements.

The building and premises requirements at the time of the issuance of a new permit shall be the same as the current Grade A building guidelines. In addition to these guidelines, there shall be separate rooms provided for (1) packaging and sealing of raw milk, (2) the washing of returned multi-use containers when applicable, and (3) a sales room for the sale of raw milk in a properly protected area that is not located in any of the milk handling rooms. These rooms shall meet or exceed the construction standards of a Grade A milkhouse. If the Raw for Retail dairy also raises chickens, or other poultry, for meat and/or eggs, their housing and movement shall be restricted to areas that do not include the milkhouse, milk barn and their immediate surroundings, the corrals and alleys where there is normally cows or goats, and other locations where there is normal cow or goat traffic. They shall also be restricted from areas normally considered traffic areas of the raw milk customers.

R70-330-5. Sanitation and Operating Requirements.

A. Sanitation and operating requirements of all raw milk facilities shall be the same as that required on a Grade A dairy farm producing milk for pasteurization. Milk packaging areas and container washing areas at the raw milk facilities shall meet the requirements for Grade A pasteurized milk processing plants.

B. All milk shall be cooled to 50 degrees F. or less within one hour of the commencement of milking and to 41 degrees F. or less within two hours after the completion of milking.

C. The blend temperature after the first milking and subsequent milkings shall not exceed 50 degrees. Milk not handled in the manner required in this subsection and subsection "B" above shall be deemed adulterated and shall not be sold.

1. All raw for retail farm bulk milk tanks put into use on or after August 7, 2007 shall be equipped with an approved temperature-recording device, in addition to the indicating thermometer. Daily temperature logs shall be maintained for bulk milk tanks in use prior to August 7, 2007.

2. The recording device shall be operated continuously and be maintained in a properly functioning manner. Circular recording charts shall not overlap.

3. The recording device shall be verified as accurate every six (6) months and documented in a manner acceptable to the department.

4. Recording thermometer charts shall be maintained on the premises for a minimum of six (6) months and available to the department.

5. The recording thermometer shall be installed near the milk storage tank and accessible to the department.

6. The recording thermometer shall comply with the current technical specifications in the Pasteurized Milk Ordinance (PMO) for tank recording thermometers.

7. The recording thermometer charts shall properly identify the producer, date, and signature of the person removing the chart.

D. The temperature of the milk at the time of bottling shall not exceed 41 degrees F.

E. The sale and delivery of raw milk shall be made on the premise where the milk is produced and packaged, or at a self owned, properly staffed, retail store. Sanitation and construction requirements of the facilities used as self owned, retail stores shall be the same as those contained in the Wholesome Food Act, Title 4, Chapter 5. Transportation shall be done by the producer with no intervening storage, change of ownership, or loss of physical control. The temperature of the milk shall be maintained at 41 degrees F or below. Each display case shall have a properly calibrated thermometer, and a daily temperature log shall be maintained and made accessible to the Department.

F. Raw milk brick cheese, when held at no less than 35 degrees F. for 60 days or longer, may be sold at retail stores or for wholesale distribution, at locations other than the premise where the milk was produced.

G. Except as provided in part (F) above, all products made from raw milk including, but not limited to, cottage cheese, buttermilk, sour cream, yogurt, heavy whipping cream, half and half, butter, and ice cream shall not be allowed for sale in Utah.

H. Milk that has been heat treated, shall not be labeled as "Raw Milk" for retail sale.

I. Inspections of the self owned retail store shall be performed no less than four times per year to insure compliance with the sanitation, construction, and cooling requirements as set forth in the Wholesome Food Act, Title 4, Chapter 5.

R70-330-6. Testing.

A. Raw Milk for Retail Testing.

1. Unpackaged Raw Milk

a. The Department shall collect a representative sample of milk from each Raw for Retail farm bulk tank once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Raw Milk for Pasteurization as found in the PMO, and in addition shall include added water, and/or other adulterants. Whenever a sample result fails to meet a standard in any of the prescribed categories, a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. The Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department or a contracted approved independent laboratory, meeting PMO/Department standards, and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

b. The standards for testing Somatic Cell Count (SCC) in raw milk for retail shall be, the Somatic Cell Count shall not exceed 350,000 cells per milliliter (ml) for cows, and not to exceed 1,000,000 ml for goats. The requirements for sampling, and the enforcement procedures for SCC shall be the same as those set forth in 1.a. above.

c. The bacterial standards for unpackaged raw milk, packaged milk sold on premise and packaged milk sold at a self-owned retail store shall be a ~~[Standard Plate]~~ bacterial ~~[C]~~ count ~~[(SPC)]~~ of no more than 20,000 per ml. and a coliform count of no more than 10 per ml.

2. Packaged Raw Milk sold on Premise

a. It shall be the responsibility of the Department to collect a representative sample of packaged raw milk once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Grade "A" Pasteurized milk as found in the PMO. Whenever a sample result fails to meet a bacterial standard in any of the prescribed categories, ~~[a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. T]~~ the Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department, meeting PMO/Department standards, and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated. When a sample produces a violative Coliform count of more than 10 per mL, the count shall be enumerated and the sample transferred to appropriate laboratory facilities for pathogen testing.

3. Packaged Raw Milk sold at Self-Owned Retail Stores

a. It shall be the responsibility of the producer to have a third party sampler certified by the Department to collect a sample from each batch of milk delivered to the retail store by obtaining one container of milk at the store and submitting it to a certified third party laboratory to be tested for Antibiotic Drug Residue, Standard Plate Count (SPC) and Coliform Count. All containers of milk from the sampled batch shall be withheld from sale until the results of the tests are known. Whenever a sample result exceeds the standard in any of the prescribed categories, the producer shall not allow the milk to enter into commerce and shall dispose of the milk in a manner agreeable to the Department.

b. It shall be the responsibility of the Department to collect at the operator's expense or oversee collection of a representative sample of packaged raw milk once each month for screening for the presence of Listeria monocytogenes, Salmonella, Campylobacter jejuni, and E. Coli 0157:H7. All samples shall be delivered to the State Dairy Testing Laboratory or other laboratories approved by the department. Test results showing any growth or activity shall be considered positive. If any of the screening test results are positive, then a confirmation test shall be performed.

Whenever any of the test results for any the prescribed pathogens are positive, the Raw for Retail permit shall be suspended until such time as a compliant sample can be obtained by the Department or contracted approved independent laboratory, meeting PMO/Department standards, and until an inspection can be

performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

c. A hazard analysis and critical control point (HACCP) System including a milk testing procedure for specified pathogens shall be required, and approved by the department, for all raw for retail dairies.

d. The HACCP System shall include plans and policies for initiating and conducting a recall in the event of a positive pathogen test result.

e. The HACCP System shall include the seven following principles:

- (i) Conduct hazard analysis
- (ii) Determine the critical control points
- (iii) Establish critical limits
- (iv) Establish monitoring procedures
- (v) Establish corrective actions
- (vi) Establish verification procedures
- (vii) Establish record-keeping and documentation

procedures.

f. Prior to the implementation of a HACCP plan, develop, document and implement written Prerequisite Programs (PPs). The HACCP Plan, along with the PPs becomes the HACCP System. Steps to producing the HACCP Plan and System are found in the U.S. National Advisory Committee on Microbiological Criteria for Food (NACMCF) document.

g. The HACCP plan shall identify and address points in the production, distribution, transportation and retail display system where the milk may become contaminated or held in conditions that support the growth of pathogens.

(i) When tests are performed by an independent laboratory, quarterly pathogen testing verification shall be conducted by the Department.

(ii) Independent laboratories shall participate in an annual split sampling program testing the capacity of the pathogen methodology directed by this rule, and results sent to the Department.

h. The producer shall recall all milk from the failed batch that is already in commerce.

i. A database shall be kept and made available for review by both the Utah Department of Agriculture and Food and the Utah Department of Health of all customers, which shall include names, addresses, and telephone numbers of customers, dates of purchases and amounts of milk purchased.

j. If another agency's epidemiological investigation finds probable cause to implicate a raw for retail dairy in a milkborne illness outbreak, the Raw for Retail Permit may be suspended by the Department until such time as milk samples are pathogen free when analyzed by the Department or other Department approved testing laboratories, and until an inspection can be performed at the facility by a Compliance Officer from the Department.

