

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. 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

Notice for March 2013 Medicaid Rate Changes

Effective March 1, 2013, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

End of the Special Notices Section

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/001/2013: Declaring A Liquid Petroleum Emergency

EXECUTIVE ORDER

Declaring A Liquid Petroleum Emergency

WHEREAS, freezing temperatures and winter conditions have been experienced throughout Utah and surrounding states during the month of January;

WHEREAS, these freezing temperatures pose a threat to residents and commerce;

WHEREAS, a sudden spike in demand has depleted propane supplies throughout the Region;

WHEREAS, private sector efforts to respond to the propane shortage have been limited by hours or service regulations that limit the number of hours truckers supplying the propane can work;

WHEREAS, The Federal Motor Carrier Safety Regulations, 49 CFR 390, *et seq.*, limit the hours that operators of commercial motor vehicles may drive;

WHEREAS, 49 CFR 390.23 provides that such rules and regulations are suspended for a limited period of time upon the declaration of an emergency where a motor carrier or driver is providing emergency relief;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do hereby declare an emergency for the limited purpose of facilitating the suspension, pursuant to 49 CFR 390.23, of the rules and regulations that limit the hours operators of commercial vehicles may drive. This emergency justifies a suspension of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations for any motor carrier or driver operating a commercial motor vehicle that supplies propane in response to this emergency. The suspension shall remain in effect for 14 days from the date of this Order. Nothing herein shall be construed as an exemption from the Commercial Driver's License Requirements in 49 CFR 383, the financial requirements in 49 CFR 387, or applicable federal size and weight limitations.

IT IS FURTHER ORDERED that no motor carrier operating under the terms of this emergency declaration shall require or allow an ill or fatigued driver to operate a motor vehicle. A driver who notifies a motor carrier that he or she needs immediate rest shall be given at least ten (10) consecutive hour's off-duty before the driver is required to return to service in accordance with 49 CFR 390.23(b).

IT IS FURTHER ORDERED that this Order does not suspend the operation of any state or federal laws or regulations within the State of Utah, except as specifically described in the Order. All other laws and regulations remain in full force and effect.

THIS ORDER supersedes any other previous orders, proclamations, or directives to the extent they are in conflict. This Executive Order shall take effect immediately and expire in fourteen (14) days.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah on this 24th day of January 2013.

(State Seal)

Gary R. Herbert
Governor

Attest:

Greg Bell
Lieutenant Governor

EO/001/2013

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 January 16, 2013, 12:00 a.m., and February 01, 2013, 11:59 p.m. are included in this, the February 15, 2013 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 March 18, 2013. 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 June 15, 2013, 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

Agriculture and Food, Animal Industry

R58-6

Poultry

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 37248
FILED: 02/01/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Department of Agriculture and Food is repealing and reenacting Rule R58-6 because of the significant changes made to the rule.

SUMMARY OF THE RULE OR CHANGE: Repeals and reenacts Rule R58-6 with the following: 1) the new Section R58-6-1 covers authority (Section 4-31-119) and intent and does not include the reference to Section 4-29-1 from the current rule; 2) the new Section R58-6-2 covers all the definitions used in rule and does not include the section language used in the current rule; 3) the new Section R58-6-3 covers the importation requirements for eggs and poultry and identification requirements and does not include the section title and language used in the current rule; 4) the new Section R58-6-4 covers the quarantine and handling of diseased poultry within the State of Utah and does not include the section title and language used in the current rule; 5) the new Section R58-6-5 covers the requirements of applying for and duties of an individual that acts as poultry dealer and does not include the section title and language used in the current rule; 6) the new Section R58-6-6 covers the requirements of applying for and duties of an individual that operates a poultry hatchery and does not include the section title and language used in the current rule; 7) the new Section R58-6-7 covers the release of gamebirds into the wild and the prohibition of live bird markets in the State of Utah and does not include the section title and language used in the current rule; 8) the new Section R58-6-8 covers the requirements to participate in the National Poultry Improvement Plant (NPIP) and does not include the section title and language used in the current rule; and 9) does not include the current Section R58-6-9.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j) and Title 4, Chapter 31

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds 9 CFR Subchapter G, Parts 145-147, published by U.S. Government Printing Office, 01/01/2013

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Changes to Rule R58-6 will not change the budgetary requirements for the Department of Agriculture and Food. Rule R58-6 will add a minimal amount

to the general fund by an increase in the collection of fees from those persons licensing as poultry dealers and those that operate poultry hatcheries.

◆ **LOCAL GOVERNMENTS:** There is hope that the new rule will actually decrease the public health expenditures of local health departments by decreasing the poultry acquired enteric disease in humans.

◆ **SMALL BUSINESSES:** This rule will affect those individuals that are required to be licensed as poultry dealers and those that operate poultry hatcheries. The license fees will be kept to a minimum. The only other costs to these individuals will be minimal cost for printing of material and to provide hand washing materials.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change will not affect any other entities other than those individual businesses listed under "Small businesses" above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for both poultry dealers and individuals that operate hatcheries include printing costs of those they have printed for distribution to the purchasers of the poultry. Poultry dealers will also be required to provide signage and hand washing materials anytime they display poultry to the public.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to Rule R58-6 will have minimal impact on businesses. The changes are being required in an effort to reduce the incidence of enteric diseases in humans as the result of handling recently purchased baby poultry. This rule change was presented to the Agricultural Advisory board on 01/22/2013 and was approved.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at bking@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
- ◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-6. Poultry.

[R58-6-1. Authority.

~~———— Promulgated under authority of Section 4-29-1.~~

R58-6-2. Definition of Poultry.

~~———— Domesticated fowl, including chickens, turkeys, waterfowl, ratites, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.~~

R58-6-3. Certificate of Veterinary Inspection.

~~———— All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan Certificate and an entry permit; except birds for immediate slaughter consigned directly to a licensed slaughtering establishment. For an entry permit, this number may be called during business hours: (801) 538-7164.~~

R58-6-4. Pullorum-Typhoid Rating for Imported Poultry.

~~———— A. No poultry, hatching eggs or baby chicks shall be brought, shipped, or otherwise introduced into the State of Utah by any person, individual or corporation that does not originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state or country of origin, or~~

~~———— B. Poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for Salmonella Pullorum, Mycoplasma gallisepticum (MG), M. synoviae (MS), M. meleagridis (MM), within the last 30 days.~~

R58-6-5. Boxes, Crates and Containers.

~~———— Poultry or chicken boxes, crates and containers shall be new or disinfected before being used to move replacement birds into the State of Utah, except birds of the same and known health status as the previous shipment, and identified with a label cooperating in National Poultry Improvement Plan.~~

R58-6-6. Import Permit.

~~———— No permit shall be issued for importation until the Utah Department of Agriculture and Food receives responsible and complete information from the consignor that the birds to be imported would not present a disease hazard to Utah flocks.~~

R58-6-7. Quarantine of Diseased Poultry.

~~———— The Commissioner may quarantine diseased poultry, whenever any infectious or contagious diseases have been identified. The quarantine notice shall be posted in a conspicuous place on the outside of the coops and premises:~~

~~———— A. The coops and surroundings must be maintained in a sanitary condition.~~

~~———— B. No live poultry shall under any circumstances be removed from the quarantined coop or premises, except under permit~~

~~from the State Department of Agriculture and Food or its authorized representative.~~

~~———— C. All dead birds shall be destroyed by burning or by being placed in a pit properly constructed for disposal of dead birds.~~

~~———— D. The attendant shall wear rubber footwear which shall be disinfected in a disinfectant recognized by U.S. Department of Agriculture each time before leaving the infected coops.~~

~~———— E. All crates, utensils or other paraphernalia used around the infected coops shall be thoroughly cleaned and disinfected before being removed from the infected premises; except egg cases and those are to be handled in such manner as may be designated by the attending veterinarian.~~

~~———— F. Truck drivers are forbidden to enter quarantined premises personally or with trucks.~~

~~———— G. No visitors will be allowed on infected premises.~~

~~———— H. All droppings and litter shall be buried or burned or thoroughly disinfected before being removed from the premises.~~

~~———— I. Vaccination shall be done by or under the direction of an accredited veterinarian only.~~

~~———— J. The quarantine shall be in effect until withdrawn by the Commissioner of Agriculture and Food or his designated agent.~~

R58-6-8. Cleaning and Disinfecting Feed Bags, Crates, etc.

~~———— A. Bags used for poultry feeds, mashers, etc., shall, before being filled at the mill or mixing plant, be cleaned and disinfected. All filth or litter shall be removed from them and the bags then disinfected with a disinfectant recognized by United States Department of Agriculture 9 CFR 1, 147.23, 24, and 25, January 1, 2001, edition.~~

~~———— B. Crates or other containers used for the transportation of poultry by any poultry producer or anyone buying and selling or otherwise transporting poultry shall be properly scraped, cleaned and disinfected with a disinfectant recognized by United States Department of Agriculture, 9 CFR 1, 147.23, 24, 25, January 1, 2001, edition, each time after being used.~~

R58-6-9. Handling or Disposal of Poultry Droppings and Litter.

~~———— A. Poultry houses and yards shall be maintained in a sanitary condition. All droppings and litter shall be cleaned regularly and disposed of either by hauling away and scattering over farm lands, or by burying or burning.~~

~~———— B. In case it is not practical to dispose of the droppings and litter regularly in the above manner, they shall be placed outside the coops and properly screened with fine mesh wire which will protect it from flies until it can be disposed of as provided in this rule.]~~

R58-6-1. Authority.

~~———— (1) Promulgated under authority of Section 4-31-119.~~

~~———— (2) It is the intent of this rule to prevent and control disease in poultry in the state of Utah.~~

R58-6-2. Definitions.

~~———— (1) "Administrator" means the Administrator of the United States Department of Agriculture, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.~~

~~———— (2) "Authorized agent" means a person designated to collect official samples for submission to an authorized laboratory.~~

~~———— (3) "Authorized laboratory" means a laboratory that meets the requirements of the United States Department of Agriculture, Animal and Plant Health Inspection Service and is thus~~

qualified to perform testing required to determine classification of poultry and to test for avian pathogens.

(4) "Authorized testing agent" means a person designated to collect official samples for submission to an authorized laboratory and to perform the stained antigen, rapid whole blood test for pullorum-typhoid.

(5) "Avian influenza" means an infection or disease of poultry caused by viruses in the family Orthomyxoviridae, genus Influenzavirus A.

(6) "Baby poultry" means newly hatched poultry (chicks, poults, ducklings, goslings, keets, etc.).

(7) "Dealer" means an individual or business that deals in commerce in hatching eggs, newly-hatched poultry, and started poultry obtained from breeding flocks and hatcheries.

(8) "Department" means the Utah Department of Agriculture and Food.

(9) "Exposed (Exposure)" mean contact with birds, equipment, personnel, supplies, or any article infected with, or contaminated by, communicable poultry disease organisms.

(10) "Flock" means all of the poultry on one farm.

(11) "Flock-based number system" means a flock-based number system which combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

(12) "Flock identification number (FIN)" means a nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

(13) "Fowl typhoid or typhoid" means a disease of poultry caused by Salmonella Gallinarum.

(14) "Group/lot identification number (GIN)" means a identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain.

(15) "Hatchery" means hatchery equipment on one premises operated or controlled by any person for the production of baby poultry.

(16) "Infected flock" means a flock in which an authorized laboratory has discovered one or more birds infected with a communicable poultry disease.

(17) "License" means a license issued by the Department to individuals that sell hatching eggs or poultry.

(18) "Live bird market" means a temporary facility or site that receives live poultry to be resold or slaughtered and sold on-site, not including any producer or grower that prior to the sale of his own birds slaughters or processes them on-site or at an approved slaughter facility or any producer or grower that sells live birds grown exclusively on his premises.

(19) "Multiplier breeding flock" means a flock that is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg or meat production or for other nonbreeding purposes.

(20) "National Poultry Improvement Plan (NPIP)" means a cooperative industry, state, and federal program through which new diagnostic technology can be effectively applied to the improvement of poultry and poultry products.

(21) "Person" means an individual, association, partnership, government agency, or corporation, or any agent of the foregoing.

(22) "Poultry" means domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, game birds, doves and pigeons, which are bred for the primary purposes of producing eggs or meat or for exhibition or sport.

(23) "Premises identification number (PIN)" means a nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority a geographically distinct location from other premises.

(24) "Primary breeding flock" means a flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

(25) "Public exhibition" means a public show of poultry.

(26) "Pullorum" mean a disease of poultry caused by Salmonella Pullorum.

(27) "Reactor" means a bird that has a positive reaction to a test for any poultry disease.

(28) "Sanitize" means to treat with a product which is registered by the Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, or tuberculocidal, in accordance with the specifications for use as shown on the label of each product.

(29) "Started poultry" means young poultry (chicks, pullets, cockerels, capons, poults, ducklings, goslings, keets, etc.) that have been fed and watered and are less than 6 months of age.

(30) "State Inspector" means any person employed or authorized to perform functions under the National Poultry Improvement Plan.

(31) "Stock" means a term used to identify the progeny of a specific breeding combination within a species of poultry. These breeding combinations may include pure strains, strain crosses, breed crosses, or combinations thereof.

(32) "Strain" means poultry breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.

(33) "Succeeding flock" means a flock brought onto a premises during the 12 months following removal of an infected flock.

(34) "Suspect flock" means a flock that has been exposed to a communicable poultry disease.

R58-6-3. Importation of Poultry or Hatching Eggs.

(1) All poultry and hatching eggs being imported into Utah must meet the following requirements:

(a) All poultry and hatching eggs must have an import permit from the Department.

(b) All poultry and hatching eggs entering Utah must have a Certificate of Veterinary Inspection or a National Poultry Improvement Plan Certificate.

(c) All poultry and hatching eggs shall originate from flocks or hatcheries that have a Pullorum-Typhoid Clean rating given by the official state agency of the National Poultry Improvement Plan (NPIP) of the state, or

(d) All poultry entering Utah from a flock or hatchery which does not have a clean rating through NPIP certification must have been tested negative for pullorum-typhoid within the last 30 days.

(2) All poultry being imported into Utah must be officially identified with one of the following:

(a) A sealed and numbered band which has the flock-based number system printed on the band; or

(b) The birds are moved under a Group/lot identification number (GIN).

R58-6-4. Quarantine of Diseased Poultry.

(1) The Commissioner of Agriculture or his designated agent may quarantine diseased poultry, whenever any infectious or contagious diseases have been identified.

(2) The quarantine notice shall be posted in a conspicuous place on the outside of the coops and premises.

(3) The coops and surroundings must be maintained in a sanitary condition.

(4) No live poultry shall under any circumstances be removed from the quarantined coop or premises, except under permit from the Department.

(5) All dead birds shall be destroyed by burning or by being placed in a pit properly constructed for disposal of dead birds.

(6) The attendant shall wear rubber footwear which shall be disinfected in a disinfectant recognized by U.S. Department of Agriculture each time before leaving the infected coops.

(7) All crates, utensils or other paraphernalia used around the infected coops shall be thoroughly cleaned and disinfected before being removed from the infected premises; except egg cases and those are to be handled in such manner as may be designated by the attending veterinarian.

(8) Truck drivers are forbidden to enter quarantined premises personally or with trucks.

(9) No unauthorized visitors will be allowed on infected premises.

(10) All droppings and litter shall be buried or burned or thoroughly disinfected before being removed from the premises.

(11) Vaccination shall be done by or under the direction of an accredited veterinarian only.

(12) The quarantine shall be in effect until withdrawn by the Commissioner of Agriculture or his designated agent.

R58-6-5. Poultry Dealer License.

(1) No dealer may sell baby or started poultry at a fixed location or via the internet unless they are first licensed by the Department.

(2) A poultry dealer does not hatch or sell eggs.

(3) Individuals selling less than 20 birds a year are exempt from licensure.

(4) Each location in which poultry are sold from must be licensed separately on an annual basis.

(5) Any person desiring a license to sell baby or started poultry shall apply to Department.

(a) Such application for a license will be made on a department form for a Poultry Dealer License.

(b) The number of birds sold the previous year at that location must be recorded on the form.

(c) A fee based on the approved Department fee schedule must be paid prior to license issuance.

(6) Licensees must keep records for the calendar year of where poultry were purchased.

(7) The area where the poultry are kept should be clean and appropriate for the type and age of the poultry.

(8) Poultry care and handling should conform to recognized husbandry practices.

(9) All individuals purchasing poultry should receive written information on handling poultry safely to prevent human illness.

(10) If poultry are housed in a public area, there must be signage that provides information on handling poultry safely to prevent human illness and hand cleaning materials must be provided.

R58-6-6. Hatchery License.

(1) No person may hatch or sell hatching eggs as well as sell baby or started poultry unless they are first licensed with the Department, unless, hatching eggs are for personal use only.

(2) Any person desiring a license to hatch or sell hatching eggs as well as sell baby or started poultry shall apply to Department.

(a) Such application for a license will be made on a department form for a Hatchery License.

(b) The number of eggs and birds sold the previous year at that location must be recorded on the form.

(c) A fee based on the approved Department fee schedule must be paid prior to license issuance.

(3) Licensees must keep records for the calendar year of whom the eggs or birds were sold to.

(a) Name, physical address, and telephone number as well as number and types of eggs or poultry purchased should be kept for each purchase.

(4) The area where the poultry are kept should be clean and appropriate for the type and age of the poultry.

(5) Poultry care and handling should conform to recognized husbandry practices.

(6) All individuals purchasing eggs or poultry should receive written information on the handling of poultry safely to prevent human illness.

R58-6-7. Release of Gamebirds and Prohibition of Live Bird Markets.

(1) No person may release gamebirds into the wild unless the birds originate from a NPIP Pullorum-Typhoid Clean facility or are tested negative for pullorum-typhoid.

(2) Live bird markets are prohibited in the State of Utah to reduce the spread of avian diseases in the state.

R58-6-8. National Poultry Improvement Plan.

(1) Participation

(a) Any person producing or dealing in products may participate in the Plan when they have demonstrated, to the satisfaction of the Department, that their facilities, personnel, and practices are adequate for carrying out the applicable provisions of the Plan, and have signed an agreement with the Department to comply with the general and the applicable specific provisions of the Plan and any regulations of the Department.

(b) A participant in the plan shall participate with all of their poultry hatching egg supply flocks and hatchery operations.

(c) They shall report to the Official State Agency on VS Form 9-2 or through other appropriate means each breeding flock before the birds reach 24 weeks of age or, in the case of ostriches, emus, rheas, cassowaries, before the birds reach 20 months of age. This report will include:

(i) Name and address of flockowner;
(ii) Flock location and designation;
(iii) Type: Primary or Multiplier;
(iv) Breed, variety, strain, or trade name of stock;
(v) Source of males;
(vi) Source of females;
(vii) Number of birds in the flock; and
(viii) Intended classification of flock.
(d) No person shall be compelled by the Department to qualify products for any of the other classifications as a condition of qualification for the U.S. Pullorum-Typhoid Clean classification.
(e) Participation in the Plan shall entitle the participant to use the Plan emblem.
(2) General provisions for all participants.
(a) Records of purchases and sales and the identity of products handled shall be maintained in a manner satisfactory to the Department.
(b) Products, records of sales and purchase of products, and material used to advertise products shall be subject to inspection by the Department at any time.
(c) Except as provided by this paragraph, participants in the Plan may not buy or receive products for any purpose from nonparticipants unless they are part of an equivalent program, as determined by the Department.
(d) Participants in the Plan may buy or receive products from flocks that are neither participants nor part of an equivalent program, for use in breeding flocks or for experimental purposes, under the following conditions only:
(i) With the permission of the Department and the concurrence of the USDA; and
(ii) By segregation of all birds before introduction into the breeding flock.
(iii) Upon reaching sexual maturity, the segregated birds must be tested and found negative for pullorum-typhoid. The Department may require a second test at its discretion.
(e) Each participant shall be assigned a permanent approval number by the USDA.
(i) This number, prefaced by the numerical code of the State, will be the official approval number of the participant and may be used on each certificate, invoice, shipping label, or other document used by the participant in the sale of his products.
(ii) The approval number shall be withdrawn when the participant no longer qualifies for participation in the Plan.
(3) Specific provisions for participating flocks.
(a) Poultry equipment, and poultry houses and the land in the immediate vicinity thereof, shall be kept in sanitary condition.
(b) The participating flock, its eggs, and all equipment used in connection with the flock shall be separated from nonparticipating flocks, in a manner acceptable to the Department.
(c) All flocks shall consist of healthy, normal individuals characteristic of the breed, variety, cross, or other combination which they are stated to represent.
(d) A flock shall be deemed to be a participating flock at any time only if it has qualified for the U.S. Pullorum-Typhoid Clean classification.
(e) Each bird shall be identified with a sealed and numbered band obtained through or approved by the Department.
(4) Specific provisions for participating hatcheries.

(a) Hatcheries must be kept in sanitary condition, acceptable to the Department. The minimum requirements with respect to sanitation include the following:
(i) Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week.
(ii) Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer.
(iii) Incubator rooms should not be used for storage.
(iv) Egg trays and buggies should be cleaned and disinfected after each transfer.
(v) Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch.
(vi) Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage.
(vii) Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch.
(viii) Chick/poult boxes should be cleaned and disinfected before being reused.
(ix) Vaccination equipment should be cleaned and disinfected after each use.
(x) Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Department.
(xi) The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.
(xii) Effective insect and rodent control programs should be implemented.
(b) A hatchery that keeps started poultry must keep such poultry separated from the incubator room in a manner satisfactory to the Department.
(c) All baby and started poultry offered for sale under Plan terminology should be normal and typical of the breed, variety, cross, or other combination represented.
(d) Eggs incubated should be sound in shell, typical for the breed, variety, strain, or cross thereof and reasonably uniform in shape.
(e) Hatching eggs should be trayed and the baby poultry boxed with a view to uniformity of size.
(f) Any nutritive material provided to baby poultry must be free of the avian pathogens.
(g) If a person is responsibly connected with more than one hatchery, all of such hatcheries must participate in the Plan if any of them participate. A person is deemed to be responsibly connected with a hatchery if he or she is a partner, officer, director, holder, owner of 10 percent or more of the voting stock, or an employee in a managerial or executive capacity.
(5) Specific provisions for participating dealers.
(a) Dealers in poultry breeding stock, hatching eggs, or baby or started poultry shall comply with all provisions in this section which apply to their operations.
(6) Terminology and classification; general.
(a) The official classification terms and the various designs illustrative of the official classifications may be used only by participants and to describe products that have met all the specific requirements of such classifications.

(b) Products produced under the Plan shall lose their identity under Plan terminology when they are purchased for resale by or consigned to nonparticipants.

(c) Participating flocks, their eggs, and the baby and started poultry produced from them may be designated by their strain or trade name.

(d) When a breeder's trade name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either birds hatched from eggs produced under the direct supervision of the breeder of such strain, or stock multiplied by persons designated and so reported by the breeder to the Department.

(7) Terminology and classification; hatcheries and dealers.

(a) Participating hatcheries and dealers shall be designated as "National Plan Hatchery" and "National Plan Dealer", respectively.

(b) The Department shall be notified by the USDA of additions, withdrawals, and changes in classification.

(8) Terminology and classification; flocks and products.

(a) Participating flocks, products produced from them that have met the requirements of a classification in this part may be designated as:

(i) U.S. Pullorum-Typhoid Clean,

(ii) U.S. M. Gallisepticum Clean,

(iii) U.S. Sanitation Monitored,

(iv) U.S. M. Synoviae Clean,

(v) U.S. M. Meleagridis Clean,

(vi) U.S. Sanitation Monitored, Turkeys,

(vii) U.S. S. Enteritidis Clean,

(viii) U.S. Salmonella Monitored,

(ix) U.S. M. Gallisepticum Monitored,

(x) U.S. M. Synoviae Monitored,

(xi) U.S. Avian Influenza Clean, or

(xii) U.S. H5/H7 Avian Influenza Clean.

(9) Supervision.

(a) The Department may designate qualified persons as Authorized Agents to do the sample collecting provided for in this section and may designate qualified persons as Authorized Testing Agents to do the sample collecting and blood testing provided for in this section.

(b) The Department shall employ or authorize qualified persons as State Inspectors to perform the qualification testing of participating flocks, and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

(c) Authorities issued under the provisions of this section shall be subject to cancellation by the Department on the grounds of incompetence or failure to comply with the provisions of the Plan or regulations of the official State agency.

(i) Such actions shall not be taken until a thorough investigation has been made by the Department and the authorized person has been given notice of the proposed action and the basis therefore and an opportunity to present his views.

(10) Inspections.

(a) Each participating hatchery shall be audited at least one time annually or a sufficient number of times each year to satisfy the Department that the operations of the hatchery are in compliance with the provisions of the Plan.

(b) The records of all flocks maintained primarily for production of hatching eggs shall be examined annually by a State Inspector.

(i) Records shall include:

(A) VS Form 9-2, "Flock Selecting and Testing Report";

(B) VS Form 9-3, "Report of Sales of Hatching Eggs, Chicks, and Poults";

(C) set and hatch records;

(D) egg receipts; and

(E) egg/chick orders or invoices.

(ii) Records shall be maintained for 3 years.

(iii) On-site inspections of flocks and premises will be conducted if the State Inspector determines that a breach of sanitation, blood testing, or other provisions has occurred for Plan programs for which the flocks have or are being qualified.

(11) Debarment from participation.

(a) Participants in the Plan, who after investigation by the Department or its representative, are notified in writing of their apparent noncompliance with the Plan provisions or regulations of the Department, shall be afforded a reasonable time, as specified by the Department, within which to demonstrate or achieve compliance.

(b) If compliance is not demonstrated or achieved within the specified time, the Department may debar the participant from further participation in the Plan for such period, or indefinitely, as the Department may deem appropriate.

(c) The debarred participant shall be afforded notice of the bases for the debarment and opportunity to present their views with respect to the debarment in accordance with procedures adopted by the Department.

(d) The Department shall thereupon decide whether the debarment order shall continue in effect.

(e) Such decision shall be final unless the debarred participant, within 30 days after the issuance of the debarment order, requests the Administrator to determine the eligibility of the debarred participant for participation in the Plan.

(i) In such event the Administrator shall determine the matter de novo in accordance with the rules of practice in 7 CFR part 50, which are hereby made applicable to proceedings before the Administrator under this section.

(ii) The definitions in 7 CFR 50.10 and the following definitions shall apply with respect to terms used in such rules of practice.

(12) Testing.

(a) Poultry must be more than 4 months of age when tested for an official classification except,

(i) That turkey candidates may be tested at more than 12 weeks of age;

(ii) That game bird candidates may be tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first;

(iii) That ostrich, emu, rhea, and cassowary candidates may be tested when more than 12 months of age.

(b) Samples for official tests shall be collected by an Authorized Agent, Authorized Testing Agent, or State Inspector and tested by an authorized laboratory, except that the stained antigen, rapid whole-blood test for pullorum-typhoid may be conducted by an Authorized Testing Agent or State Inspector.

(c) For Plan programs in which a representative sample may be tested in lieu of an entire flock, except the ostrich, emu, rhea, and cassowary program, the minimum number tested shall be 30 birds per house, with at least 1 bird taken from each pen and unit in the house. The ratio of male to female birds in representative samples of birds from meat-type chicken, waterfowl, exhibition poultry, and game bird flocks must be the same as the ratio of male to female birds in the flock. In houses containing fewer than 30 birds other than ostriches, emus, rheas, and cassowaries, all birds in the house must be tested.

(d) The Department adopts all sampling and testing procedures specified in Title 9 CFR 145-147 (2013) which incorporated by reference.

KEY: disease control, NPIP, hatchery, poultry

Date of Enactment or Last Substantive Amendment: ~~April 2, 2002~~ 2013

Notice of Continuation: January 18, 2012

Authorizing, and Implemented or Interpreted Law: ~~4-29-1~~ 4-31-119

Agriculture and Food, Animal Industry

R58-18

Elk Farming

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 37246
FILED: 02/01/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Department of Agriculture and Food is changing Rule R58-18 so that the rule will conform with Title 4, Chapter 39, Domesticated Elk Act.

SUMMARY OF THE RULE OR CHANGE: Section R58-18-4 is modified to conform to the statute that requires the license renewal application to be submitted to the Department by April 30th of each year. Subsection R58-18-6(1)(g) requires the Certificate of Veterinary Inspection for purchased elk from out of state to be retained as part of the inventory records. Subsection R58-18-9(3)(g) requires all calves must be tattooed no later than September 15th, a change from March 1st.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j) and Title 4, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Changes to Rule R58-18 will not change the budgetary requirement for the Department of Agriculture and Food. The only changes are dates of requirement.

◆ **LOCAL GOVERNMENTS:** Local government will not be affected by this rule change. Local government is not involved in Elk Inspections and this rule change pertains to dates of mandatory inventory.

◆ **SMALL BUSINESSES:** Small businesses will not be affected by this rule change. The only change will be the mandatory inventory date.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Small businesses, business, or local government entities will not be affected by this rule change. The only change will be the mandatory inventory date.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for elk producers will not change as this rule change affects the date of activities that are required and does not add additional requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to Rule R58-18 will have minimal to no impact on businesses. This change is needed to align the dates to match the Domesticated Elk Act (Title 4, Chapter 39). This rule change was presented to the Agricultural Advisory Board on 01/22/2013.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at bking@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
◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-18. Elk Farming.

R58-18-4. License Renewal.

(1) Each elk farm must make renewal application to the department on the prescribed form no later than ~~April~~ May 30th indicating its desire to continue as an elk farm. This application shall

be accompanied by the required fee. Any license renewal application received after April 30th will have a late fee assessed.

~~[(2) Any license renewal application received after June 30th will have a late fee assessed.~~

] ~~(2)~~⁽³⁾ Any license received after July 1st is delinquent and any animals on the farm will be quarantined until due process of law against the current owner has occurred. This may result in revocation of the license, loss of the facility number, closure of the facility and removal of the elk from the premise.

~~(3)~~⁽⁴⁾ Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee. Documentation that all fencing and facility requirements are met as required.

~~(4)~~⁽⁵⁾ An inventory check will be completed of all elk on the premise, and a visual general health check of all animals will be made. Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.

~~(5)~~⁽⁶⁾ The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.

R58-18-6. Records.

(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of all elk on the facility. The inventory record of each animal shall include:

- (a) Name and address of agent(s) which the elk was purchased from,
- (b) Identification number (tattoo or chip),
- (c) Age,
- (d) Sex,
- (e) Date of purchase or birth,
- (f) Date of death or change of ownership, and
- (g) Certificate of Veterinary Inspection if purchased out of state.