B. Animal Health Tests.

1. General herd health examination. Prior to inclusion in a raw milk supply, and each six months thereafter, all animals shall be examined by a veterinarian. Each animal in the herd must be positively identified as an individual. This examination shall include an examination of the milk by a method recommended by

the PMO, shall include a statement of the udder health of each animal, and a general systemic health evaluation.

2. Tuberculosis testing. Prior to inclusion in a raw milk supply, each animal shall have been tested for tuberculosis within 60 days prior to the beginning of milk production and shall be retested for tuberculosis once each year thereafter. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

3. Brucellosis testing. Each animal from which raw milk for retail is produced shall be positively identified as a properly vaccinated animal or shall be negative to the official blood test for brucellosis within 30 days prior to the beginning of each lactation. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11. Goats and sheep shall be tested once each year for brucellosis with the official blood test and all positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

4. Bulk tank milk testing. All raw milk for retail shall be bulk tank tested at least four times yearly with the brucella milk ring test. If such brucella ring test is positive for brucellosis, then each animal in the herd shall be tested with the official blood test and any reactors found shall be immediately sent to slaughter in accordance with R58-10 and R58-11.

C. Personnel Health.

Each employee of the dairy working in the milk handling operation shall obtain a valid medical examination health card signed by a physician and approved by the department once each year and shall hold a valid food handler's permit. No person shall work in a milk handling operation if infected from any contagious illness or if they have on their hands or arms any exposed infected cut or lesion. If there is any question in this regard, the department may ask for an additional certification from a physician that this person is free from disease which may be transmitted by milk.

R70-330-7. Packaging and Labeling.

A. Label Requirements.

The consumer containers for raw milk for retail shall be furnished by the permittee and shall be labeled with the following information:

1. The common or usual name of the product without grade designation. The common name for raw milk is "Raw Milk". If it is other than cow's milk, the word "milk" shall be preceded with the name of the animal, i.e., "Raw Goat Milk".

2. The name, address, and zip code of the place of production and packaging.

3. Proper indication of the volume of the product either on the container itself or on the label.

4. Nutritional labeling information when applicable.

5. The phrase: "Raw milk, no matter how carefully produced, may be unsafe.", shall appear on the label in a conspicuous place. The height of the smallest letter shall be no less than one eighth inch.

6. The phrase: "Keep Refrigerated", shall also appear on the label with the height of the smallest letter no less than one eighth inch.

7. The shelf life labeling of bottled raw milk shall include a pull date, expiration date, or best-if-used-by date, and shall be displayed and clearly visible on raw milk. Raw milk shall not be sold after the pull date, expiration date, or best-if-used-by date has

expired, and the date shall not be more than nine days after packaging.

8. Other provisions of labeling laws in effect in Utah relative to dairy/food products also apply. On the primary panel the words "raw" and "milk" shall be the same size lettering.

9. Glass bottles embossed, printed, or otherwise permanently labeled in accordance with this rule prior to August 7, 2007 and in use on or before August 7, 2007 shall be exempt from R-70-330-7-A(5).

B. Products not labeled as required shall be deemed misbranded.

KEY: dairy inspections, raw milk

Date of Enactment or Last Substantive Amendment: July 11, 2012

Notice of Continuation: March 16, 2011

Authorizing, and Implemented or Interpreted Law: 4-3-2

Workforce Services, Housing and Community Development

R990-12

State Small Business Credit Initiative Program Fund

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 36486

FILED: 07/12/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with statutory authority to establish the small business credit initiative.

SUMMARY OF THE RULE OR CHANGE: The rule identifies processes and procedures on providing loans and loan guarantees to small businesses, establishes a loan loss reserve fund and credit advisory committee, and notifies the public how the funds will be administered. (DAR NOTE: A corresponding proposed new rule is under DAR No. 36487 in this issue, August 1, 2012, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-8-1202

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: This rule was originally filed when the program was under the authority of the Department of Community and Culture. The division was moved to the Department of Workforce Services on 07/01/2012 but the original emergency rule expired. This program provides loans and loan guarantees for small businesses with funding provided by the federal government. It would place the

Department in violation of our federal contract requirements to continue to operate this program without this rule.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget not already contemplated by the statute.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. This program is entirely funded by federal funds. Any costs will be paid from the federal funding. The program is for funding small businesses and will not impact local governments.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to any small business but should improve the availability of credit to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any persons other than small businesses, businesses, or local governmental entities. This program is currently funded entirely by federal funds. Any costs will be paid from the federal funding.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program as it is federally funded.

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 except it may help small businesses. This is a federally funded program to help small businesses.

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

WORKFORCE SERVICES
HOUSING AND COMMUNITY DEVELOPMENT
140 E BROADWAY
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

EFFECTIVE: 07/12/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R990. Workforce Services, Housing and Community Development.

R990-12. State Small Business Credit Initiative Program Fund.

R990-12-1. Authority.

(1) Pursuant to Section 35A-8-1201 et seq., the Housing and Community Development Division is the administrator of the State Small Business Credit Initiative Program Fund. The Division

may provide these services, in whole or in part, under contract as determined by competitive bid.

(2) The legal authority for these rules is found in Section 35A-8-1202.

R990-12-2. Purpose.

The State Small Business Credit Initiative Program Fund provides loans and loan guarantees to encourage lending from financial institutions to eligible small businesses within the state as defined by the funding sources contributing to the Fund.

R990-12-3. Definitions.

(1) "Annual Receipts" to the fund include grants made by the federal government and state legislative appropriations if any, but does not include program income.

(2) "Program Income" is defined as fees and interest income generated by participation in the program.

R990-12-4. Credit Advisory Committee.

The Division will establish a Credit Advisory Committee. Utah financial institutions may submit an application of a small business borrower for private funding to the Committee. The Committee will evaluate the application and make recommendations to the Division on the size, scope, and loan or loan loss reserve participation amount suitable for the applicant. Additionally, the Committee will advise on application processes, underwriting criteria and procedure of the Fund to ensure that program objectives are met.

R990-12-5. Eligibility.

(1) Only those applications for funding assistance which are submitted by an eligible applicant for an eligible project shall be considered by the Division.

(2) Eligible applicants include Small Businesses (defined as having no more than 750 employees), which:

(a) applied for a credit product and were denied by a financial institution; and

(b) the financial institution sponsors the application to the Fund as described in the Application Procedures; or

(c) directly respond to a specific Request for Applications (RFA) published by the Division.

R990-12-6. Application Requirements.

(1) Applications shall be submitted on forms published, and in accordance with the procedures outlined by the Division with the advice of the Committee. Completed applications which have been accepted for processing will be placed on the next available Committee agenda for review and recommendation.

(2) The primary process for submitting an application to the fund is as follows:

(a) An Eligible Small Business must apply for a credit product at a financial institution which has a signed a State Small Business Credit Initiative Program Fund Participation Agreement with the Division.

(b) The small business applicant must have been deemed ineligible for current banking products offered by the financial institution.

(c) The participating financial institution will submit an application form, in addition to the relevant documentation and underwriting criteria, to the Division and specify the type, amount and reason for a loan participation or loan guarantee on the transaction.

(d) The Committee at its discretion may interview parties involved in the transaction to further clarify any information as part of the application review prior to issuing a recommendation to the Director.

(3) An applicant may respond to a specific Request for Applications issued by the Division on forms prescribed by the Division.

R990-12-7. Application Review Procedures.

(1) The Committee will review applications and make recommendations on whether to fund a loan or loan guarantee at regularly scheduled review meetings as published on the Division's website.

(2) The process for review of new applications for loans and loan guarantees shall be as follows:

(a) Submission of an application, on or before the applicable deadline to the Division program staff for technical review and analysis.

(b) Incomplete applications will be held by the staff pending submission of required information.

(c) Complete applications accepted for processing will be placed on the next available review agenda.