The inventory sheet may be one that is either provided by the department or may be a personal design of similar format.

(2) Any animal born on the property or transported into a facility must be added to the inventory sheet within seven days.

(3) Any elk purchased must be shown on the inventory sheet within 30 days after acquisition, including source.

R58-18-9. Identification.

(1) All elk shall be permanently identified with either a tattoo or micro chip.

(2) If the identification method chosen to use is the micro chip, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify chip number. The chip shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

- (a) UT (indicating Utah) followed by a number assigned by the department (indicating the facility number of the elk farm) and
- (b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:
 UTxxx
 ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or chipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or chipped within 30 days after arriving on the farm.

(g) All calves must be tattooed within 15 days after weaning or in no case later than September 15th~~[March 1st]~~.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by the official USDA ear tag or other ear tag approved by the director.

KEY: inspections

Date of Enactment or Last Substantive Amendment: ~~[December 8, 2008]~~²⁰¹³

Notice of Continuation: January 18, 2012

Authorizing, and Interpreted or Implemented Law: 4-39-106

Agriculture and Food, Animal Industry

R58-19

Compliance Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37247

FILED: 02/01/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Department of Agriculture and Food is changing Rule R58-19 to update the rule to bring it in line with the current approved fee schedules.

SUMMARY OF THE RULE OR CHANGE: Renumbered subsections to conform to the required rule format. Subsection R58-19-4(3) has the table of fees removed and a reference to the Department fee schedule added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-2(1)(c) (i) and Subsection 4-2-2(1)(j)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Changes to Rule R58-19 will not change the budgetary requirement for the Department of Agriculture and Food since the only change will be the renumbering.

♦ **LOCAL GOVERNMENTS:** Local government will not be affected to the changes to Rule R58-19 since the only change will be the renumbering.

♦ **SMALL BUSINESSES:** Small businesses will not be affected to the changes to Rule R58-19 since the only change will be the renumbering.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Small businesses, businesses, or local governments will not be affected to the changes to Rule R58-19 since the only change will be the renumbering.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be cost to anyone since the only change is renumbering.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to Rule R58-19 will have no impact on business. This change is needed to bring the rule into alignment with the current fee schedule. This rule was presented to the Agricultural Advisory Board on 01/22/2013 and approved.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
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◆ 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
◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at wframpton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-19. Compliance Procedures.

R58-19-1. Authority.

This rule is promulgated by the Division of Animal Industry (Division), within the Department of Agriculture and Food (Department) under authority of Section 4-2-2(1)(j).

R58-19-2. Definition of Terms.

(1[A]) An Emergency Order means a written action by the Division, which is issued to a person, as a result of information that is known by the Division, which identifies an immediate and significant danger to the public's health, animal health, safety or welfare, and warrants prompt action pursuant to Section 63G-4-502.

Emergency orders include: "quarantine", "seized", "Utah Inspection and Condemned", "sealed", "reject", "retain", "denatured", "detained", and "suspect", and may be issued when division action is warranted to stop the sale of a product, or halt an immediate condition or service from occurring, pursuant to Sections 4-32-7, 4-32-16, 4-32-17, 4-31-17, 4-39-107, and 9 CFR-III 303.1 through 381.207.

(2[B]) A Citation means a lawful notice, issued by the division, which is intended to immediately remedy a violation of agricultural statutes or rules by a person, business, operator, etc. Pursuant to Section 4-2-15, a citation may include a penalty assessment, or provide for a fine to take effect within a stated time period.

R58-19-3. Emergency Order.

(1) The Division may issue an emergency order when it determines that there is an immediate and significant danger to public health, animal health, safety or welfare may be issued to secure the well-being, safety, or removal of danger to state citizens.

(2) Orders are intended to protect the public from unlawful agricultural and food products and services.

(3) When an emergency order is justified, and conditions warrant immediate action by the Division, it shall:

(a) Promptly issue a written order[;] that includes the following information:

(i[+]) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.

(ii[2]) a brief statement of findings of fact as determined by the division,

(iii[3]) references to statutes or administrative rules violated,

(iv[4]) the reasons for issuance of the emergency order,

(v[5]) the signature of the agency representative, and

(vi[6]) a space/line for the signature of the person (a signature is not required if the person refuses).

(4) This order shall be written and no product, condition, or service subject to the order shall be released, except upon the subsequent written release by the department.

R58-19-4. Citation.

(1) The Commissioner or persons designated by the Commissioner, may enforce this rule by the issuance of a citation for violation, in order to secure subsequent payments of fines or the imposition of penalties:

(a) The citation will include the following information:

(i[+]) name, street address, city, state, zip-code, phone-number, and title or position of the person being given the order, or name, street-address, city, state, zip-code, phone-number of the business, organization, corporation, firm, limited liability company, etc., and the name and title or position of the person in the business or organization to whom the order is given.

(ii[2]) references to the statutes or rules violated,

(iii[3]) a brief statement to the findings of fact as determined by the division,

(iv[4]) a penalty or fine amount,

(v[5]) the signature of the agency representative,
(vi[6]) a space or line for the signature of the person (a signature is not required if the person refuses),

(vii[7]) a statement to the effect that a person is allowed to request an administrative hearing if the person feels that a citation was not warranted.

(2) Fine or penalty amounts will be set by the D[e]partment or the D[i]vision, under the direction of the C[om]missioner, for amounts up to \$5,000 per violation, or if the citation involves a criminal proceeding, the person may be found guilty of a class B misdemeanor.

(3) In accordance with Section 4-2-15, fine or penalty amounts shall be determined according to the ~~following:~~ approved Department fee schedule.

[TABLE
Penalty Amounts

1	Citation per violation	\$100
2	Citation per head	\$2
(If not paid within 15 days, 2 times citation amount)		
(If not paid within 30 days, 4 times citation amount)		

]R58-19-5. Request for Hearing.

When any order or citation, as defined above, is issued, the person being charged with the violation may elect to file, within allowable time limits, a request for the D[e]partment to schedule an informal Administrative Hearing in accordance with the provisions of Section 4-1-3.5.

KEY: agricultural law

Date of Enactment or Last Substantive Amendment: ~~February 12, 2002~~ **2013**

Notice of Continuation: January 18, 2012

Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(j)

**Governor, Economic Development
R357-6**

**Technology and Life Science Economic
Development and Related Tax Credits**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37208

FILED: 01/18/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with feedback from the Administrative Rules analyst in the Governor's Office of Planning and Budget.

SUMMARY OF THE RULE OR CHANGE: The change is the removal of policy criteria as part of evaluating tax credit applications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-1-2907

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Does not affect costs associated with rule which is already in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to state budget.
- ◆ LOCAL GOVERNMENTS: Does not affect costs associated with rule which is already in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to local government.
- ◆ SMALL BUSINESSES: Does not affect costs associated with rule which is already in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to small business.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Does not affect costs associated with rule which is already in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to other entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Does not affect costs associated with rule which is already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Does not affect costs associated with rule which is already in place.

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

GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Zachary Derr by phone at 801-538-8746, by FAX at 801-538-8888, or by Internet E-mail at zderr@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Spencer Eccles, Executive Director

R357. Governor, Economic Development.**R357-6. Technology and Life Science Economic Development and Related Tax Credits.****R357-6-1. Purpose.**

- (1) The purpose of these rules is to provide:
- (a) the criteria upon which the Governor's Office of Economic Development will determine whether to award tax credits to applicants;
- (b) the procedures for documenting the Governor's Office of Economic Development's application of this criteria;
- (c) the procedures by which the Governor's Office of Economic Development issues tax credit certificates;
- (d) the available tax credits for which applicants may apply.

R357-6-2. Authority.

- (1) UCA 63M-1-2907 requires the office to make rules establishing criteria to prioritize the issuance of tax credits among applicants and to establish procedures for documenting the office's application of the criteria.

R357-6-3. Definitions.

- (1) Terms in these rules are used as defined in UCA 63M-1-2902.

R357-6-4. Conditions.

- (1) Applicants shall use the application form provided by the office and follow the procedures and requirements set forth in UCA 63M-1-2905 for obtaining a tax credit certificate.
- (2) Applicants shall submit the application form to the office to be eligible to receive a tax credit, quarterly throughout the fiscal year as set forth in UCA 63M-1-2908, on or before the following quarterly deadlines:
- (a) September 1; and
- (b) December 1; and
- (c) March 1; and
- (d) June 1.
- (3) The office shall review and rank for approval accepted applications based upon the following criteria:
- (a) The overall economic impact on the state related to providing tax credits, taking into account such factors as:
- (i) the number of new incremental jobs to Utah; or
- (ii) capital investment in the state; or
- (iii) new state revenues; or
- (iv) any combination of Subsections (i), (ii), or (iii); ~~or~~
- ~~(v) other criteria as established by the office by policy publication.~~
- (4) The office shall keep a record of the review and ranking of applications based on the criteria in subsection (2).
- (5) The office, with advice from the board, may enter into an agreement with a business entity authorizing a tax credit if the business entity meets the standards under subsections (2) and (3) and according to the requirements and procedures set forth in UCA 63M-1-2909.
- (6) A business entity is eligible for an economic development tax credit only if the office has entered into an agreement under subsection (4) with the business entity.

R357-6-5. Available Tax Credits.

- (1) An applicant may seek one of ~~two~~^{three} types of tax credits, drawn from funds expressly set aside by the Legislature:
- (a) a refundable tax credit for generating state tax revenue;
- or
- (b) a non-refundable tax credit for investment in certain life sciences establishments.
- (2) Eligibility shall be determined by:
- (a) statutory requirements; and
- ~~(b) policy established by the office, with advice and consent of the board, which shall be posted on the office's public website; and~~
- ~~(b)(c)~~ the criteria listed in R357-6-4(2).

KEY: economic development, life sciences, new state revenue
Date of Enactment or Last Substantive Amendment: [November 26, 2012] 2013
Authorizing, and Implemented or Interpreted Law: 63M-1-2901

Governor, Economic Development
R357-9
Alternative Energy Development Tax
Incentives

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37207

FILED: 01/18/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with feedback from the Administrative Rules analyst in the Governor's Office of Planning and Budget.

SUMMARY OF THE RULE OR CHANGE: The change is the removal of office policy as criteria for evaluating tax credit applications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-1-3104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Does not affect the rule which is in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to state budget.
- ◆ **LOCAL GOVERNMENTS:** Does not affect the rule which is in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to local government.
- ◆ **SMALL BUSINESSES:** Does not affect the rule which is in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to small business.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Does not affect the rule which is in place. The agency came to this conclusion because it will not change the way the program is administered and will result in no new costs to other entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Does not affect the rule which is in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Does not affect the rule which is in place.

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

GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Zachary Derr by phone at 801-538-8746, by FAX at 801-538-8888, or by Internet E-mail at zderr@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Spencer Eccles, Executive Director

R357. Governor, Economic Development.

R357-9. Alternative Energy Development Tax Incentives.

R357-9-1. Purpose.

- (1) The purpose of these rules is to establish:
 - (a) The standards an alternative energy entity shall meet to qualify for a tax credit;
 - (b) The procedures by which the Governor's Office of Economic Development issues tax credit certificates.

R357-9-2. Authority.

- (1) UCA 63M-1-3013(1)(a) requires the office to make rules setting the standards an alternative energy entity shall meet to qualify for a tax credit.

R357-9-3. Definitions.

- (1) Terms in these rules are used as defined in UCA 63M-1-3102.

R357-9-4. Standards.

- (1) Applicants shall use the application form provided by the office and follow the procedures and requirements set forth in UCA 63M-1-3104 for obtaining a tax credit certificate.

(2) The office shall review accepted applications based upon the following criteria:

- (a) Compliance with the requirements set forth in UCA 63M-1-3103;
- (b) The overall economic impact on the state related to providing the tax credit, taking into account such factors as:
 - (i) the number of new incremental jobs to Utah; or
 - (ii) capital investment in the state; or
 - (iii) new state revenues; or
 - (iv) any combination of Subsections (i), (ii), or (iii); ~~or~~
 - ~~(v) other criteria as established by the office by policy publication;~~

(3) The office shall keep a record of the review of applications based on the criteria in subsection (2).

(4) The office, with advice from the board, may enter into an agreement with a business entity authorizing a tax credit if the business entity meets the standards under subsections (2) and (3) and according to the requirements and procedures set forth in UCA 63M-1-3104.

(5) A business entity is eligible for an economic development tax credit only if the office has entered into an agreement under subsection (4) with the business entity.

KEY: economic development, alternative energy, tax credits
Date of Enactment or Last Substantive Amendment: [November 26, 2012]2013
Authorizing, and Implemented or Interpreted Law: 63M-1-3101

Health, Family Health and
Preparedness, Licensing
R432-3
General Health Care Facility Rules
Inspection and Enforcement

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 37209
FILED: 01/18/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The American Osteopathic Association requested their agency be added to this rule as a state-recognized accrediting agency since they are already recognized by the Centers for Medicare and Medicaid Services (CMS) as an accrediting agency.

SUMMARY OF THE RULE OR CHANGE: Section R432-3-3 was amended to include the American Osteopathic Association's Health Facilities Accreditation Program as a recognized accrediting agency for licensing.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule amendment will have no effect on state budgets since there will be no change in current practice.
- ◆ **LOCAL GOVERNMENTS:** This rule amendment will have no effect on local government budgets since there will be no change in current practice.
- ◆ **SMALL BUSINESSES:** This rule amendment 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:** This rule amendment will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment 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: This rule will allow the Department to use professional accreditation for businesses seeking deemed status and eliminate unnecessary duplication.

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 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R432. Health, Family Health and Preparedness, Licensing.
R432-3. General Health Care Facility Rules Inspection and Enforcement.
R432-3-3. Deemed Status.**

The Department may grant licensing deemed status to facilities and agencies accredited by ~~the Joint Commission~~ ~~or Accreditation of Healthcare Organizations~~ ~~(Joint Commission)~~ ~~(JIC)~~, Accreditation Association for Ambulatory Health Care (AAAHC),

Accreditation Commission for Health Care, ~~or~~ Community Health Accreditation Program or the American Osteopathic Association's Health Facilities Accreditation Program (AOA/HFAP) in lieu of the licensing inspection by the Department upon completion of the following by the facility or agency:

(1) As part of the license renewal process, the licensee shall identify on the Request for Agency Action/Application its desire to:

- (a) initiate deemed status,
- (b) continue deemed status, or
- (c) relinquish deemed status during the licensing year of application.

(2) This request shall constitute written authorization for the Department to attend the accrediting agency exit conference.

(3) Upon receipt from the accrediting agency, the facility shall submit copies of the following:

- (a) accreditation certificate;
- (b) Joint Commission Statement of Construction;
- (c) survey reports and recommendations;
- (d) progress reports of all corrective actions underway or completed in response to accrediting body's action or Department recommendations.

(4) Regardless of deemed status, the Department may assert regulatory responsibility and authority pursuant to applicable state and federal statutes to include:

- (a) inspections,
- (b) complaint investigations,
- (c) verification of the violations of state law, rule, or standard identified in a Department survey or, violations of state law, rule, or standard identified in the accrediting body's survey including:

(i) facilities or agencies granted a provisional or conditional accreditation by the Joint Commission until a full accreditation status is achieved,

(ii) any facility or agency that does not have a current, valid accreditation certificate, or

(iii) construction, expansion, or remodeling projects required to comply with standards for construction promulgated in the rules by the Health Facility Committee.

(5) The Department may annually conduct validation inspections of facilities or agencies accredited for the purpose of determining compliance with state licensing requirements. If a validation survey discloses a failure to comply with the standards for licensing, the provisions relating to regular inspections shall apply.

KEY: health care facilities

Date of Enactment or Last Substantive Amendment: ~~[October 1, 2011]~~ **2013**

Notice of Continuation: December 24, 2008

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-14 through 26-21-16

Human Services, Aging and Adult
Services
R510-104-11
Liquid Meals

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37228

FILED: 01/24/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment does two things: 1) the term "liquid meal" describing liquid nutritional supplement products such as Ensure is no longer used by the Administration on Community Living (ACL). This amendment updates the rule to use the ACL's new acceptable term, "medical meal"; and 2) the current version of the rule indicates federal reimbursement can be received for medical meals prescribed by a doctor, dietician, or nurse following a clinically-based assessment of the client. However, in reality, while a dietician or nurse needs to perform the assessment before a medical meal can receive federal reimbursement, a doctor can prescribe a reimbursable medical meal without the need to conduct the assessment. This amendment corrects both of these issues and makes the wording and practices associated with these meals conform to the ACL's policies.

SUMMARY OF THE RULE OR CHANGE: The amendment changes all instances of "liquid meal" in the rule to "medical meal." It also clarifies that a doctor can prescribe medical meals without conducting a clinically based assessment, and that the prescribed meals will still be federally reimbursable.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 USC 3001 and Section 63A-3-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No savings or cost--This change is in rule language only and does not create savings or expenses for the Division of Aging and Adult Services.
- ◆ LOCAL GOVERNMENTS: No savings or cost--This change is in rule language only and does not create savings or expenses for the local Area Agencies on Aging.
- ◆ SMALL BUSINESSES: This change is in rule language only and does not create savings or expenses for providers or other small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This change is in rule language only and does not create savings or expenses for clients. The suggested donation will remain the same.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These changes clarify the existing rule and do not create any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this wording changes and there are no fiscal impacts from this rule change.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/25/2013

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2013

AUTHORIZED BY: Nels Holmgren, Director

**R510. Human Services, Aging and Adult Services.
R510-104. Nutrition Programs for the Elderly (NPE).
R510-104-11. ~~[Liquid]~~Medical Meals.**

(1) In situations where nutritional considerations make solid foods inappropriate, the need for nutrient supplements to include ~~[liquid supplemental feedings]~~ medical meals (meeting the required RDI Guidelines) may be part of medical nutrition therapy recommended by a registered dietitian, registered nurse or physician, ~~[with the concurrence of the local AAA,]~~ primarily when the participant ~~[can not]~~ cannot tolerate or digest regular meals. ~~[Exceptions to solid foods shall be documented by the nutrition case manager who shall record that other alternatives were tried but unsuccessful. All other sources of home-delivered meal modification should be exhausted before liquid supplemental feedings become the main nutritional regimen.]~~

(2) Only seniors are eligible for [liquid]medical meals purchased through the Nutrition Program for the Elderly (NPE) funding. Exceptions can be made for Alternatives clients under 60. Additionally, AAAs always have the discretion to use county dollars in any way they see fit.

(3) A [liquid]medical or secondary meal shall only be offered in place of regular food as the first meal ~~[, if prescribed by a physician, dietician, or nurse, or if an AAA makes an exception for a client who prefers a liquid meal, provided the AAA follows the process outlined below].~~

~~_____~~ (a) In order to receive [liquid]medical meals through the Nutrition Programs for the Elderly (~~[NPE]~~ NPS), ~~[the participant must be a client and be determined to be at moderate to severe risk of malnutrition. The participant will fill out]~~ the following ~~[tools to arrive at a nutrition screening score if they would like an exception made to receive liquid meals without a health professional's prescription]~~ requirements must be met:

(i) A demographic questionnaire must be completed (for the AAA records).

~~[(ii) The AAA's nutritional health screening tool.]~~ (ii) A physician must issue a prescription, or a clinically based assessment must be completed by a dietician or nurse.

(4) A liquid medical meal distributed through the AAAs' NPE Programs must meet the 33 1/3 DRI nutrient requirements. If the liquid medical meal is picked up by the client or client representative at a senior center, the meal will count as a congregate meal (C1) and if the liquid medical meal is delivered to the client's home by the AAA staff, the meal will be considered a home delivered meal (C2).

(5) The Participant may not be provided more than a one month supply of medical liquid supplement at one time.

(6) A confidential contribution system shall be in place with a suggested donation in order to qualify the liquid medical meal for the USDA cash-in-lieu reimbursement.

KEY: elderly, nutrition, home-delivered meals, congregate meals

Date of Enactment or Last Substantive Amendment: ~~July 21, 2009~~ 2013

Notice of Continuation: October 8, 2009

Authorizing, and Implemented or Interpreted Law: 62A-3-104; 42 USC Section 3001

Human Services, Recovery Services R527-38 Unenforceable Cases

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37229
FILED: 01/25/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to delete the requirement to access a credit bureau report within the past six months criteria found in Subsection R527-38-2(1)(g).

SUMMARY OF THE RULE OR CHANGE: This change deletes Subsection R527-38-2(1)(g).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 5 CFR 303.11 and Section 62A-1-111 and Section 62A-11-107

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be a savings to the state budget because the Office of Recovery Services/Child Support Services (ORS/CSS) will no longer request a credit bureau report prior to closing a case as "uncollectable." While the exact savings for this change is not known, ORS/CSS can estimate it based on the cost of an individual report and the number of cases potentially closed each year using these procedures. During the last 12 months, 757 reports were requested for this purpose at a total cost of \$1.50 per report: $757 \times \$1.50 = \$1,135.50$. Prospectively, each of these reports would require service of a notice ten

days in advance of the credit bureau report being requested; the minimum possible service cost would be for certified mail at the 2013 rate of \$5.75 per notice: $757 \times 5.75 = \$4,352.75$. At the minimum, one hour of state employee time would be required for each report to prepare the advance notice, monitor service, and run the credit bureau report at an average employee hourly rate of \$19.77: $757 \times \$19.77 = \$14,965.89$. Therefore, the annual savings to the state budget is estimated at \$20,454.14.

◆ **LOCAL GOVERNMENTS:** Administrative rules of ORS/CSS do not apply to local government; therefore, there are no anticipated costs or savings for any local businesses due to this amendment.

◆ **SMALL BUSINESSES:** This rule will not affect small businesses; the change to the rule will only affect ORS/CSS.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs for any other individual because the change to the rule only affects current internal procedures within the ORS/CSS.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs as the change to this rule only affects current internal procedures within ORS/CSS.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are not costs for businesses because the change to the rule only affects current internal procedures within the ORS/CSS.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Liesa Corbridge, Director

R527. Human Services, Recovery Services.

R527-38. Unenforceable Cases.

R527-38-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111 and 62A-11-107.

2. The purpose of this rule is to establish the criteria which a support case must satisfy to be categorized as unenforceable pursuant to 45 CFR 303.11.

R527-38-2. Unenforceable Case Criteria.

1. All of the following criteria must be met for a support case to be categorized as unenforceable:
 - a. The case is currently not a paying case; in that payments shall not have been posted to the case during the last 12 months; and payments are not expected to be posted in the near future.
 - b. No federal offset money has been received by the Office of Recovery Services (ORS) during the last two years.
 - c. No state tax money shall have been received by ORS within the most recent two years.
 - d. ORS shall have collected \$1,000 or less on the case over the last two years by methods other than federal offset or state tax.
 - e. There are no financial institution accounts belonging to the non-custodial parent that can be attached.
 - f. No executable assets belonging to the non-custodial parent have been identified.
 - g. ~~A credit bureau report has been accessed within the past six months indicating income or asset information is unavailable.~~
 - h. If the matter concerns a Title IV-E case, all of the children identified as being part of the case shall have been emancipated or parental rights shall have been terminated.

KEY: child support

Date of Enactment or Last Substantive Amendment: ~~July 13, 2009~~ **2013**

Notice of Continuation: July 28, 2009

Authorizing, and Implemented or Interpreted Law: 45 CFR 303.11; 62A-1-111; 62A-11-107

**Human Services, Services for People
with Disabilities
R539-1-3
Definitions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37245

FILED: 02/01/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division has recently submitted a new rule governing provider use of electronic surveillance to monitor persons receiving services. This proposed rule adds definitions for "Electronic Surveillance" and "Electronic Surveillance Certification" in order to clarify those terms as they will be used in the newly amended Section R539-3-7.

SUMMARY OF THE RULE OR CHANGE: This amendment adds definitions for the terms: "Electronic Surveillance" and "Electronic Surveillance Certification." Nothing is removed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103 and Section 62A-5-105

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment adds clarification to help interpret a new rule governing provider use of electronic surveillance. The addition of these definitions will not introduce any additional burdens on the state. No cost or savings affecting the state budget.
- ◆ **LOCAL GOVERNMENTS:** This amendment adds clarification to help interpret a new rule governing provider use of electronic surveillance. The addition of these definitions will not introduce any additional burdens on local government. No cost or savings affecting local governments.
- ◆ **SMALL BUSINESSES:** This amendment adds clarification to help interpret a new rule governing provider use of electronic surveillance. The addition of these definitions will not introduce any additional burdens on small businesses. No cost or savings affecting small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment adds clarification to help interpret a new rule governing provider use of electronic surveillance. The addition of these definitions will not introduce any additional burdens on persons or those meeting that definition. No cost or savings affecting persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are expected to affect persons with disabilities, their families, or guardians as part of this rule change. No costs are expected to effect providers as a result of these definitions either. This amendment adds clarification to help interpret a new rule governing provider use of electronic surveillance. The addition of these definitions will not introduce any additional burdens on persons or those meeting that definition. No cost or savings affecting persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I see no fiscal impact as a result of this rule.

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

HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
195 N 1950 W 3RD FLR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
- ◆ Nathan Wolfley by phone at 801-538-4154, by FAX at 801-538-4279, or by Internet E-mail at nwolfley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Paul Smith, Director

R539. Human Services, Services for People with Disabilities.

R539-1. Eligibility.

R539-1-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101.

(2) In addition:

(a) "Agency Action" means an action taken by the Division that denies, defers, or changes services to an Applicant applying for, or a person receiving, Division funding;

(b) "Applicant" means an individual or a representative of an individual applying for determination of eligibility;

(c) "Brain Injury" means any acquired injury to the brain and is neurological in nature. This would not include those with deteriorating diseases such as Multiple Sclerosis, muscular dystrophy, Huntington's chorea, ataxia, or cancer, but would include cerebral vascular accident;

(d) "Department" means the Department of Human Services;

(e) "Division" means the Division of Services for People with Disabilities;

(f) "Electronic Surveillance" is observing or listening to persons, places, or activities with the aid of electronic devices such as cameras, web cams, global positioning systems, motion detectors, weight detectors or microphones, in real time.

(g) "Electronic Surveillance Certification" is documentation signed by members of the Provider Human Rights Committee that contains the location of the site under surveillance, description of the types of surveillance to be used, names of persons to be under surveillance and signed consent from each person affected as required by Subsections R539-3-7(3)(a) and R539-3-7(4)(a).

([f]h) "Form" means a standard document required by Division rule or other applicable law;

([g]i) "Guardian" means someone appointed by a court to be a substitute decision maker for a person deemed to be incompetent of making informed decisions;

([h]j) "Hearing Request" means a written request made by a person or a person's representative for a hearing concerning a denial, deferral or change in service;

([i]k) "ICF/ID" means Intermediate Care Facility for People with Intellectual Disability;

([j]l) "Person" means someone who has been found eligible for Division funding for support services due to a disability and who is waiting for or receiving services at the present time;

(m) "Related Conditions" means a severe, chronic disability that meets the following conditions:

(i) It is attributable to:

(A) Cerebral palsy or epilepsy; or

(B) Any other condition, other than mental illness, found to be closely related to intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of people with intellectual disability, and requires treatment or services similar to those required for these persons.

(ii) It is manifest before the person reaches age 22.

(iii) It is likely to continue indefinitely.

(iv) It results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care.

(B) Understanding and use of language.

(C) Learning.

(D) Mobility.

(E) Self-direction

(F) Capacity for independent living.

(n) "Representative" means the person's legal representative including the person's parents if the person is a minor child, a court appointed guardian or a lawyer retained by the person;

(o) "Resident" is an Applicant or Guardian who is physically present in Utah and provides a statement of intent to reside in Utah;

(p) "Support" is assistance for portions of a task allowing a person to independently complete other portions of the task or to assume increasingly greater responsibility for performing the task independently;

(q) "Support Coordinator" means an employee of the Division who completes written documentation of supports and determination of eligibility and support needs;

(r) "Team Member" means members of the person's circle of support who participate in the planning and delivery of services and supports with the Person. Team members may include the Person applying for or receiving services, his or her parents, Guardian, the support coordinator, friends of the Person, and other professionals and Provider staff working with the Person; and

(s) "Waiver" means the Medicaid approved plan for a state to provide home and community-based services to persons with disabilities in lieu of institutionalization in a Title XIX facility, the Division administers three such waivers; the intellectual disabilities or related conditions waiver, the brain injury waiver and physical disabilities waiver.

KEY: human services, disabilities, social security numbers

Date of Enactment or Last Substantive Amendment: ~~April 1, 2008~~ 2013

Notice of Continuation: November 5, 2012

Authorizing, and Implemented or Interpreted Law: 62A-5-103; 62A-5-105

Natural Resources, Parks and
Recreation
R651-224
Towed Devices

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 37242

FILED: 01/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 2012 General Session, S.B. 84 was passed by the Utah Legislature and was signed into law by Governor Herbert. This created several exemptions from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions. The rule is deficient in providing for the exemption created by law and needs to be amended.

SUMMARY OF THE RULE OR CHANGE: S.B. 84 (2012) was passed by the Utah Legislature and was signed into law by Governor Herbert. This created several exemptions from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions. The rule is deficient in providing for the exemption created by law and needs to be amended.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-18-15

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment does not affect the state budget. It does not change patrol functions or time, signage or educational materials. It addresses an exemption from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions.
- ◆ **LOCAL GOVERNMENTS:** This amendment does not affect local government. It addresses an exemption from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions.
- ◆ **SMALL BUSINESSES:** This does not affect small businesses in anyway. It addresses an exemption from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This does not affect individuals, partnerships, or corporations. It addresses an exemption from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this amendment. It addresses an exemption from the existing PFD, warning flag, and observer requirements for waterskiers under certain conditions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION

ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Fred Hayes, Director

R651. Natural Resources, Parks and Recreation.**R651-224. Towed Devices.****R651-224-1. Observer Required.**

The operator of a vessel which is towing a person on water skis or other devices shall be responsible for maintaining a safe course with proper lookout. Except as provided in 73-18-16, UCA, [F]the progress of the person under tow shall be reported to the vessel operator by the observer.

R651-224-2. Unlawful Methods of Towing.

No person shall operate a motorboat or have the engine of a motorboat run idle while a person is occupying or holding onto the swim platform, swim deck, swim step or swim ladder of the motorboat or while a person is being towed in a non-standing position within 20 feet of the vessel. These restrictions do not apply when a person is occupying the swim platform, swim deck, swim step or swim ladder while assisting with the docking or departure of the motorboat, while exiting or entering the motorboat, or when a motorboat is engaged in law enforcement activity.