(d) At the review the Committee may either recommend:

(i) denial of the application;

(ii) the issuance of the requested loan or loan guarantee

(iii) a modified issuance of a loan or loan guarantee

(iv) further analysis of the viability of the project through further collection of documentation prior to issuing a decision on the funding request.

(e) Final recommendations of the Committee on issuance or denial of applications will be forwarded to the Director.

(f) The Director may issue loans or loan guarantees after reviewing the recommendation of the Committee.

R990-12-8. Loan Loss Reserve Fund.

There is created a loan loss reserve fund to be used to secure the loan guarantees issued by the Division. The Division may issue guarantees in an amount up to a ten to one ratio of balances within the loan loss reserve fund. Neither the State nor the Division are liable for guarantees issued beyond the balance of the reserve fund. Each participating financial institution shall be informed of this stipulation via a participation agreement with the Division prior to participating in the loan guarantee program.

R990-12-9. Procedures for Electronic Meetings.

(1) These provisions govern any meeting at which one or more members of the Committee or one or more applicants appear telephonically or electronically pursuant to Section 52-4-207.

(2) If one or more members of the Committee or one or more applicants or sponsors cannot attend a regularly scheduled Committee meeting in person, that member, applicant or sponsor may participate in the meeting electronically or telephonically.

KEY: small business loans, loan guarantees

Date of Enactment or Last Substantive Amendment: July 12, 2012

Authorizing, and Implemented or Interpreted Law: 35A-8-1201 et seq.

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

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

Agriculture and Food, Marketing and Development **R65-2** Utah Cherry Marketing Order

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36489
FILED: 07/12/2012

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: Promulgated under authority of Subsection 4-2-2(1)(e), authorized by the Commissioner of Agriculture and Food of the State of Utah that this order continue as originally established to maintain and expand Utah's cherry industry and that the producers shall be subject to the terms and provisions of the order. Subsection 4-2-2(1) (3) authorizes the department to issue orders governing market conditions for agricultural products.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments supporting or opposing 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: The cherry producers of Utah are subject to weather and pricing volatility beyond their control. This marketing order helps provide stability to the industry by

providing a venue where all producers can sell their product cooperatively by combining their production of cherries to secure greater share in the market place and demand a higher price. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD
MARKETING AND DEVELOPMENT
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jed Christenson by phone at 801-538-7108, by FAX at 801-538-7126, or by Internet E-mail at jedchristenson@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 07/12/2012

Agriculture and Food, Marketing and Development **R65-5** Utah Red Tart and Sour Cherry Marketing Order

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36488
FILED: 07/12/2012

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: Promulgated under authority of Subsection 4-2-2(1)(e), authorized under the Commissioner of Agriculture and Food of the State of Utah, that this order continue as originally established to maintain and expand Utah's red tart and sour cherry industry and that the producers shall be subject to the terms and provisions of this order. Subsection 4-2-2(1)(3) authorizes the department to issue orders governing market conditions for agricultural products.

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 received supporting this rule or opposing 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: The red tart and sour cherry producers of Utah are subject to weather and pricing volatility beyond their control. This marketing order helps provide stability to the industry by providing a venue where all producers can sell their product cooperatively by combining their production of red tart and sour cherries to secure greater share in the market place and demand a higher price. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 MARKETING AND DEVELOPMENT
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jed Christenson by phone at 801-538-7108, by FAX at 801-538-7126, or by Internet E-mail at jedchristenson@utah.gov
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 07/12/2012

Agriculture and Food, Marketing and
 Development
R65-11
 Utah Sheep Marketing Order

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36490
 FILED: 07/12/2012

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: The Sheep Marketing order is promulgated under authority under Subsection 4-2-2(1)(e) which authorizes marketing orders to promote orderly market conditions for agriculture products. It is authorized by the authority vested in the Commissioner of the Utah Department of Agriculture and Food, that this order continue as originally established to maintain and expand Utah's sheep industry and that the producers shall be subject to the terms and provisions of the order.

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 has been no written comments supporting or opposing 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: The sheep industry voted to establish this marketing order to improve conditions of their industry through increased sales and profitability. Lamb and wool prices are at an all time high which adds credence to the effectiveness of this marketing order. Continuation of the order will help ensure a robust industry. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 MARKETING AND DEVELOPMENT
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jed Christenson by phone at 801-538-7108, by FAX at 801-538-7126, or by Internet E-mail at jedchristenson@utah.gov
 ♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
 ♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 07/12/2012

Commerce, Securities
R164-1
Fraudulent Practices

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

DAR FILE NO.: 36459
 FILED: 07/11/2012

**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: Under Subsection 61-1-1(3) of the Utah Uniform Securities Act, it is unlawful for any person to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Subsection 61-1-24(1)(a) provides authority for the Division to make rules necessary to carry out the provisions of the Act. Pursuant to that authority, Rule R164-1 identifies specific acts and practices that are deemed fraudulent under Subsection 61-1-1(3).

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 assists the public and courts in interpreting "act, practice, or course of business which operates or would operate as a fraud or deceit upon any person" and should be continued. The list is not all-inclusive, but provides examples of conduct deemed to be fraudulent in nature.

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

COMMERCE
 SECURITIES

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:

♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
 ♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

Commerce, Securities
R164-4
Licensing Requirements

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

DAR FILE NO.: 36460
 FILED: 07/11/2012

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-4 of the Utah Uniform Securities Act provides licensing and notice filing procedures. Section 61-1-24 provides authority to the Division to make rules necessary to carry out the provisions of the Act.

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 Utah Uniform Securities Act requires that to act as a broker-dealer, broker-dealer agent, issuer agent, investment adviser, or as an investment adviser representative, a person or entity must be appropriately licensed. Rule R164-4 describes the procedures and requirements for obtaining the appropriate licenses and should be continued.

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

COMMERCE
 SECURITIES

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:
♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

**Commerce, Securities
R164-5**

**Broker-Dealer and Investment Adviser
Books and Records**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36461
FILED: 07/11/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-5 of the Utah Uniform Securities Act provides postlicensing requirements for licensees. Section 61-1-24 of the Act provides authority for the Division to make rules necessary to carry out the provisions of the Act.

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: Rule R164-5 provides guidance in interpreting Section 61-1-5 of the Act and identifies specific books, records, financial reports and other information that must be maintained by Division licensees, and the rule should be continued. Rule R164-5 does not impose additional requirements upon licensees but rather clarifies the requirements of the Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
SECURITIES
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:
♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

**Commerce, Securities
R164-6**

**Denial, Suspension or Revocation of a
License**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36462
FILED: 07/11/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 61-1-6 of the Utah Uniform Securities Act sets forth grounds upon which the Division may discipline a licensee. Section 61-1-24 of the Act provides authority for the Division to make rules to carry out the provisions of the Act.

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 grounds for taking disciplinary action under Section 61-1-6 of the Act include engaging in "dishonest or unethical practices in the securities business."

Rule R164-6 assists the public and courts in interpreting "dishonest or unethical practices" by identifying specific acts deemed to be dishonest or unethical and should be continued.

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

COMMERCE
SECURITIES
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:

♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

public as to which actions will be conducted on an informal basis and should be continued. This clarification helps the public understand what procedures are used in various actions taken by the Division.

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

COMMERCE
SECURITIES
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:

♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

Commerce, Securities **R164-18** Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36463

FILED: 07/11/2012

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 63G-4-202 of the Utah Administrative Procedures Act provides that an agency may by rule designate categories of adjudicative proceedings to be conducted informally. Section 63G-4-203 sets forth the procedures for such informal proceedings. Pursuant to that authority this rule designates those categories of adjudicative proceedings which will be conducted on an informal basis.

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: Rule R164-18 provides clarification for the

Commerce, Securities **R164-25** Record of Registration

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36464

FILED: 07/11/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 61-1-25(5) of the Utah Uniform Securities Act states that the Division may honor requests for interpretive opinions. Section 61-1-24 permits the Division to make rules necessary to carry out the provisions of the Act.

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 assists the public in interpreting the Act by providing guidelines for requesting interpretive opinions and no-action letters and should be continued.