R651-224-3. Flag Required.

Except as provided in 73-18-16, UCA [F]the operator of a vessel engaged in a towed watersport shall be responsible for a flag to be displayed by the observer in a visible manner to other boaters in the area only when a person to be towed is in the water, either preparing to be towed or finishing a tow. The flag shall be international orange at least 12 inches square and mounted on a handle.

R651-224-4. PFD to be Worn.

Except as provided in 73-18-16, UCA [F]the operator of a vessel which is towing a person(s) on water skis or other devices shall require each person who is water skiing or using other devices to wear a United States Coast Guard approved personal flotation device (PFD), except an inflatable PFD may not be used.

R651-224-5. Capacity of Towing Vessel.

The operator of a vessel which is towing a person(s) on water skis or other devices shall use a vessel with sufficient carrying capacity, as defined by the manufacturer, for the occupant(s) onboard and the person(s) being towed.

R651-224-6. No Towing in Marinas.

The operator of a vessel shall not tow a person(s) in or on any towed device within a wakeless area surrounding a developed marina or launch ramp.

KEY: boating, water skiing

Date of Enactment or Last Substantive Amendment: [~~July 27, 2011~~]2013

Notice of Continuation: January 11, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-15

Natural Resources, Wildlife Resources R657-12 Hunting and Fishing Accommodations for People with Disabilities

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37225

FILED: 01/24/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) administrative rules.

SUMMARY OF THE RULE OR CHANGE: Provisions are being amended to this rule to: 1) set the limited entry turkey hunt season extension for qualifying disabled sportsmen; 2) allow the use of cross-bows by disabled anglers to take carp; and 3) reduce the required level of disability for a veteran with disabilities to receive a season fishing license at a reduced price from 40% to 20%.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-19-1 and Section 23-19-36 and Section 23-20-12 and Section 63G-3-201

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment simplifies the limited entry turkey hunt season extensions and allows increase opportunity for the use of crossbows. It also allows more disabled veterans to qualify to receive a season fishing license at a discounted price. Due to the increase of persons qualifying for a discounted license, DWR has determined that this amendment may create a cost or savings impact to the division's budget or the state budget depending on the increased number of qualifying veterans.

◆ **LOCAL GOVERNMENTS:** This amendment simplifies the limited entry turkey hunt season extensions and allows increase opportunity for the use of crossbows. It also allows

more disabled veterans to qualify to receive a season fishing license at a discounted price. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment simplifies the limited entry turkey hunt season extensions and allows increase opportunity for the use of crossbows. It also allows more disabled veterans to qualify to receive a season fishing license at a discounted price. The amendment does not impose any additional requirements on small businesses but will generate a cost or savings impact to qualifying disabled veterans.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment simplifies the limited entry turkey hunt season extensions and allows increase opportunity for the use of crossbows. It also allows more disabled veterans to qualify to receive a season fishing license at a discounted price. The amendment does not impose any additional requirements on other persons but will generate a cost or savings impact to qualifying disabled veterans.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment simplifies the limited entry turkey hunt season extensions and allows increase opportunity for the use of crossbows. It also allows more disabled veterans to qualify to receive a season fishing license at a discounted price. There are not any additional compliance costs associated with this amendment.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ 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 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-12. Hunting and Fishing Accommodations for People With Disabilities.

R657-12-1. Purpose and Authority.

Under authority of Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12 and 63G-3-201, this rule provides the standards and procedures for a person with disabilities to:

- (1) obtain a certificate of registration for taking wildlife from a vehicle;
- (2) obtain a fishing license as authorized under Section 23-19-36(1);
- (3) obtain a certificate of registration to participate in companion hunting;
- (4) obtain a certificate of registration to receive a limited entry season extension;
- (5) obtain a certificate of registration to receive a general deer or elk season extension;
- (6) obtain a certificate of registration to hunt with a crossbow or draw-lock; or
- (7) obtain a certificate of registration to use telescopic sights on a weapon when otherwise prohibited.

R657-12-7. Special Season Extension for Disabled Persons - General Deer, Elk and Wild Turkey Hunts.

(1) A person may obtain a Certificate of Registration from a division office to hunt an extended general deer, elk or wild turkey season as provided in Subsection (2), provided the person requesting the extension:

(a) is blind, quadriplegic, upper extremity disabled, paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or who has lost either or both lower extremities;

(b) satisfies the hunter education requirements as provided in Section 23-19-11 and Rule R657-23; and

(c) obtains the appropriate license, permit and tag.

(2)(a) The extended general deer season may include:

(i) a hunt immediately preceding the general any weapon buck deer season opening date published in the [proclamation]guidebook of the Wildlife Board for taking big game;

(A) the extension may not apply to general any weapon deer hunts with season length restrictions.

(b) The extended general spike bull elk season may occur five days after the general season spike bull elk hunt published in the [proclamation]guidebook of the Wildlife Board for taking big game.

(c) The extended general any bull elk season may occur concurrently with the general youth any bull elk hunt published in the [proclamation]guidebook of the Wildlife Board for taking big game.

(d) The extended general wild turkey season may occur [during the following dates;]seven days prior to the limited entry turkey hunt season as published in the guidebook of the Wildlife Board for taking Upland Game and Wild Turkey.

[_____] (i) April 2 through April 4 2010;

[_____] (ii) April 1 through April 3 2011; and

[_____] (iii) March 30 through April 1 2012.

] (3) The division shall accept the following as evidence of disability:

- (a) obvious physical impediment;

(b) use of any mobility device described in Section R657-12-2(2)(b);

(c) a signed statement by a licensed ophthalmologist, optometrist, or a physician verifying the person is blind as defined under Section R657-12-2(2)(a); or

(d) a signed statement by a licensed physician verifying the person is quadriplegic, upper extremity disabled as defined under Section R657-12-2(2)(d), paraplegic, or otherwise permanently disabled so as to be permanently confined to a wheelchair or the use of crutches, or has lost either or both lower extremities.

R657-12-8. Crossbows and Draw-Locks.

(1)(a) A person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment may receive a certificate of registration to use a crossbow or draw-lock to hunt big game, cougar, bear, turkey, waterfowl[~~or~~], small game or carp during the respective archery[~~or~~], any weapon hunting, or fishing seasons as provided in the applicable [proclamations]guidebooks of the Wildlife Board for taking protected wildlife.

(b) The division shall accept the following as evidence of eligibility to use a crossbow or draw-lock:

(i) obvious physical disability, as provided in Subsection (1)(a), demonstrating the applicant is eligible to use a crossbow or draw-lock; or

(ii) provides a physician's statement confirming the disability as defined in Subsection (1)(a).

(2)(a) Any crossbow used to hunt big game, cougar, bear, turkey, waterfowl or small game must have:

(i) a stock that is at least 18 inches long;

(ii) a minimum draw weight of 125 pounds for big game, bear and cougar, or 60 pounds for turkey, waterfowl and small game;

(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and

(iv) a positive safety mechanism.

(b) Arrows or bolts used must be:

(i) at least 18 inches long; and

(ii) must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring for big game, cougar, bear or turkey.

(3)(a) Any crossbow or drawlock used to hunt carp must have:

(i) A reel with line capable of tethering the bolt to restrict the flight distance; and

(ii) A positive safety mechanism.

(4) The following equipment or devices may not be used:
(a) arrows with chemically treated or explosive arrowheads;

(b) a bow with an attached electronic range finding device; or

(c) a bow with an attached telescopic sight, except as provided in R657-12-9.

[(4)5] Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

[(5)6] A drawn and cocked crossbow or bow with a draw-lock may not be carried in or on a vehicle.

([6]Z) Conventional bows equipped with a draw-lock and used to hunt big game must conform with the minimum draw weights, and arrow and broadhead restrictions contained in R657-5.

R657-12-10. Fishing Licenses for Veterans with Disabilities.

(1) A resident who has a service-connected disability of [40]20% or more and is not eligible to fish without a license under Section 23-19-14 or to receive a free fishing license under Section 23-19-36 may purchase a discounted 365-day fishing license upon furnishing verification of a service-connected disability and paying the fee established in the approved fee schedule.

(a) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof and the Army and Air National Guard of the United States.

(b) "Service-connected disability" means injury or illness incurred or aggravated:

(i) while in Armed Forces service; and

(ii) that is recognized by the United States Department of Veterans Affairs or by a branch of the Armed Forces.

(c) "Verification of Service-Connected Disability" means an official written letter, statement, or card issued by the Department of Veterans Affairs or by a branch of the Armed Forces certifying that the person has a service-connected disability with a disability rating of [40]20% or higher.

(2) The discount provided in this section on the purchase of a fishing license does not apply to combination licenses.

(3) Veteran fishing licenses shall be issued at division offices and may be issued by mail, online or at license agents. The purchaser may be required to complete an affidavit of the service-connected disability at the time of purchase.

KEY: wildlife, wildlife law, disabled persons

Date of Enactment or last Substantive Amendment: [~~August 23, 2011~~]2013

Notice of Continuation: September 10, 2012

Authorizing, and Implemented or Interpreted Law: 23-20-12; 63G-3-201

Natural Resources, Wildlife Resources

R657-20

Falconry

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37233

FILED: 01/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted regularly for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule regarding falconry.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) resolve an age conflict in Sections R657-20-3, R657-20-9 and R657-20-25; 2) clarify a "Nonresident" Certificate of Registration; 3) outline the criteria for a facilities inspection; 4) outline the Sponsor Program; 5) make clarifications on reporting and banding requirements; and 6) reorder and group sections for consistency, clarity, and simplification.

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

ANTICIPATED COST OR SAVINGS TO:

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

◆ **LOCAL GOVERNMENTS:** Since the amendments clarify the rules that regulate the possession and use of raptors for falconry, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

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

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

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments are for clarification, thus DWR determined that there were no additional compliance costs associated with this amendment.

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

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

NATURAL RESOURCES

WILDLIFE RESOURCES

1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.**R657-20. Falconry.****R657-20-1. Purpose and Authority.**

(1) Under authority of Section 23-17-7 and in accordance with 50 CFR 21 and 22 (10/01/2000), which is incorporated by reference, the Wildlife Board has established this rule for the practice of falconry in the state of Utah.

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

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

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

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

(a) This rule covers all avian species in the Order Accipitriformes (i.e., vultures, California Condor, kites, eagles and hawks), Order Falconiformes (i.e., caracaras, and falcons) and Order Strigiformes (i.e., owls), and hybrids thereof, and applies to any person who possesses one or more wild-caught, captive-bred, or hybrid raptors to use in falconry.

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

(6) Specific season dates, possession limits, open and closed areas, number of permits or CORs, and other administrative regulations for practicing falconry are published in the Utah falconry Guidebook which is available by contacting the Division of Wildlife Resources office in Salt Lake City or online at http://wildlife.utah.gov/guidebooks/2007_falconry.

(7) Possession of any raptor, raptor egg, shell fragment, semen, or any raptor part without a valid and applicable state COR or Federal permit is prima facie evidence that the raptor, raptor egg, shell fragment, semen, or any raptor part was illegally taken and is illegally held in possession.

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

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

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

R657-20-2. Definitions.

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

(2) In addition:

(a) "Abatement activities" means use of trained raptors to flush, haze or take birds (or other wildlife where allowed) to mitigate depredation problems, including threats to human health and safety.

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

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

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

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

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

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

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

(i) "Division" means the Utah Division of Wildlife Resources.

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

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

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

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

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

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

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

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

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

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

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

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

1) permanent, nonreusable (plastic, zip-tie) black-colored numbered leg bands identify an individual raptor that has been taken from the wild;

2) seamless (metal) yellow-colored numbered leg bands identify an individual raptor that has been captive-bred

(a) permanent, nonreusable (plastic, zip-tie) yellow-colored numbered leg bands are used when a seamless band needs to be replaced

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

(w) "Mews" refers to a protected indoor facility (a residence or non-residence) where raptors are kept for falconry purposes.

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

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

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

(aa) "Raptor" means any bird of the Order Accipitriformes, Order Falconiformes (falcons and caracaras) or the Order Strigiformes (owls) and hybrids thereof unless defined otherwise in this rule.

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

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

(dd) "Take" means to: hunt, pursue, harass, catch, capture, possess, angle, seine, trap or kill any protected wildlife; or attempt any such action.

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

(ff) "Trial" means, for purposes of this rule, an organized falconry event where European Starling (*Sturnella neglecta*), House Sparrow (*Passer domesticus*), Rock Dove/feral pigeon (*Columba livia*), pen-reared game birds, and lawfully possessed, domestic birds may be taken.

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

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

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

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

R657-20-3. Minimum Age Requirement.

(1) A person who wishes to practice the sport of falconry in Utah must be at least 12 years of age.

R657-20-4. Falconry COR, Permits, and Licenses.

(1) The division may deny issuing a COR or permit to any applicant, if:

(a) [~~the~~]The applicant has violated any provision of Title 23, Utah Wildlife Resources Code, Administrative Code R657, a certificate of registration, an order of the Wildlife Board or any other law that when considered with the functions and responsibilities of practicing the sport of falconry bears a reasonable relationship to the applicant's ability to safely and responsibly carry out such activities;

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

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

(2) A COR is not transferrable.

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

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

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

(a) A falconry COR requires up to a 30-business day processing time from the date an application is received.

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

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

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

(7) A falconer must obtain a Raptor Capture Permit prior to capturing or attempting to capture any raptor from the wild in Utah.

(i) A valid falconry COR is required for a Utah resident in order to obtain a Raptor Capture Permit.

(ii) Nonresident falconers are not required to purchase a Utah falconry COR in order to purchase a Nonresident Raptor Capture Permit.

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

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

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

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

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

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

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

R657-20-5. Application for a ~~Resident or Nonresident~~ Falconry COR.

(1) To obtain a falconry COR, applicants must have either an indoor mews or an outdoor weathering area, or both pursuant to Section R657-20-

(2) Resident Applications

(a) A resident applying for or renewing a falconry COR shall:

(i) Submit a completed falconry application to the Division; and

(ii) Include the appropriate COR fee.

(b) As a condition to obtaining a falconry COR, the falconer agrees to reasonable administrative inspections of falconry raptors, facilities, equipment, CORs, and related documents.

(c) Falconry raptors, facilities, equipment, and documents may be inspected by the Division only in the presence of the permittee at a reasonable time of day.

(d) At the time of renewal, the current falconry COR number must be included on the falconry COR renewal application.

(e) A falconer claiming residency in Utah may not claim residency in, or possess a resident falconry license or falconry permit from, another state.

~~(2) Nonresident Applications]~~ Resident falconers wishing to renew a valid falconry COR must submit a completed falconry COR renewal form to the Division upon or before the expiration date specified on the current falconry COR.

~~(a) A six-month domicile period is required for a nonresident falconer entering Utah to establish residency.~~

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

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

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

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

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

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

~~(d) A non-resident falconer establishing residency must maintain proper facilities and equipment.~~

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

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

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

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

~~(e) At the conclusion of the six-month domicile period, a new resident applying for a falconry COR must submit the following to the Division:~~

~~(i) A completed falconry application indicating class designation;~~

~~(ii) A copy of a valid falconry license from the former state of residency indicating class designation;~~

~~(iii) A valid federal falconry permit number, if applicable;~~

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

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

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

~~(v) Submit the appropriate COR fee.~~
~~(f) A non-resident falconer entering Utah to establish residency that holds raptors in possession and fails to apply for a falconry COR within 30 days of qualifying for residency will be in violation of the law for unlawful captivity of protected wildlife under Sections 23-13-4 and 23-20-3 and may be denied a falconry COR, and any raptors in their possession may be subject to seizure.~~
~~(g) At the conclusion of the six-month domicile period outlined in Section R657-20-5, a falconer may apply for a resident Utah falconry COR.~~

R657-20-6. COR Renewal and Annual Report Forms.

~~(1) Resident falconers wishing to renew a valid falconry COR must submit a completed falconry COR renewal form to the Division upon or before the expiration date specified on the current falconry COR.~~

~~]~~ ~~(a) [i] [falconry] Falconry COR Renewals require up to a 30-day processing time for completion.~~

~~(2) All Resident falconers holding a valid falconry COR must submit a completed falconry Annual Report to the Division by January 31 of each year, as follows:~~

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

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

~~(3) [g] Residents who do not hold a valid falconry COR or do not submit a COR renewal form by the date their current COR lapses and who maintain raptors in possession are in violation of unlawful captivity of protected wildlife under Sections 23-13-4 and 23-20-3.~~

~~(4) [h] Failure to submit required records and timely, accurate, or valid reports may result in administrative action by the Division.~~

~~(a) [i] Administrative action that may be taken by the Division include:~~

~~(i) [A] Issuance of a probationary COR with restrictions on activities allowed; or~~

~~(ii) [B] Non-renewal of a COR until the required records and reports are completed.~~

~~(5) [j] A falconry COR is considered to be lapsed if the falconer has not applied for renewal within 30 calendar days of the expiration of their current COR.~~

~~(a) [A] Disposition of raptors held under a lapsed falconry COR is at the discretion of the Division.~~

~~(b) [B] Raptors held under a lapsed falconry COR are subject to seizure by the Division.~~

~~(6) [k] A falconer who has allowed their COR to lapse may apply for a new COR.~~

~~(a) [i] If a falconry COR has lapsed for fewer than 5 years, it will be reinstated at the level held previously if proof of certification at that level is provided and the applicant has appropriate facilities and equipment; and is otherwise qualified under R657-20-4[+].~~

~~(b) [ii] If a falconry COR or Permit has lapsed for 5 years or longer, an applicant must correctly answer at least 80 percent of the questions on an examination administered by the Division as required in Section R657-20-[+6]11(1)(b)(ii).~~

~~(i) [A] If the applicant passes the examination, a falconry COR will be reinstated at the level previously held.~~

~~(ii) [B] The applicant's facilities and equipment must also pass inspection by a Division representative before possessing a raptor for falconry as required in Sections R657-20-[8,]7, R657-20-9, and R657-20-10.~~

R657-20-7. Nonresident Participation in Meets or Trials.

~~(1) A nonresident entering Utah to participate in the sport of falconry at an organized meet must be 14 years of age or older and must obtain a nonresident falconry meet license if hunting protected wildlife.~~

~~(2) A falconry meet license may be obtained by completing an application and submitting the application and appropriate fees to the Division.~~

~~(3) A falconry meet license is valid only for nonresidents and only for five (5) consecutive calendar days as designated on the license.~~

~~(4) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified five-day period in accordance with the applicable proclamations of the Wildlife Board.~~

~~(5) A nonresident participating in an organized meet for more than five consecutive calendar days must obtain appropriate nonresident licenses, permits, tags, and stamps as provided in the proclamations of the Wildlife Board if protected wildlife is pursued.~~

~~(3) Falconers Wishing to Establish Residency in Utah~~
~~(a) A falconer entering Utah to establish residency must possess the following:~~

~~(6) A nonresident participating in an organized meet for more than five consecutive calendar days must provide a health certificate and an import authorization number obtained from the Utah Department of Agriculture, Animal Health Section, on each raptor brought into the state. [i] A copy of the previous state's valid falconry license indicating class designation, a current federal falconry permit number, if applicable, a valid health certificate, the number and species of raptors with the band number (if banded) of each raptor held in possession, and an entry permit number obtained from the Utah Department of Agriculture must be presented to the Division within 5 business days after entering Utah.~~

~~(7) A falconry meet license is not required for participation in a falconry trial.~~

~~(8) An organizer of a falconry meet must obtain prior approval from the Wildlife Board for non-residents to purchase a 5-day non-resident meet license.~~

~~(a) A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the Division.~~

~~(b) A six-month domicile period is required for a falconer entering Utah to establish residency.~~

~~(c) A falconer entering Utah to establish residency may possess legally obtained raptors that were acquired prior to entering Utah.~~

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

~~(d) A falconer wishing to establish residency must maintain proper facilities and equipment (see Section R657-20-6, R657-20-7, and R657-20-8).~~

(e) At the conclusion of the six-month domicile period, a new resident applying for a falconry COR must submit the following to the Division:

(i) A completed falconry application indicating class designation;

(ii) A copy of a valid falconry license from the former state of residency indicating class designation;

(iii) A valid federal falconry permit number, if applicable;

(iv) The appropriate COR fee.

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

[R657-20-8; R657-20-6. Care and Facilities Requirements.

(1) A person may not possess a raptor without first providing adequate facilities and equipment to humanely house and care for the raptor.

(2) Care Requirements.

(a) The Falconer is responsible for the maintenance and security of raptors held in his or her care.

(b) All raptors held under a falconry COR must be kept in humane and healthy conditions.

(i) The Division may impose additional requirements to insure the safe and humane handling and care of raptors when the birds are maintained in inhumane or unhealthy conditions.

(3) ~~[To obtain a falconry COR, applicants must have either an indoor mews or an outdoor weathering area, or both.]~~ Facilities Requirements and Inspections.

(a) The primary consideration for raptor housing facilities whether an indoor mews or outdoor weathering area is protection of the raptor from unauthorized human access and disturbance, the environment, predators (to include domestic as well as wild animals), inhumane treatment, and other undue disturbances.

([4]b) Request for a facilities inspection must be made by calling the Regional Division office where the facilities are located.

(c) Once a request is received, a facilities inspection will be completed by the Division within 30 business days of the date the request is received.

(d) Before a person may obtain a falconry COR, the raptor housing facilities and equipment shall be inspected by a Division representative.

(i) Inspections must be conducted in the presence of the permittee.

(ii) In the course of this inspection, the Division representative may collect a photograph of the facilities to keep on file with the falconer's other state records.

~~(5) The Division should complete an inspection of falconry facilities within 30 business days of receiving a request for inspection.~~

~~(a) Detailed photos and a description of facilities and equipment, including measurements of mews or weathering areas, shall constitute a temporary inspection for purposes of issuing COR's if the Division has not physically inspected within 30 business days. The COR may be revoked if the photos and descriptions of facilities and equipment do not match the facilities~~

in place. Any significant changes to facilities require notification to the Division.

~~(b) Requests for inspections may be made verbally or in writing or via email.~~

~~(6) Facilities Requirements.~~

~~(a) Facilities must be adequate to house the number of raptors in possession.~~

~~(b) Only inspected and approved indoor mews and weathering areas may be used for housing raptors for falconry.~~

~~(i) In conjunction with inspected and approved facilities, raptors may also be housed inside a place of residence as provided in Section R657-20-[8]7(6)(d)(viii).~~

~~(i) A new facilities inspection may will be required when a permittee changes address or increases the number of raptors in their possession.~~

~~(e) The Utah Falconry Program Coordinator must be notified within five (5) business days of a change in the location of an individual's falconry facilities.~~

~~(d) The Mews.]~~ Facilities requirements for non-resident falconers wishing to establish residency in Utah

(A) A raptor may be housed in a temporary facility for no more than six months, provided the temporary facility has been inspected and has a suitable perch for the raptor and adequately protects it from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(4) The Mews.

~~(i) The mews must have a suitable perch for each raptor, at least one opening for sunlight, and must provide for a healthy environment for each raptor inside.~~

~~(i) A mews must be large enough to allow easy access for the care and feeding of raptors kept inside.~~

~~(i) Untethered raptors may be housed together in the mews if they are compatible with each other.~~

(i) If untethered raptors housed in an indoor mews that is not a place of residence, then the mews must be fully enclosed;

(ii) Walls and ceiling of the mews may be solid, or barred, or covered with heavy duty netting;

(iii) If bars, or heavy duty netting, or mesh are used, openings must be narrower than the width of the body of the smallest raptor housed in the mews.

(d) Each mews must be large enough to allow each raptor the opportunity to fly if it is untethered or, if tethered, to fully extend its wings or bate without damaging its feathers.

~~(e) Each raptor shall have a pan of clean water available to it at all times while in a mews, unless weather conditions, perch type used, or some other factor makes it inadvisable to have water available next to the raptor.~~

~~(vi) If raptors housed in an indoor mews that is not a place of residence are untethered, the mews must be fully enclosed with solid walls and ceiling or with bars or heavy duty netting or mesh spaced narrower than the width of the body of the smallest raptor housed in the mews.~~

~~(vii) Acceptable indoor facilities may include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and opportunity to maintain undamaged feathers.~~

~~(viii)~~g) A place of residence used for housing falconry raptors indoors is considered a mews provided each raptor is tethered to a suitable perch.

~~(A)~~i) A raptor may be untethered inside a place of residence when being handled.

~~(B)~~ii) If a raptor is housed inside a place of residence, there is no need to modify windows or other openings in the residence.

~~(C)~~iii) A raptor may be housed untethered inside a flight chamber constructed within a place of residence ~~provided~~ with the following provisions:

~~(A)~~ the flight chamber ~~has~~ must have a source of light ~~and is~~;

~~(B)~~ The flight chamber must be fully enclosed ~~with solid walls~~;

~~(C)~~ Walls and ceiling ~~of~~ of the flight chamber may be solid, or barred, or covered with heavy duty netting;

~~(D)~~ If bars, or heavy duty netting, or mesh ~~space~~ are used, openings must be narrower than the width of the body of the smallest raptor housed in the flight chamber.

~~(e)~~5) Weathering Area

~~(i)~~a) The weathering area must be totally enclosed, and can be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material capable of preventing the raptor's escape and excluding predators and other animals capable of causing harm to the raptor.

~~(ii)~~b) The weathering area must be covered and have at least one covered perch to protect a raptor from predators and weather.

~~(iii)~~c) Adequate perches must be provided within the weathering area to ensure the health, safety and protection of the raptor.

~~(iv)~~d) Raptors must be tethered while inside the weathering area.

~~(v)~~e) The weathering area must be large enough to insure that the raptor(s) cannot strike the enclosure when bating from the perch.

~~(vi)~~f) Raptors may be perched next to a solid or fully opaque wall in the weathering area provided the proximity of the wall to the perch will not cause injury to the raptor or feather damage.

~~(vii)~~g) Each raptor should have a pan of clean water available.

~~(A)~~i) At the discretion of the permittee, this requirement is waived if weather conditions, the perch type used, or some other factor makes it inadvisable to have water available to the raptor.

~~(viii)~~h) New types of housing facilities and/or husbandry practices may be used if they satisfy the requirements of this chapter and are approved by the Division.

~~(ix)~~i) ~~falconry~~ Falconry raptors may be kept outside in the open at any location if they are under watch by an individual familiar with the handling of raptors.

~~(f)~~i) Approved falconry facilities may be on property owned by another person, provided the falconer submits a signed and dated statement by the falconer and the property owner agreeing that the falconry facilities, equipment, and raptors may be inspected without advance notice by the Division at any reasonable time of day.

~~(g)~~ Any falconer who possesses a raptor and moves or changes the address of where the raptor is held must notify the Division in writing of the change of address within 5 business days.

~~(i)~~ An inspection of facilities may be required at the new location.

~~(h)~~j) Raptors in transit must be provided with an adequate perch and protected from extreme temperatures, wind, and excessive disturbance to ensure the health, safety and protection of any raptor being transported.

R657-20-7. Temporary Care of Falconry Raptors.

~~(i)~~ A raptor may be housed in temporary facilities for no more than 120 consecutive calendar days, provided the temporary facilities has a suitable perch for the raptor and adequately protects it from predators, domestic animals, extreme temperatures, wind, and excessive disturbance. 1) Short-term handling of a raptor by a person other than the permitted falconer, such as allowing a person to handle or practice flying a permittee's raptor is not considered temporary possession for the purposes of this rule, provided the permittee is present and supervising the individual that is handling the raptor.

~~(2)~~ Temporary care of raptors by another falconry permittee

~~(a)~~ Another falconry permittee may care for a falconer's raptors for up to 120 consecutive calendar days.

~~(b)~~ The temporary care permittee must have a signed and dated statement from the falconer authorizing the temporary possession, in addition to a copy of the FWS Form 3-186A for that raptor.

~~(i)~~ The signed and dated statement must identify the time period for which the temporary permittee will keep the raptors and what activities are allowed to be carried out with the raptors.

~~(ii)~~ Falconry raptors in temporary care will remain on the original falconer's COR and will not be counted against the possession limit of the person providing the temporary care for the raptors.

~~(iii)~~ If the permittee providing temporary care for the raptors holds the appropriate level falconry permit, then the temporary permittee may fly the raptors in whatever way authorized by the falconer, including hunting.

~~(iv)~~ Temporary care of raptors may be extended by the Division in extenuating circumstances such as, illness, military duty, and family emergency. The Division will consider extenuating circumstances on a case-by-case basis.

~~(3)~~ Temporary care of raptors by a non-falconer.

~~(a)~~ A non-falconer may care for a falconer's raptors for up to 45 consecutive calendar days.

~~(i)~~ The raptors will remain on the original falconer's COR.

~~(ii)~~ The raptors must remain at the original falconer's facilities.

~~(iii)~~ Temporary care of raptors by non-falconers may be extended by the Division in extenuating circumstances such as illness, military duty, or family emergency. The Division will consider extenuating circumstances on a case-by-case basis.

~~(iv)~~ A non-falconer caring for a falconer's raptors may not fly them for any reason.

~~(4) Transfer of falconry raptors when a permittee dies.~~

~~(a) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any raptor(s) held by the deceased permittee to another authorized permittee within 90 calendar days of the death of the original falconry permittee.~~

~~(b) After 45 calendar days from the death of the falconry permittee, disposition of raptors held under the permit is at the discretion of the Division.~~

R657-20-[9]8. Equipment.

(1) Prior to the facilities inspection and issuance of a falconry COR, the applicant shall possess the following items for each raptor in possession or for each raptor proposed for future capture:

(a) At least one pair of Aylmeri jesses, or similar type, made from pliable, high quality leather or suitable synthetic material~~], or the];~~

~~(b) The materials and equipment necessary to make [them;]Aylmeri jesses or [the]other material to be used when any raptor is flown free.~~

(i) Traditional one-piece jesses may be used on raptors when not being flown.

(b) At least one flexible, weather-resistant leash.

(c) At least one swivel of acceptable falconry design.

(d) At least one suitable container, two to six inches deep and wider than the length of the raptor, to hold drinking and bathing water for each raptor.

(e) At least one perch of an acceptable design will be provided for use for each raptor.

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

(g) For small raptors, such as kestrels, merlins, and sharp-shinned hawks, the scale must weight in increments of at least 1 gram.