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

COMMERCE
SECURITIES
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:

◆ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
◆ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 07/11/2012

**Environmental Quality, Water Quality
R317-10
Certification of Wastewater Works
Operators**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36457
FILED: 07/11/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(2) authorizes the Utah Water Quality Board to adopt and enforce rules and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

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 was amended once since the last five-year review. No written comments were received during that rulemaking. The changes were proposed by a review committee, consisting of representatives from the regulated community and other interested and affected parties, that oversees the certification program and provides input to the Division of Water Quality and the Board.

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 is required for the Water Quality

Board to implement the state's Wastewater Operator Certification Program as outlined in the Water Quality Act. The certification program is established in order to assist in protecting the quality of waters in the state of Utah; to protect the public health and the environment; to provide for the health and safety of wastewater works operators; and to establish standards and methods whereby wastewater works operating personnel can demonstrate competency. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
WATER QUALITY
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 07/11/2012

**Environmental Quality, Water Quality
R317-100
Utah State Project Priority System for
the Utah Wastewater Project
Assistance Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 36456
FILED: 07/11/2012

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1) authorizes the Water Quality Board to enact rules for construction loans, including development of a priority schedule for awarding loans. Section 35.3115 40 CFR requires that one of the qualifications for awarding those loans is ranking on the project priority list. This rule establishes the process for developing the project priority list.

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 priority ranking system is used to rank wastewater projects for possible state and federal funding assistance. It is a needed component of the state wastewater project assistance program, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WATER QUALITY
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
 Services
 R510-1
 Authority and Purpose**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36477
 FILED: 07/11/2012

**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 enacted under Section 62A-3-104, lists the state and federal statutes under which the Division of Aging and Adult Services is created and operates. Section 62A-3-104 specifically creates the Division and directs the functions it carries out.

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 states all of the statutes under which the Division operates and is the only source available which brings together both the state statutes and the various federal statutes which authorize the various programs housed in the Division. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
 Services
 R510-100
 Funding Formulas**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 36478
 FILED: 07/11/2012

**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: The Division of Aging and Adult Services is mandated to create and maintain funding formulas for distribution of Older Americans Acts, Title III: Grants for State and Community Programs on Aging funds and State general funds for social and nutrition services which comply with 45 CFR, Subchapter C, Part 1321.37 and with Section 62A-3-108.

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 lays out the categories and weights of the components that make up the Division's funding formula. This information is required by both state and federal statutes. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

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 codifies how unspent funds can be used after a particular funding year is over. Without the rule, these funds would remain unspent and would eventually lapse back the federal government. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Human Services, Aging and Adult Services

R510-101

Carryover Policy for Title III: Grants for State and Community Programs on Aging

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 36479
FILED: 07/11/2012

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: In accordance with Federal regulation 45 CFR, Chapter XIII Subchapter C, Part 1321.37, the Division of Aging and Adult Services distributes OAA Title III social and nutrition dollars to subcontractors according to an established intrastate funding formula. This rule directs how the Division will allocate federal funds that remain unspent by a particular agency when the funding year is over.

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.

Human Services, Aging and Adult Services

R510-102

Amendments to Area Plan and Management Plan

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 36466
FILED: 07/11/2012

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 indicates amendments to the Annual Plans of the Area Agencies on Aging can only be made with approval of the Division and that any amendments need to be comply with the format and instructions given by the Division as indicated by Section 62A-3-104 and the Older Americans Act. Parts 104.1, 104.2, and 104.3 require the Division to oversee contracts with local area agencies, develop funding distribution formulas, and oversee background checks for personal care attendants.

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 process for amending area plans is still needed by the Division in order to comply with Older Americans Act requirements. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
Services
R510-103**

**Use of Senior Centers by Long-Term
Care Facility Residents Participating in
Activities Outside Their Planning and
Service Area**

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

DAR FILE NO.: 36467

FILED: 07/11/2012

**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 explains that residents of long-term care facilities can utilize senior centers and programs even if they do not reside in the service area, provided they comply with program rules and pay any additional costs the center might incur due to the individual's participation as required by Subsection 62A-3-104(4) and Sections 62A-3-107 through 108, which require local area

agencies to allow long-term care facilities to participate in center activities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 exception to the eligibility rules remains in effect per the Older Americans Act, and the rule clarifies the exception for current use. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
Services
R510-106**

**Minimum Percentages of Older
Americans Act, Title III Part B: State
and Supportive Services Funds**

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

DAR FILE NO.: 36468

FILED: 07/11/2012

**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: The rule outlines minimum spending of Title IIIB funding on the categories of Access Services, In-Home Services, and Legal Assistance, as

indicated in Section 62A-3-104, which authorizes and requires the division to comply with the Older Americans Act. This definition is included in the Older Americans Act and therefore is a requirement of Section 62A-3-104.

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 is required to maintain the minimum funding percentages as required by the Older Americans Act. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Older Americans Act. Section 62A-3-104 gives the division the authority and the requirement to comply with the Older Americans Act, in this case with regard to the SCSEP program as mandated by the Act.

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 program is still active and the this rule is still a requirement of the grant from the Department of Labor. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Human Services, Aging and Adult Services

R510-107

Title V Senior Community Service Employment Program Standards and Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36469
 FILED: 07/11/2012

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: The rule records the Senior Community Service Employment Program (SCSEP) mission statement and provides the reference for the section of the

Human Services, Aging and Adult Services

R510-108

Definition of Rural for Title III: Grants for State and Community Programs on Aging Reporting Under the Older Americans Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36470
 FILED: 07/11/2012

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 defines the term "rural"

with regard to Title III reporting as indicated in Older Americans Act. Section 62A-3-104 authorizes and requires the Division to comply with the Older Americans Act, which includes the definition of "rural" listed above.

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 is still referenced with regard to the Division's funding formula and four year plan submitted to the Administration on Aging. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Human Services, Aging and Adult Services

R510-109

Definition of Significant Population of Older Native Americans

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36471
FILED: 07/11/2012

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 defines what is meant by "significant population of older Native Americans," as indicated in Section 62A-3-104, which authorizes and requires the division to comply with the Older Americans Act.

This definition is included in the Older Americans Act and therefore, is a requirement of Section 62A-3-104.

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 is still referenced when developing area plans and funding formulas as required by the Older Americans Act. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Human Services, Aging and Adult Services

R510-110

Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36472
FILED: 07/11/2012

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: The rule prescribes how and when an Area Agency on Aging can contract with a provider for eldercare and case management services indicated in

Section 62A-3-104, which authorizes and requires the division to comply with the Older Americans Act. This definition is included in the Older Americans Act and therefore, is a requirement of Section 62A-3-104.

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: These services are still performed by the Area Agencies and these requirements are still in place. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Service Corps (NSSC) activities as indicated in Section 62A-3-104, which authorizes and requires the division to comply with the Older Americans Act. This definition is included in the Older Americans Act and therefore, is a requirement of Section 62A-3-104.

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: There is still a need for this direction with regard to funds available for current senior volunteer programs. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmrgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Human Services, Aging and Adult Services

R510-111

Policy on Use of State Funding for Travel Expenses to Assist the National Senior Service Corps (NSSC)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36473
 FILED: 07/11/2012

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: The rule clarifies when it is appropriate to utilize state funds in order to cover travel expenses of volunteers participating in National Senior

Human Services, Aging and Adult Services

R510-200

Long-Term Care Ombudsman Program Policy

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36474
 FILED: 07/11/2012

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: The rule contains the policies and procedures relating to the division's Long-Term Care Ombudsman program as dictated by the Older Americans Act (OAA) Title VII: Allotments for Vulnerable Elder Rights

Protection Activities and Sections 62A-3-201 to 62A-3-208, and 62A-3-104.

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 program is still actively administered by the Division and Area Agencies and requires the policies contained in this rule to be in place. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
Services
R510-302
Adult Protective Services**

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

DAR FILE NO.: 36475
FILED: 07/11/2012

**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: The division is authorized by Section 62-A-107 to establish administrative rules. Section 62A-3-301 et seq. authorizes the division to provide Adult Protective Services. The purpose of this rule is to define services provided by the Adult Protective Services Unit. It also establishes procedures by which this program will operate.

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 program is still actively administered by the Division and requires the policies contained in this rule to be in place. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmngren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

**Human Services, Aging and Adult
Services
R510-400
Home and Community Based
Alternatives Program**

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

DAR FILE NO.: 36476
FILED: 07/11/2012

**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 62A-3-107 authorizes the division to use rules to establish procedures and policies. Home and Community-Based Alternatives Services are part of the services provided in accordance with Section 62A-3-104 and the Older Americans Act, Title III B and Title III D. This rule clarifies the policy and procedures for implementing 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: This program is still actively administered by the Division and Area Agencies and requires the policies contained in this rule to be in place. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 AGING AND ADULT SERVICES
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgrn@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 07/11/2012

Insurance, Administration
R590-148
Long-Term Care Insurance Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 36501
 FILED: 07/16/2012

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 31A-2-201 authorizes the commissioner to write rules to implement the provisions of Title 31A of the Utah Code. Section 31A-22-1404 allows the commissioner to write rules to permit or include standards for full and fair disclosure of the manner, content, and required disclosures for the sale of long-term insurance policies.

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 governor's representative from the Office of Planning and Budget discovered a code

reference in the rule that needed to be updated due to a legislative change in the numbering of the code. The nonsubstantive correction was made. No other comments were received regarding this rule in 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: This rule is a major protection to the consumer. The department has incorporated a rate stability requirement approved by the industry through the NAIC. As the Utah population ages, we will need better guidance and protections for the aging. This rule will provide better understanding of products being sold. The rule requires better analysis by the producer of the suitability of the product they are selling to an individual. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/16/2012

Insurance, Administration
R590-151
Records Access Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 36485
 FILED: 07/12/2012

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 63G-2-204(2) allows governmental agencies to make rules specifying where and to whom government records Access and Management Act (GRAMA) requests may be made. Subsection 63A-12-104(2) specifies at which level GRAMA requests are to be made for those government entities that have divisions, boards departments, committees, commissions or any other subpart.

This rule defines how record requests are to be made to the department and designates the person who shall fulfill those functions required by a GRAMA request. The rule also defines how an individual may contest the accuracy and completeness of records.

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 received one request for a nonsubstantive correction in a code reference in the rule. This correction was made effective 07/29/2008.

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 establishes fair and reasonable records management and access practices allowing the public access to public records and restricting those records that are private in an attempt to prevent abuses in regards to these records. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/12/2012

Insurance, Administration **R590-241**

Rule to Recognize the Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36500
FILED: 07/16/2012

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-2-201(3) authorizes the commissioner to write rules to implement the provisions of the insurance code, Title 31A. Subsection 31A-17-402(1) requires the commissioner to write rules to specify the liabilities required to be reported by an insurer in a financial statement and setting the methods of valuing these liabilities.

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 regarding this rule in 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: This rule was developed to recognize, permit, and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities. Without this rule, insurance companies would have to raise reserves held in support of the preferred business which in turn would require them to raise rates for the best risks. The rule enables more equitable pricing of life insurance policies. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/16/2012

Money Management Council, Administration

R628-2

Investment of Funds of Public Education Foundations Established under Section 53A-4-205 or Funds Acquired by Gift, Devise or Bequest

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

DAR FILE NO.: 36453
FILED: 07/10/2012

**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 enacted under Subsection 51-7-13(2) which says that rules established by the Money Management Council will govern how these types of funds are invested and Subsection 51-7-18(2)(b) which gives the Council rulemaking authority.

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 received on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The nature of these types of permanent foundation funds means that there needs to be a different set of investment criteria in place than what is allowed for most other types of public funds. This rule provides for investment in high quality longer term securities and mutual funds needed for public education foundations. Therefore, this rule should be continued.

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
ROOM 180 UTAH STATE CAPITOL COMPLEX
350 N STATE ST
STE 180
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: William Wallace, Chair

EFFECTIVE: 07/10/2012

Natural Resources, Wildlife Resources
R657-14
Commercial Harvesting of Protected
Aquatic Wildlife

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

DAR FILE NO.: 36448
FILED: 07/09/2012

**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: Under Sections 23-14-3, 23-14-18, and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

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 supporting or opposing Rule R657-14 were received since 07/09/2007, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-14 provides the procedures, standards, and requirements for: harvesting protected aquatic wildlife for use as fish bait; commercially harvesting brine shrimp and brine shrimp eggs; and seining protected wildlife. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for allowing harvesting of protected aquatic wildlife for use as fish bait and seining protected wildlife.

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

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 07/09/2012

NOTICES OF RULE EFFECTIVE DATES

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.

Abbreviations

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

Agriculture and Food

Animal Industry
No. 36164 (AMD): R58-21. Trichomoniasis
Published: 06/01/2012
Effective: 07/10/2012

Regulatory Services

No. 36147 (NEW): R70-520. Standard of Identity and Labeling Requirements for Honey
Published: 06/01/2012
Effective: 07/10/2012

Commerce

Occupational and Professional Licensing
No. 36157 (AMD): R156-55a-602. Contractor License Bonds
Published: 06/01/2012
Effective: 07/09/2012

No. 36189 (AMD): R156-60a. Social Worker Licensing Act Rule
Published: 06/01/2012
Effective: 07/09/2012

No. 36181 (AMD): R156-69-302d. Licensing of Dentist-Educators
Published: 06/01/2012
Effective: 07/09/2012

No. 36183 (AMD): R156-75. Genetic Counselors Licensing Act Rule
Published: 06/01/2012
Effective: 07/09/2012

Education

Administration
No. 36199 (AMD): R277-407-3. Classes and Activities During the Regular School Day
Published: 06/01/2012
Effective: 07/09/2012

No. 36200 (AMD): R277-437-3. Local School Board and District Responsibilities
Published: 06/01/2012
Effective: 07/09/2012

No. 36201 (AMD): R277-491. School Community Councils
Published: 06/01/2012
Effective: 07/09/2012

No. 36202 (AMD): R277-497-3. Board Responsibilities
Published: 06/01/2012
Effective: 07/09/2012

No. 36203 (AMD): R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks (Effective Beginning July 1, 2012)
Published: 06/01/2012
Effective: 07/09/2012

No. 36204 (REP): R277-501. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks (Effective Through June 30, 2012)
Published: 06/01/2012
Effective: 07/09/2012

No. 36205 (AMD): R277-524. Paraprofessional Qualifications
Published: 06/01/2012
Effective: 07/09/2012

No. 36206 (AMD): R277-800. Utah Schools for the Deaf and the Blind
Published: 06/01/2012
Effective: 07/09/2012

Human Resource Management

Administration

No. 36211 (AMD): R477-6. Compensation

Published: 06/01/2012

Effective: 07/10/2012

No. 35880 (AMD): R477-6-5. Incentive Awards

Published: 03/15/2012

Effective: 07/10/2012

Insurance

Administration

No. 36222 (NEW): R590-264. Property and Casualty

Actuarial Opinion Rule

Published: 06/01/2012

Effective: 07/13/2012

Natural Resources

Wildlife Resources

No. 36158 (AMD): R657-5. Taking Big Game

Published: 06/01/2012

Effective: 07/09/2012

No. 36159 (AMD): R657-62. Drawing Application

Procedures

Published: 06/01/2012

Effective: 07/09/2012

Public Safety

Fire Marshal

No. 36188 (AMD): R710-7-2. Definitions

Published: 06/01/2012

Effective: 07/10/2012

Public Service Commission

Administration

No. 36195 (AMD): R746-100. Practice and Procedures

Governing Formal Hearings

Published: 06/01/2012

Effective: 07/09/2012

No. 36208 (AMD): R746-405-2. Format and Construction of

Tariffs

Published: 06/01/2012

Effective: 07/09/2012

Regents (Board Of)