~~**R657-20-[10]. Inspection of Raptors, Facilities, CORs, and Documents.**~~ **[9]. Apprentice Class Falconer.**

~~[(1) A facilities inspection is required prior to initial issuance of a falconry COR and may be requested by the falconer in writing or by email at falconry@utah.gov. Once a request is received, a facilities inspection will be completed by the Division within 30 business days of the date the request is received.~~

~~(2) As a condition to obtaining a falconry COR, the falconer agrees to reasonable administrative inspections of falconry raptors, facilities, equipment, CORs, and related documents.~~

~~(3) Falconry raptors, facilities, equipment, and documents may be inspected by the Division only in the presence of the permittee at a reasonable time of day.~~

R657-20-11. Take of Wild Raptors.

(1) A licensed falconer may take from the wild any raptor species of the Order Accipitriformes, Falconiformes or Strigiformes only as provided in this rule:

(a) Haggard age raptors may not be taken from the wild for falconry.

(b) Any raptors taken from the wild for falconry is a "wild" raptor for the balance of the raptor's life, regardless of the

length of captivity or the raptor's transfer to another permittee or permit type.

~~(c) A licensed falconer who wishes to take a raptor from the wild must meet all state and tribal requirements in this rule for capture of wild raptors for falconry.~~

~~(d) A raptor taken from the wild for falconry must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of the date of capture.~~

~~(2) Resident Take of Wild Raptors~~

~~(a) A Utah Resident may not take any raptor from the wild without first obtaining a COR and a Raptor Capture Permit from the Division.~~

~~(b) A Raptor Capture Permit is valid for one raptor authorized for possession in accordance with the restrictions and limitations of this rule.~~

~~(c) Raptor Capture Permits are non-transferable and non-assignable and can only be used by the person specified on the permit. However, another person can assist the permit holder pursuant to Section R657-20-21(2) and (3) as long as the permit holder is present.~~

~~(d) Raptor Capture Permits are valid only for the season specified on the permit.~~

~~(e) The Raptor Capture Permit and falconry COR (or legible copies thereof) must be in the possession of the permittee while pursuing, capturing or attempting to capture a raptor.~~

~~(f) Raptors may not be taken at any time or in any manner that violates any State, federal, tribal, or local law.~~

~~(g) While trapping, falconers shall not retain and transport more than one captured raptor per capture permit.~~

~~(3) Taking of wild raptors is prohibited within the boundaries of all National Parks in Utah and on all Utah State Parks.~~

~~(4) A raptor may be taken from the wild by traps or nets that minimize the potential of physical injury and unnecessary stress to the raptor.~~

~~(a) Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, bow net traps, or other trapping devices that are humane and acceptable as commonly used in falconry trapping procedures.~~

~~(b) Trapping devices must be constantly attended while in use.~~

~~(5) No more than two 2 raptors may be taken from the wild each calendar year to use in falconry.~~

~~(6) A raptor taken from the wild may be transferred to another permittee under the following conditions:~~

~~(a) The captured raptor will count as one of the raptors allowed for take from the wild in the calendar year it was taken by the capturing falconer;~~

~~(b) The transferred raptor will not count as a capture by the recipient;~~

~~(c) The transferred raptor will always be considered a wild bird.~~

~~(7) A permittee may not intentionally capture raptor species for falconry that their classification as a falconer does not allow them to possess.~~

~~(a) If a permittee captures a raptor he or she is not allowed to possess, it must be released immediately.~~

~~_____ (8) A General or Master Class falconer may take no more than 1 raptor from the wild each year which belongs to a species listed as threatened or endangered under the federal Endangered Species Act if allowed under 50C CFR part 17, and if a federal endangered species permit is obtained before taking the bird.~~

~~_____ (9) A General or Master Class falconers may take eyas raptors from a nest or aerie only during the seasons specified for taking eyas raptors in Subsection (12):~~

~~_____ (a) At least one young must be left in any nest or aerie from which an eyas is taken.~~

~~_____ (b) Removal of young is prohibited from a nest or aerie that contains only one eyas.~~

~~_____ (10) An Apprentice, General or Master Class falconer may take passage age raptors from the wild only during the seasons specified for taking passage age raptors in Subsection (12):~~

~~_____ (11) Periods for Allowable Take Of Raptors From the Wild~~

~~_____ (a) Eyas or passage age raptors of any allowable Strigiform species may be taken from March 1 through November 30.~~

~~_____ (b) Eyas or passage age raptors of any allowable Accipitriform and Falconiform species except peregrine falcon (Falco peregrinus) and golden eagle (Aquila chrysaetos) may be taken January 1 through December 31.~~

~~_____ (i) Notwithstanding Subsection (12)(b):~~

~~_____ (A) Passage age raptors that fledged from the prior year may not be taken after March 1st; and~~

~~_____ (B) Passage age gyrfalcons (Falco rusticolus) may be taken at any time.~~

~~_____ (c) Licensed falconers may take any raptor from the wild that is authorized under this rule for take for their class level.~~

~~_____ (i) A wild caught raptor that is banded with a Federal Bird Banding Laboratory aluminum band may be taken, provided the Federal Bird Banding Laboratory is notified of the removal of the banded raptor from the wild;~~

~~_____ (ii) The Federal Bird Banding Laboratory aluminum band may be removed if the raptor is to be retained, after notifying the Federal Bird Banding Laboratory.~~

~~_____ (iii) A peregrine falcon banded with a Federal Bird Banding Laboratory aluminum band may not be taken from the wild and retained.~~

~~_____ (iv) Capture of any raptor that is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird must be reported to the Division no more than 5 business days after the capture.~~

~~_____ (v) Capture of any raptor that is marked with any other band, research marking, or attached research transmitter attached to it must be promptly reported to the Federal Bird Banding Laboratory at 1-800-327-2263.~~

~~_____ (d) A falconry raptor that has been lost may be recaptured at any time without the need to purchase a Raptor Capture Permit.~~

~~_____ (i) Recapture of a lost or escaped "wild" raptor is not considered to be the taking of a raptor from the wild.~~

~~_____ (c) A raptor wearing falconry equipment or a lost or escaped captive-bred raptor may be recaptured at any time by any other permitted falconer even if the permittee performing the recapture is not allowed to possess the species.~~

~~_____ (i) A recaptured raptor will not count against a permitted falconer's possession limit, nor will its recapture from the wild count against the permitted falconer's replacement limit.~~

~~_____ (ii) Recapture of falconry raptors must be reported to the Division no more than 5 business days from the date of recapture.~~

~~_____ (iii) A recaptured falconry raptor must be returned to the permittee who lost it if that individual may legally take possession.~~

~~_____ (A) Disposition of a recaptured falconry raptor where the permittee's legal authority to possess the bird is in question will be determined by the Division.~~

~~_____ (B) A recaptured falconry raptor temporarily held for return to the permittee who lost it will not count against the possession or replacement limit on take of raptors from the wild if the individual temporarily holding the raptor has reported the recapture to the Division.~~

~~_____ (12) Special provisions for take of peregrine falcons:~~

~~_____ (a) Only General and Master Class falconers only may take eyas or passage age peregrine falcons in accordance with Sections R657-20-11 and R657-20-12 and as provided in this rule.~~

~~_____ (i) Application procedures for taking eyas or passage Peregrine Falcons are provided in Section R657-20-12 and R657-20-13.~~

~~_____ (ii) The peregrine falcon take season begins annually on May 1st and ends on August 31st.~~

~~_____ (iii) The number of permits issued to take peregrine falcons will be set by the Division annually.~~

~~_____ (A) One non-resident take permit will be issued annually. If that permit is not applied for, it will be made available to resident falconers.~~

~~_____ (B) Any remaining permits that are not applied for will be made available to resident and nonresident falconers on a first-come first-served basis.~~

~~_____ (iv) Issued permits will allow take of one eyas or passage age Peregrine Falcon.~~

~~_____ (b) An eyas peregrine falcon may not be removed from its aerie prior to 10 days of age.~~

~~_____ (c) Aeries of peregrine falcon may not be entered when young are 28 days or more of age.~~

~~_____ (d) The areas open for taking eyas and passage age peregrine falcons will be designated annually by the Falconry Program Coordinator.~~

~~_____ (e) A peregrine falcon that is marked with a research band such as a colored band with alphanumeric codes or some other research marking attached must be immediately released.~~

~~_____ (i) Research band numbers and location and date of capture must be reported to the Division and the Federal Bird Banding Laboratory (1-800-327-2263) within 5 business days of the date of capture.~~

~~_____ (13) Special provisions for take of golden eagles~~

~~_____ (a) A Master Class falconer with a COR to take golden eagles may take no more than three from the wild, subject to the requirements in federal statute 50 CFR 21 and Section R657-20-18(2)(c)(i).~~

~~_____ (i) A Master Class Falconer that is authorized to take golden eagles may take no more than two golden eagles from the wild in any calendar year and only in a livestock depredation area during the time the depredation area declaration is in effect.~~

(A) The establishment, boundaries, and duration of a livestock depredation area in Utah are declared by U.S.D.A. Wildlife Services and the U. S. Fish and Wildlife Service in Lakewood, CO.

(ii) A Master Class falconer authorized to take golden eagles for use in falconry may capture an immature or subadult golden eagle only in a livestock depredation area during the time the depredation area is in effect in Utah.

(A) A Master Class Falconer may capture a nesting adult golden eagle, or take an eyas from its nest, in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the parent adult eagle is preying on livestock.

(B) A government employee who has trapped a golden eagle under Federal, State, or tribal permit may transfer the eagle to a Master Class falconer that is authorized to possess golden eagles if the eagle cannot be released in an appropriate location.

(iii) A Master Class Falconer authorized to take a golden eagle for falconry must contact USDA, Wildlife Services or the U. S. Fish and Wildlife Service in Lakewood, CO to determine the establishment and location of a livestock depredation area in Utah

(A) The Division does not provide livestock depredation area information.

(B) The Master Class falconer must have permission from the private landowner to capture a golden eagle on private lands;

(14) Acquiring a bird for falconry from a permitted rehabilitator.

(a) A licensed falconer may acquire directly from a rehabilitator a raptor of any age or species that the falconer is permitted to possess.

(i) A raptor acquired for falconry from a rehabilitator must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of the transaction.

(ii) A wild raptor acquired for falconry from a rehabilitator will count as one of the raptors the falconer is allowed to take from the wild that calendar year.

R657-20-12. Nonresident Take of Wild Raptors.

(1) A Nonresident may not take any raptor from the wild without first obtaining a Nonresident Raptor Capture Permit from the Division.

(b) Nonresident falconers are not required to purchase a Utah falconry COR in order to purchase a Nonresident Raptor Capture Permit.

(c) Nonresidents must show proof of a valid federal falconry permit or falconry license issued by their state of residency to purchase a Nonresident Raptor Capture Permit.

(d) Nonresident take of raptors is subject to all other applicable regulations set forth in this rule.

R657-20-13. Application Procedures and Drawings for Capture of Peregrine Falcons, Sensitive Raptors, and Raptors Available to Nonresident Falconers.

(1) Applications for Raptor Capture Permits must be made for:

(a) Peregrine falcons;

(b) Sensitive raptor species for which take is limited by the falconry Program Coordinator pursuant to Section R657-20-11; and

(c) Raptors designated for non-resident take.

(2) If necessary, a drawing will be held for those species that have more applicants than available permits.

(3) An individual may only draw once every 2 years for a Raptor Capture Permit to take peregrine falcons, sensitive raptor species, and nonresident legal raptors.

(a) In the event that unclaimed permits remain after a drawing, then the 2 year restriction is waived.

(4) If the number of applications received exceeds the number of available permits, then the Division will conduct a drawing to determine which applicants receive a permit.

(a) Any remaining permits that are not applied for will be made available to resident and nonresident falconers of the appropriate class on a first-come first-served basis.

(5) Application forms for Raptor Capture Permits are provided by the Division.

(6) An applicant for a Raptor Capture Permit must submit a complete and accurate application to include the following:

(a) A copy of the applicant's valid Utah falconry COR, or valid license from their state of residency indicating the falconry class designation;

(b) A copy of the applicant's valid federal permit, when required by federal law; and

(c) A non-refundable application fee.

(7) Applications for taking raptors must be received by the Division through the mail, or by email, no later than close of business on the last business day of March each year.

R657-20-14. Importation Requirements for Residents and Nonresidents.

(1) A person is not required to obtain a special COR from the Division to import a raptor brought into Utah from another state when the raptor is imported and used for falconry purposes.

(a) Importation of a raptor used for any purposes other than falconry is governed by Rule R657-3.

(b) A raptor imported into Utah is required to have:

(i) a certificate of veterinary inspection from the state, tribe, or territory of origin; and

(ii) an import authorization number issued through the Utah Department of Agriculture, Animal Health Office.

(2) Any raptor brought into the state on a permanent basis must be reported by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, to the Division within 10 business days of importation.

(3) A raptor imported into the state for falconry or any other purpose have an import permit and certificate of veterinary inspection issued by the Utah Department of Agriculture and Food pursuant to R58-1-4.

R657-20-15. Flying a Hybrid Raptor in Falconry.

(1) When flown free, a hybrid raptor must have at least two attached radio transmitters for tracking.

R657-20-16. Apprentice Class Falconer and Sponsors.]

(1) Apprentice class falconer requirements

(a) Applicants for an Apprentice Class falconry COR must be at least ~~[14]~~12 years of age;

(i) Applicants for an Apprentice Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application;

(ii) The parents or legal guardian of a minor Apprentice Class falconer are legally responsible for the activities of their child.

(b) Applicants for an Apprentice Class falconry COR must correctly answer at least 80 percent of the questions on an examination administered by a Division representative.

(i) An individual may not take the falconry exam earlier than two months prior to their ~~[14]~~12th birthday.

(ii) The examination questions will cover basic care and handling of falconry raptors, state and Federal laws and regulations relevant to falconry, raptor biology, diseases and health issues, raptor identification, trapping and training methods, and other appropriate subject matter.

(iii) An individual may contact any Division office for information about taking the examination.

(iv) Falconry examinations are administered at any Division office by appointment only during business hours.

(v) An individual that fails to correctly answer at least 80 percent of the questions on the exam may retake the exam after a minimum 14-day period.