Administration

No. 36165 (AMD): R765-604. New Century Scholarship

Published: 06/01/2012

Effective: 07/09/2012

Transportation

Administration

No. 36178 (AMD): R907-68. Prioritization of New

Transportation Capacity Projects

Published: 06/01/2012

Effective: 07/09/2012

Workforce Services

Administration

No. 36193 (NEW): R982-401. Energy Assistance: General

Provisions

Published: 06/01/2012

Effective: 07/09/2012

No. 36194 (NEW): R982-402. Energy Assistance Programs

Standards

Published: 06/01/2012

Effective: 07/09/2012

No. 36196 (NEW): R982-403. Energy Assistance Income

Standards, Income Eligibility, and Payment Determination

Published: 06/01/2012

Effective: 07/09/2012

No. 36197 (NEW): R982-404. Energy Assistance: Asset

Standards

Published: 06/01/2012

Effective: 07/09/2012

No. 36207 (NEW): R982-405. Energy Assistance: Program

Benefits

Published: 06/01/2012

Effective: 07/09/2012

No. 36209 (NEW): R982-406. Energy Assistance: Eligibility

Determination

Published: 06/01/2012

Effective: 07/09/2012

No. 36210 (NEW): R982-407. Energy Assistance: Records

and Benefit Management

Published: 06/01/2012

Effective: 07/09/2012

No. 36212 (NEW): R982-408. Energy Assistance: Special

State Programs

Published: 06/01/2012

Effective: 07/09/2012

No. 36213 (NEW): R982-501. Olene Walker Housing Loan

Fund (OWHLF)

Published: 06/01/2012

Effective: 07/09/2012

Employment Development

No. 36133 (AMD): R986-200-221. Drug Testing Requirements
 Published: 05/15/2012
 Effective: 08/01/2012

Housing and Community Development

No. 36216 (NEW): R990-8. Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36217 (NEW): R990-9. Policy Concerning Enforceability and Taxability of Bonds Purchased
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36218 (NEW): R990-10. Procedures in Case of Inability to Formulate Contract for Alleviation of Impact
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36219 (NEW): R990-11. Community Development Block Grants (CDBG)
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36221 (NEW): R990-100. Community Services Block Grant Rules
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36220 (NEW): R990-101. Qualified Emergency Food Agencies Fund (QEFAF)
 Published: 06/01/2012
 Effective: 07/09/2012

Unemployment Insurance

No. 36223 (AMD): R994-403. Claim for Benefits
 Published: 06/01/2012
 Effective: 07/09/2012

No. 36224 (AMD): R994-405. Ineligibility for Benefits
 Published: 06/01/2012
 Effective: 07/09/2012

End of the Notices of Rule Effective Dates Section

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

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2012 through July 16, 2012. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to 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 (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Archives</u>					
R17-9	Electronic Participation at Meetings	35304	NEW	01/30/2012	2011-20/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1-6	Child Welfare Parental Defense Oversight Committee	35205	AMD	01/12/2012	2011-18/6
R19-1-7	Electronic Meetings	35206	AMD	01/12/2012	2011-18/7
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	36420	5YR	06/28/2012	2012-14/59
R21-2	Office of State Debt Collection Administrative Procedures	36421	5YR	06/28/2012	2012-14/60
R21-3	Debt Collection Through Administrative Offset	36422	5YR	06/28/2012	2012-14/60
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	36145	5YR	05/03/2012	2012-11/177
R23-19	Facility Use Rules	36146	5YR	05/03/2012	2012-11/177
R23-20	Free Speech Activities	36148	5YR	05/03/2012	2012-11/178
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	36112	AMD	07/01/2012	2012-10/4
R25-14	Payment of Attorneys Fees in Death Penalty Cases	35663	5YR	01/12/2012	2012-3/105
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	35975	NEW	05/22/2012	2012-8/5
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	35622	5YR	01/05/2012	2012-3/105
R27-5	Fleet Tracking	35617	5YR	01/05/2012	2012-3/106
R27-5	Fleet Tracking	35623	NSC	01/31/2012	Not Printed
R27-6	Fuel Dispensing Program	35620	5YR	01/05/2012	2012-3/106
R27-7	Safety and Loss Prevention of State Vehicles	36024	AMD	06/28/2012	2012-9/4
R27-8	State Vehicle Maintenance Program	35621	5YR	01/05/2012	2012-3/107
R27-9	Dispensing Compressed Natural Gas to the Public	35727	NEW	03/26/2012	2012-4/6
<u>Purchasing and General Services</u>					
R33-1	Utah State Procurement Rules Definitions	35664	AMD	03/30/2012	2012-3/4
R33-1	Utah State Procurement Rules Definitions	36423	5YR	07/02/2012	2012-14/61
R33-2	Procurement Organization	36424	5YR	07/02/2012	2012-14/61
R33-3	Source Selection and Contract Formation	35613	AMD	03/30/2012	2012-2/6
R33-3	Source Selection and Contract Formation	36425	5YR	07/02/2012	2012-14/62
R33-3-7	Types of Contracts	35667	AMD	03/30/2012	2012-3/6
R33-4	Specifications	35665	AMD	03/30/2012	2012-3/10

R33-4	Specifications	36426	5YR	07/02/2012	2012-14/62
R33-5	Construction and Architect-Engineer Selection	36428	5YR	07/02/2012	2012-14/63
R33-6-101	Revisions to Contract Clauses	35666	AMD	03/30/2012	2012-3/12
R33-8	Property Management	36430	5YR	07/02/2012	2012-14/63

Risk Management

R37-1	Risk Management General Rules	36286	5YR	05/30/2012	2012-12/81
R37-2	Risk Management State Workers' Compensation Insurance Administration	36287	5YR	05/30/2012	2012-12/81
R37-3	Risk Management Adjudicative Proceedings	36288	5YR	05/30/2012	2012-12/82
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	36289	5YR	05/30/2012	2012-12/83
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	35844	AMD	05/31/2012	2012-5/4

AGRICULTURE AND FOOD

Administration

R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	35614	5YR	01/04/2012	2012-3/107
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Animal Industry

R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	35691	5YR	01/18/2012	2012-4/59
R58-3	Brucellosis Vaccination Requirements	36143	EMR	05/08/2012	2012-11/167
R58-6	Poultry	35692	5YR	01/18/2012	2012-4/59
R58-11	Slaughter of Livestock	35866	AMD	05/15/2012	2012-5/5
R58-11	Slaughter of Livestock and Poultry	36144	NSC	05/30/2012	Not Printed
R58-18	Elk Farming	35695	5YR	01/18/2012	2012-4/60
R58-19	Compliance Procedures	35696	5YR	01/18/2012	2012-4/60
R58-21	Trichomoniasis	36164	AMD	07/10/2012	2012-11/4
R58-22	Equine Infectious Anemia (EIA)	35694	5YR	01/18/2012	2012-4/61
R58-23	Equine Viral Arteritis (EVA)	35693	5YR	01/18/2012	2012-4/61

Marketing and Development

R65-2	Utah Cherry Marketing Order	36489	5YR	07/12/2012	Not Printed
R65-5	Utah Red Tart and Sour Cherry Marketing Order	36488	5YR	07/12/2012	Not Printed
R65-11	Utah Sheep Marketing Order	36490	5YR	07/12/2012	Not Printed

Plant Industry

R68-19	Compliance Procedures	35697	5YR	01/18/2012	2012-4/62
R68-21	Standard of Identity for Honey	35566	REP	03/07/2012	2012-2/16

Regulatory Services

R70-201	Compliance Procedures	35660	5YR	01/12/2012	2012-3/108
R70-320	Minimum Standards for Milk for Manufacturing Purposes, its Production and Processing	35661	5YR	01/12/2012	2012-3/109
R70-330	Raw Milk for Retail	36465	EMR	07/11/2012	Not Printed
R70-350	Ice Cream and Frozen Dairy Food Standards	35658	5YR	01/12/2012	2012-3/109
R70-360	Procedure for Obtaining a License to Test Milk for Payment	35657	5YR	01/12/2012	2012-3/110
R70-520	Standard of Identity and Labeling Requirements for Honey	36147	NEW	07/10/2012	2012-11/6
R70-530	Food Protection	35920	5YR	03/07/2012	2012-7/63
R70-550	Utah Inland Shellfish Safety Program	35659	5YR	01/12/2012	2012-3/110
R70-560	Inspection and Regulation of Cottage Food Production Operations	35662	5YR	01/12/2012	2012-3/111

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-6	Violation Schedule	35588	AMD	03/01/2012	2012-2/20
R81-4A-2	Application	35943	AMD	05/22/2012	2012-7/5
R81-4B-2	Application	35944	AMD	05/22/2012	2012-7/6
R81-4C-2	Application	35945	AMD	05/22/2012	2012-7/8

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R81-4D-2	Application	35946	AMD	05/22/2012	2012-7/9
R81-4E-2	Application	35947	AMD	05/22/2012	2012-7/11
R81-4F-2	Application	35948	AMD	05/22/2012	2012-7/12
R81-4F-7	Sale and Purchase of Alcoholic Beverages	36113	AMD	07/01/2012	2012-10/9
R81-4F-13	Agreement for Alcoholic Beverage Service	36115	AMD	07/01/2012	2012-10/10
R81-5-2	Application	35949	AMD	05/22/2012	2012-7/13
R81-6-1	Application	35950	AMD	05/22/2012	2012-7/15
R81-7	Single Event Permits	36114	AMD	07/01/2012	2012-10/11
R81-8-1	Application	35951	AMD	05/22/2012	2012-7/16
R81-9-1	Application	35952	AMD	05/22/2012	2012-7/17
R81-10A-3	Application	35953	AMD	05/22/2012	2012-7/19
R81-10B	Temporary Special Event Beer Permits	36116	AMD	07/01/2012	2012-10/14
R81-10C-2	Application	35954	AMD	05/22/2012	2012-7/20
R81-10D-2	Application	35955	AMD	05/22/2012	2012-7/21
R81-11-1	Application	35956	AMD	05/22/2012	2012-7/23
R81-12-1	Application	35957	AMD	05/22/2012	2012-7/24

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R131-3	Use of Magnetometers on Capitol Hill	36359	5YR	06/13/2012	2012-13/97
R131-9	State Capitol Preservation Board Art Program and Policy	35686	R&R	03/09/2012	2012-3/13
R131-10	Commercial Solicitations	35687	5YR	01/17/2012	2012-3/111
R131-11	Preservation of Free Speech Activities	35688	5YR	01/17/2012	2012-3/112
R131-13	Health Reform - Health Insurance Coverage in State Contracts - Implementation	35611	EMR	01/03/2012	2012-2/105
R131-13	Health Reform - Health Insurance Coverage in State Contracts - Implementation	35610	AMD	02/21/2012	2012-2/24

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R151-35	Powersport Vehicle Franchise Act Rule	36329	5YR	06/05/2012	2012-13/97

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R152-20	New Motor Vehicle Warranties	35967	5YR	03/22/2012	2012-8/72
R152-22	Charitable Solicitations Act	35970	5YR	03/22/2012	2012-8/72
R152-23	Utah Health Spa Services	35971	5YR	03/22/2012	2012-8/73
R152-34	Postsecondary Proprietary School Act Rules	36360	5YR	06/14/2012	2012-13/98
R152-42	Uniform Debt-Management Services Act Rules	35972	5YR	03/22/2012	2012-8/73

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R156-1	General Rule of the Division of Occupational and Professional Licensing	36077	AMD	06/07/2012	2012-9/8
R156-9	Funeral Service Licensing Act Rule	36117	AMD	06/21/2012	2012-10/17

R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	35853	5YR	02/06/2012	2012-5/101
R156-16a	Optometry Practice Act Rule	35893	5YR	02/21/2012	2012-6/35
R156-20a	Environmental Health Scientist Act Rule	35430	AMD	01/10/2012	2011-23/10
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	36090	AMD	06/21/2012	2012-10/19
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	36405	5YR	06/25/2012	2012-14/64
R156-37	Utah Controlled Substances Act Rule	35892	5YR	02/21/2012	2012-6/36
R156-40a	Athletic Trainer Licensing Act Rule	36089	AMD	06/28/2012	2012-10/22
R156-47b	Massage Therapy Practice Act Rule	36132	5YR	05/01/2012	2012-10/87
R156-47b-102	Definitions	35498	AMD	01/26/2012	2011-24/6
R156-55a-602	Contractor License Bonds	36157	AMD	07/09/2012	2012-11/8
R156-55d	Burglar Alarm Licensing Rule	35860	5YR	02/07/2012	2012-5/102
R156-55d	Burglar Alarm Licensing Rule	36191	NSC	05/30/2012	Not Printed
R156-56	Building Inspector and Factory Built Housing Licensing Act Rule	35735	5YR	01/31/2012	2012-4/62
R156-60a	Social Worker Licensing Act Rule	36189	AMD	07/09/2012	2012-11/10
R156-63b-102	Definitions	36192	NSC	05/30/2012	Not Printed
R156-64	Deception Detection Examiners Licensing Act Rule	35736	5YR	01/31/2012	2012-4/64
R156-67-503	Administrative Penalties	35389	AMD	03/09/2012	2011-22/14
R156-67-503	Administrative Penalties	35389	CPR	03/09/2012	2012-3/86
R156-68-503	Administrative Penalties	35388	AMD	03/09/2012	2011-22/19
R156-68-503	Administrative Penalties	35388	CPR	03/09/2012	2012-3/90
R156-69-302d	Licensing of Dentist-Educators	36181	AMD	07/09/2012	2012-11/14
R156-75	Genetic Counselors Licensing Act Rule	36183	AMD	07/09/2012	2012-11/15
R156-76	Professional Geologist Licensing Act Rule	35894	5YR	02/21/2012	2012-6/37
R156-78B	Prelitigation Panel Review Rule	35820	5YR	02/02/2012	2012-5/102
R156-83-502	Unprofessional Conduct	35585	AMD	02/21/2012	2012-2/28
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R162-2e-402	Administrative Proceedings	35915	AMD	05/23/2012	2012-7/25
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R164-4	Licensing Requirements	36460	5YR	07/11/2012	Not Printed
R164-5	Broker-Dealer and Investment Adviser Books and Records	36461	5YR	07/11/2012	Not Printed
R164-6	Denial, Suspension or Revocation of a License	36462	5YR	07/11/2012	Not Printed
R164-18	Procedures	36463	5YR	07/11/2012	Not Printed
R164-25	Record of Registration	36464	5YR	07/11/2012	Not Printed
R164-101	Securities Fraud Reporting Program Act	35558	NEW	02/21/2012	2012-2/29
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R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collection	35724	5YR	01/24/2012	2012-4/65
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R212-1	Adjudicative Proceedings	36299	5YR	05/31/2012	2012-12/83
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	36301	5YR	05/31/2012	2012-12/84
R212-12	Computerized Record of Cemeteries, Burials Location and Plots, and Granting Matching Funds	36305	NSC	06/29/2012	Not Printed
<u>Home Energy Assistance Target (HEAT)</u>					
R195-1	Energy Assistance: General Provisions	35403	AMD	03/26/2012	2011-23/12
R195-2	Energy Assistance Programs Standards	36293	EXT	05/31/2012	2012-12/95

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R195-5	Energy Assistance: Program Benefits	35406	AMD	03/26/2012	2011-23/17
R195-5	Energy Assistance: Program Benefits	36296	EXT	05/31/2012	2012-12/96
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R195-7	Energy Assistance: Records and Benefit Management	36298	EXT	05/31/2012	2012-12/96
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R251-106	Media Relations	35805	NEW	04/09/2012	2012-5/11
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R251-107	Executions	35768	EMR	02/01/2012	2012-4/47
R251-107	Executions	35806	NEW	04/09/2012	2012-5/13
R251-108	Adjudicative Proceedings	35762	EXD	01/18/2012	2012-4/123
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R251-703	Vehicle Direction Station	35808	NEW	04/09/2012	2012-5/17
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R251-704	North Gate	35809	NEW	04/09/2012	2012-5/18
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R251-705	Inmate Mail Procedures	35810	NEW	04/09/2012	2012-5/19
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R277-107	Educational Services Outside of Educator's Regular Employment	35674	AMD	03/12/2012	2012-3/19
R277-107-6	Public Education Employees	35932	AMD	05/08/2012	2012-7/27
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R277-419-5	Student Membership	35905	AMD	05/08/2012	2012-7/28
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R277-479	Charter School Special Education Student Funding Formula	35935	NEW	05/08/2012	2012-7/31
R277-479-1	Definitions	36160	NSC	05/30/2012	Not Printed
R277-480-1	Definitions	35582	NSC	01/31/2012	Not Printed
R277-480-1	Definitions	35817	NSC	02/29/2012	Not Printed
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R277-483-4	Identification of Persistently Dangerous Schools	36071	AMD	06/07/2012	2012-9/36
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R277-485	Loss of Enrollment	35936	AMD	05/08/2012	2012-7/33
R277-486	Professional Staff Cost Program	36072	AMD	06/07/2012	2012-9/37
R277-488	Critical Languages Program	36369	5YR	06/15/2012	2012-13/100
R277-489	Optional Extended-Day Kindergarten - Responsibilities, Timelines, and Funding	36372	5YR	06/15/2012	2012-13/100
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R277-497	School Grading System	35875	NEW	04/10/2012	2012-5/24
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R277-501	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks (Effective Through June 30, 2012)	36204	REP	07/09/2012	2012-11/28
R277-503	Licensing Routes	35677	AMD	03/12/2012	2012-3/24
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R277-511	Highly Qualified Teacher Grants	35678	REP	03/12/2012	2012-3/28
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R277-513	Dual Certification	35679	REP	03/12/2012	2012-3/30
R277-519	Educator Inservice Procedures and Credit	35941	5YR	03/15/2012	2012-7/64
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R277-520-6	Eminence	36074	AMD	06/07/2012	2012-9/43
R277-521	Professional Specialist Licensing	35876	REP	04/10/2012	2012-5/26
R277-524	Paraprofessional Qualifications	36205	AMD	07/09/2012	2012-11/33
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R277-615	Standards and Procedures for Student Searches	35878	NEW	04/10/2012	2012-5/29
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R277-703	Centennial Scholarship for Early Graduation	35537	AMD	02/07/2012	2012-1/14
R277-705	Secondary School Completion and Diplomas	35818	5YR	02/02/2012	2012-5/103
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R277-915	Work-based Learning Programs for Interns	35683	AMD	03/12/2012	2012-3/39
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R307-210-1	Standards of Performance for New Stationary Sources (NSPS)	35496	AMD	03/07/2012	2011-24/7
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R307-222-1	Purpose and Applicability	36026	NSC	04/25/2012	Not Printed
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ABBREVIATIONS

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

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	36039	R251-305	5YR	04/06/2012	2012-9/77
	35755	R251-306	EXT	01/31/2012	2012-4/121
	36040	R251-306	5YR	04/06/2012	2012-9/77
	35763	R251-703	EXD	01/18/2012	2012-4/124
	35770	R251-703	EMR	02/01/2012	2012-4/51
	35808	R251-703	NEW	04/09/2012	2012-5/17
	35765	R251-705	EXD	01/18/2012	2012-4/124
	35772	R251-705	EMR	02/01/2012	2012-4/53
	35810	R251-705	NEW	04/09/2012	2012-5/19
	35766	R251-706	EXD	01/18/2012	2012-4/124
	35773	R251-706	EMR	02/01/2012	2012-4/56
	35811	R251-706	NEW	04/09/2012	2012-5/22
	35756	R251-707	EXT	01/31/2012	2012-4/121
	36041	R251-707	5YR	04/06/2012	2012-9/78
	35757	R251-710	EXT	01/31/2012	2012-4/121
	36042	R251-710	5YR	04/06/2012	2012-9/78
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	35537	R277-703	AMD	02/07/2012	2012-1/14
	35818	R277-705	5YR	02/02/2012	2012-5/103
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Human Services, Juvenile Justice Services	36136	R547-1	5YR	05/01/2012	2012-10/92
	36140	R547-7	5YR	05/01/2012	2012-10/93
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	36152	R657-30	5YR	05/04/2012	2012-11/182
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	36330	R708-10	EMR	06/06/2012	2012-13/95
	35704	R708-25	5YR	01/20/2012	2012-4/119
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	35844	R37-4	AMD	05/31/2012	2012-5/4	
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Agriculture and Food, Animal Industry	35866	R58-11	AMD	05/15/2012	2012-5/5	
	36144	R58-11	NSC	05/30/2012	Not Printed	
<u>loan guarantees</u>						
Workforce Services, Housing and Community Development	36486	R990-12	EMR	07/12/2012	Not Printed	
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Commerce, Real Estate	36079	R162-2c	AMD	06/07/2012	2012-9/12	
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Human Services, Aging and Adult Services	36476	R510-400	5YR	07/11/2012	Not Printed	
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Human Services, Aging and Adult Services	36478	R510-100	5YR	07/11/2012	Not Printed	
<u>LTCO</u>						
Human Services, Aging and Adult Services	36474	R510-200	5YR	07/11/2012	Not Printed	
<u>MACT</u>						
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	36015	R652-90	5YR	04/02/2012	2012-8/88	
School and Institutional Trust Lands, Administration	36412	R850-40	5YR	06/27/2012	2012-14/79	
	35542	R850-41	NEW	02/07/2012	2012-1/44	
<u>Marda Dillree Corridor Preservation Fund</u>						
Transportation, Program Development	36179	R926-6	NSC	05/30/2012	Not Printed	
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Natural Resources, Forestry, Fire and State Lands	36016	R652-100	5YR	04/02/2012	2012-8/88
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	35767	R251-106	EMR	02/01/2012	2012-4/45
	35805	R251-106	NEW	04/09/2012	2012-5/11

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	35902	R414-1-2	AMD	04/27/2012	2012-6/21
	35584	R414-1-5	AMD	02/21/2012	2012-2/33
	35994	R414-1-5	AMD	05/24/2012	2012-8/9
	36102	R414-1-29	AMD	07/01/2012	2012-10/33
	36128	R414-1A	5YR	04/30/2012	2012-10/90
	35390	R414-2A	AMD	01/11/2012	2011-22/30
	36107	R414-2A	AMD	07/01/2012	2012-10/35
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	35908	R414-21	5YR	03/02/2012	2012-7/66
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	35790	R414-308	AMD	04/01/2012	2012-4/14
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	35583	R414-401-5	AMD	02/21/2012	2012-2/36
	36101	R414-506	AMD	07/01/2012	2012-10/41
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	35958	R367-1-15	AMD	05/23/2012	2012-8/6

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medical incinerators

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	35847	R649-5	5YR	02/03/2012	2012-5/122
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	35439	R657-58	AMD	01/10/2012	2011-23/79	
<u>withholding tax</u>						
Tax Commission, Auditing	35604	R865-14W	5YR	01/03/2012	2012-2/132	
<u>witness fees</u>						
Labor Commission, Adjudication	36399	R602-1	5YR	06/19/2012	2012-14/70	
<u>women</u>						
Health, Family Health and Preparedness, WIC Services	35812	R406-100	5YR	02/02/2012	2012-5/104	
	35813	R406-200	5YR	02/02/2012	2012-5/105	
	35814	R406-201	5YR	02/02/2012	2012-5/105	
	35815	R406-202	5YR	02/02/2012	2012-5/106	
	35816	R406-301	5YR	02/02/2012	2012-5/106	
<u>wood furniture</u>						
Environmental Quality, Air Quality	35787	R307-343	5YR	02/01/2012	2012-4/89	
<u>work-based learning programs</u>						
Education, Administration	35938	R277-916	AMD	05/08/2012	2012-7/35	
<u>workers' compensation</u>						
Administrative Services, Risk Management	36287	R37-2	5YR	05/30/2012	2012-12/81	
Labor Commission, Adjudication	36400	R602-2	5YR	06/19/2012	2012-14/71	
Labor Commission, Industrial Accidents	36402	R612-1	5YR	06/19/2012	2012-14/71	
Workforce Services, Unemployment Insurance	36256	R994-404	5YR	05/22/2012	2012-12/92	

<u>x-rays</u> Environmental Quality, Radiation Control	35906	R313-35	5YR	03/02/2012	2012-7/65
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