(c) An applicant's facilities and equipment must pass inspection by the Division under R657-20-~~[8;]~~7, R657-20-9, and R657-20-10 before a falconry COR can be issued.~~[(2)(a) Applicants for an Apprentice Class falconry COR must have a sponsor to mentor and assist the Apprentice Class falconer, as necessary, in:~~~~(i) Husbandry and training of raptors held for falconry;~~~~(ii) Relevant wildlife laws and regulations, and~~~~(iii) Determining what species of raptor is appropriate for the Apprentice to possess.~~~~(b) The person applying for an Apprentice Class falconry COR must provide the Division with a letter from their chosen sponsor stating that sponsor's willingness to serve as a sponsor for the Apprentice Class falconer.~~~~(c) A sponsor must be:~~~~(i) a Master Class Falconer who holds a valid Utah falconry COR or tribal falconry permit;~~~~(ii) a General Class Falconer who is at least 18 years of age, has no less than 2 years experience at the General Class falconer level, and who holds a valid Utah falconry COR or tribal falconry permit~~~~(d) Unless approved by the Division in writing, the sponsor cannot reside~~~~(i) greater than a 100-mile distance from the Apprentice;~~~~or~~~~(ii) outside of Utah.~~~~(c) In the event sponsorship is terminated, the holder of an Apprentice Class falconry COR must obtain a new sponsor within 30 calendar days of termination.~~~~(i) Apprentice Class falconers that change sponsors must notify the Division in writing and provide a letter from the new sponsor showing compliance with the requirements in R657-20-16(2)(a) through (d).~~

] (3) Possession of Raptors at the Apprentice Class

(a) An Apprentice Class falconer may take or possess ~~[any]~~for falconry~~(i) Any wild-caught passage age raptor or captive-bred, or hybrid raptor species of the Order Accipitriformes, Falconiformes or Strigiformes [for falconry, provided that the]~~with the following exceptions:~~(1) The hybrid raptor [is not]cannot be the result of a cross involving any species listed in section 10.13 of 50 CFR 21 (Federal Migratory Bird Treaty Act)[, with the following exceptions:]~~~~(i) An Apprentice Class falconer may not take or possess wild caught, captive-bred, or hybrid eagles[; or];~~~~(ii) An Apprentice Class falconer may not take or possess federally listed threatened or endangered species[; or];~~~~(iii) An Apprentice Class falconer may not take or possess any wild-caught species listed as a national Species of Conservation Concern [in the most recent list of "Birds of Conservation Concern" from the federal Division of Migratory Bird Management to include individuals of any species that may be taken or possessed in accordance with the provisions in 50 CFR 21.29 and Utah regulations, with the following exceptions:]by the Service;~~

(b) An Apprentice Class falconer may possess no more than one (1) wild-caught passage age raptor or captive-bred raptor for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the Apprentice has been issued.

(c) Another falconry permittee may capture a wild raptor and transfer the raptor to an Apprentice Class falconer as provided in R657-20-~~[14]~~15(~~[6]~~5) and R657-20-~~[21]~~15(15).

(d) An Apprentice Class falconer may not take or possess a raptor taken from the wild as an eyas.

(e) An Apprentice Class falconer may not possess an imprint raptor.

R657-20-~~[17. General]~~10. Apprentice Class ~~[Falconer]~~Sponsor.(1) Applicants for an Apprentice Class falconry COR ~~must have a sponsor to mentor and assist the Apprentice Class falconer, as necessary, in:~~~~(a) Husbandry and training of raptors held for falconry;~~~~(b) Relevant wildlife laws and regulations, and~~~~(c) Determining what species of raptor is appropriate for the Apprentice to possess.~~~~(2) The person applying for an Apprentice Class falconry COR must provide the Division with a letter from their chosen sponsor stating that sponsor's willingness to serve as a sponsor for the Apprentice Class falconer.~~~~(3) Requirements of an Apprentice Class Sponsor~~~~(a) Any person sponsoring an apprentice under the age of 18, other than the minor's parent or legal guardian, must be approved in writing by the minor's parent or legal guardian and submitted to the Division before being designated as the minor's sponsor;~~~~(b) A sponsor must be a Master Class Falconer who holds a valid Utah Falconry COR, or~~~~(i) Be a General Class Falconer who is at least 18 years of age, has no less than 2 years experience at the General Class falconer level, and who holds a valid Utah falconry COR.~~

(4) Unless approved by the Division in writing, the sponsor cannot reside

(a) Greater than a 100 mile distance from the Apprentice;
or

(b) Outside of Utah.

(5) Apprentice Class falconers that change or terminate sponsors must notify the Division in writing and provide a letter from the new sponsor showing compliance with the requirements in R657-20-12.

(a) In the event sponsorship is terminated, the holder of an Apprentice Class falconry COR must obtain a new sponsor within 30 calendar days of termination.

R657-20-11. General Class Falconer.

(1) General Class falconer requirements

(a) Applicants for a General Class falconry COR must be at least 16 years of age;

(i) Applicants for a General Class falconry COR who are under 18 years of age must have a parent or legal guardian sign their application;

(ii) The parents or legal guardian of a minor General Class falconer are legally responsible for the activities of their child.

(b) New General Class applicants must submit a request for class upgrade to the Division in writing or via email, and include a document from their General Class or Master Class sponsor stating that the General Class applicant has practiced falconry at the Apprentice Class Falconer level or equivalent for at least 2 years including maintaining, training, flying, and hunting raptors for at least 4 months in each separate 12-consecutive month period.

(i) For purposes of this Subsection, 2 years means two separate 12-consecutive month periods.

(ii) A General Class applicant may not substitute any falconry school program or education to shorten the minimum period of 2 years at the Apprentice level.

(iii) Evidence that a General Class applicant has had a valid General Class level falconry license or permit in another state for at least 2 years may be substituted for the Apprentice Class falconry COR requirement.

(2) Possession of raptors at the General Class

(a) A General Class falconer may take or possess any eyas or passage age wild-caught raptor,

(b) A General Class falconer may possess captive-bred, or hybrid raptor species of the Order Accipitiformes, Falconiformes or Strigiformes ~~[except]~~with the following exceptions:

(i) A General Class falconer may not take or possess eagles;

(ii) A General Class falconer may take or possess or any wild-caught species listed as a national Species of Conservation Concern ~~[in the most recent list of "Birds of Conservation Concern" from the federal Division of Migratory Bird Management to include individuals of any species that may be taken or possessed in accordance with the provisions in 50 CFR 21.29 and Utah regulations.]~~by the Service.

(b) A General Class falconer may possess no more than 3 wild-caught eyas or passage age raptors, captive-bred raptors, or hybrid raptors, or any combination thereof, for use in falconry regardless of the number of state, tribal, or territorial falconry CORs or permits that the General Class falconer has been issued.

R657-20-~~11~~12. Master Class Falconer.

(1) Master Class falconer requirements

(a) Applicants for a Master Class falconry COR must have 5 years of experience practicing falconry with raptor(s) held under their own state, tribal, or territorial falconry COR or permits at the General Class Falconer level.

(i) For the purposes of this Subsection, "5 years of experience" means maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each of five (5) separate 12-month periods.

(ii) Evidence that the applicant has had a valid General Class level falconry license or permit in another state for at least 5 years may be substituted for the General Class falconry COR requirement.

(iii) If an applicant has held falconry raptor(s) on an extended temporary basis, that experience may qualify for purposes of these requirements.

(2) Possession of Raptors at the Master Class

(a) A Master Class falconer may take or possess any wild-caught eyas or passage age, captive-bred raptor, or hybrid raptor species of the Order Accipitiformes, Falconiformes or Strigiformes ~~[except]~~with the following exceptions:

(i) A Master Class falconer may not take or possess a bald eagle (*Haliaeetus leucocephalus*)~~[or]~~

(ii) A Master Class falconer may take or possess any wild-caught species listed as a national Species of Conservation Concern ~~[in the most recent list of "Birds of Conservation Concern" from the federal Division of Migratory Bird Management to include individuals of any species that may be taken or possessed in accordance with the provisions in 50 CFR 21.29 and Utah regulations.]~~by the U. S. Fish and Wildlife Service

~~(i)~~^(b) A Master Class falconer may take and possess a golden eagle only if the qualifications set forth parting Subsection 2)(~~e~~)^d below are met.

~~(b)~~^c A Master Class falconer may possess no more than 5 wild-caught eyas or passage age raptors for use in falconry, including golden eagles, regardless of the number of state, tribal, or territorial falconry CORs or permits that the Master Class falconer has been issued.

(i) A Master Class falconer may possess any number of captive-bred raptors, ~~[but they]~~provided

(A) Approved facilities are available

(B) The captive-bred raptors must be trained in the pursuit of wild game and used for hunting..

~~(e)~~^d A Master Class falconer must obtain an authorization from the Division to possess an eagle for use in falconry pursuant to R657-20-13;

(i) Approval for a Master Class falconer to take or possess an eagle for use in falconry shall not be granted unless the following documentation is provided:

(A) A written statement documenting the experience of the Master Class falconer in handling large raptors, including information about the species handled and the type and duration of activities in which the experience was obtained.

(B) At least two letters of reference from individuals with experience in handling or flying large raptors such as eagles, ferruginous hawks (*Buteo regalis*), Northern goshawks, or great horned owls (*Bubo virginianus*).

(I) Each reference letter must contain a concise history of the author's experience with large raptors, which can include but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors.

(II) Each reference letter must also assess the Master Class Falconer's ability to care for eagles and fly them in falconry.

R657-20-13. Acquiring Raptors for Falconry.

~~[(ii) A Master Class falconer that satisfies the requirements of this rule may be authorized to take or possess no more than 3 eagles as part of the 5-wild bird maximum limitation for the Master Class level.]~~ 1) Licensed falconers wishing to take raptors from the wild for falconry must purchase a Raptor Capture Permit from the Division.

[R657-20-19. Unintentional Kill of a Prey Item by a Falconry Raptor:

~~(1) A falconry raptor may be allowed to feed on a prey animal taken unintentionally, provided the prey animal is not taken into the falconer's possession.~~

~~(2) Unintentional take of any federally listed threatened or endangered species must be reported to the Division and the U.S. Fish and Wildlife Ecological Services Field Office in Salt Lake City within 5 business days of the take event.~~

~~(3) Unintentional take of any state Sensitive Species must be reported to the Division within 5 business days of the take event.~~

R657-20-20. Temporary Care of Falconry Raptors:

~~(1) Short-term handling of a raptor by a person other than the permitted falconer, such as allowing a person to handle or practice flying a permittee's raptor is not considered temporary possession for the purposes of this rule, provided the permittee is present and supervising the individual that is handling the raptor.~~

~~(2) Temporary care of raptors by another falconry permittee~~

~~(a) Another falconry permittee may care for a falconer's raptors for up to 120 consecutive calendar days.~~

~~(b) The temporary care permittee must have a signed and dated statement from the falconer authorizing the temporary possession, in addition to a copy of the FWS Form 3-186A for that raptor.~~

~~(i) The signed and dated statement must identify the time period for which the temporary permittee will keep the raptors and what activities are allowed to be carried out with the raptors.~~

~~(ii) Falconry raptors in temporary care will remain on the original falconer's COR and will not be counted against the possession limit of the person providing the temporary care for the raptors.~~

~~(iii) If the permittee providing temporary care for the raptors holds the appropriate level falconry permit, then the temporary permittee may fly the raptors in whatever way authorized by the falconer, including hunting.~~

~~(iv) Temporary care of raptors may be extended by the Division indefinitely in extenuating circumstances such as, illness, military duty, and family emergency. The Division will consider extenuating circumstances on a case-by-case basis.~~

~~(3) Temporary care of raptors by a non-falconer:~~

~~(a) A non-falconer may care for a falconer's raptors for up to 45 consecutive calendar days:~~

~~(i) The raptors will remain on the original falconer's COR.~~

~~(ii) The raptors must remain at the original falconer's facilities.~~

~~(iii) Temporary care of raptors by non-falconers may be extended by the Division indefinitely in extenuating circumstances such as illness, military duty, or family emergency. The Division will consider extenuating circumstances on a case-by-case basis.~~

~~(iv) A non-falconer caring for a falconer's raptors may not fly them for any reason.~~

~~(4) Transfer of falconry raptors when a permittee dies:~~

~~(a) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any raptor(s) held by the deceased permittee to another authorized permittee within 90 calendar days of the death of the original falconry permittee.~~

~~(b) After 90 calendar days from the death of the falconry permittee, disposition of raptors held under the permit is at the discretion of the Division.~~

R657-20-21. Reporting Requirements for Acquisition of Raptors:

~~(1) Take of any raptor from the wild must be reported to the Division by either entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email to falconry@utah.gov, no later than 10 business days after capture of the raptor.]~~

~~(a) A Raptor Capture Permit is valid for one wild raptor authorized for possession in accordance with the restrictions and limitations of this rule.~~

~~(b) Raptor Capture Permits are non-transferable and non-assignable and can only be used by the person specified on the permit. However, another person can assist the permit holder pursuant to Section R657-20-15(15).~~

~~(c) The Raptor Capture Permit and falconry COR (or legible copies thereof) must be in the possession of the permittee while pursuing, capturing or attempting to capture a wild raptor.~~

~~(2) On an annual basis, the falconry Program Coordinator shall determine the available take of peregrine falconers and raptors listed on the most recent edition of the Utah sensitive species list.~~

~~(a) Notice of any limitations on the take of sensitive raptors shall be available by February 1 of each year.~~

~~(b) If the number of applications received exceeds the available take, then the Division will conduct a drawing.~~

~~(c) An individual may only draw once every 2 years to take peregrine falcons, sensitive raptor species, and nonresident legal raptors.~~

~~(i) If the number of applications received is less than the available take, then the 2 year restriction is waived, and the remaining take will be made available to resident and nonresident falconers of the appropriate class on a first-come first-served basis.~~

~~(3) A licensed falconer may not take more than 2 raptors from the wild each calendar year for falconry purposes.~~

~~(a) Haggard age raptors may not be taken from the wild for falconry.~~

~~(b) Any raptor taken from the wild for falconry is considered a "wild" raptor for the balance of the raptor's life.~~

regardless of the length of captivity or the raptor's transfer to another permittee or permit type.

(c) A licensed falconer who wishes to take a raptor from the wild must meet all state and tribal requirements in this rule for capture of wild raptors for falconry.

(d) A permittee may not purchase, sell, trade, or barter a wild raptor.

(4) Resident Take of Wild Raptors

(a) While trapping, falconers shall not retain and transport more than one captured wild raptor per capture permit.

(5) Taking of wild raptors is prohibited within the boundaries of all National and State Parks in Utah

(6) A raptor may be taken from the wild by traps or nets that minimize the potential of physical injury and unnecessary stress to the raptor.

(a) Examples of acceptable devices are the bal-chatri, dho-gazza, harness-type, phi trap, bow net traps, or other trapping devices that are humane and acceptable as commonly used in falconry trapping procedures.

(b) Trapping devices must be constantly attended while in use.

(7) A raptor taken from the wild may be transferred to another permittee under the following conditions:

(a) The captured raptor will count as one of the raptors allowed for take from the wild in the calendar year it was taken by the capturing falconer;

(b) The transferred wild raptor will not count as a capture by the recipient.

(8) A permittee may not intentionally capture wild raptor species for falconry that their classification as a falconer does not allow them to possess.

(a) If a permittee captures a wild raptor he or she is not allowed to possess, it must be released immediately.

(9) A General or Master Class falconer may take no more than 1 raptor from the wild each year which belongs to a species listed as threatened or endangered under the federal Endangered Species Act if allowed under 50C CFR part 17, and if a federal endangered species permit is obtained before taking the bird.

(10) A General or Master Class falconer may take eyas raptors from a nest or aerie only during the seasons specified for taking eyas raptors in Subsection (12).

(a) At least one young must be left in any nest or aerie from which an eyas is taken.

(b) Removal of young is prohibited from a nest or aerie that contains only one eyas.

(c) An eyas may not be removed from its aerie prior to 10 days of age.

(d) Aeries may not be entered when young are 28 days or more of age.

(11) An Apprentice, General or Master Class falconer may take passage age raptors from the wild only during the seasons specified for taking passage age raptors in Subsection (12).

(12) Periods for Allowable Take Of Raptors From the Wild.

(a) Eyas or passage age raptors of any allowable Strigiform species may be taken from March 1 through November 30.

(b) Eyas or passage age raptors of any allowable Accipitriform and Falconiform species except peregrine falcon

(Falco peregrinus) and golden eagle (Aquila chrysaetos) may be taken January 1 through December 31.

(i) The peregrine falcon take season begins annually on May 1st and ends on August 31st.

(ii) Notwithstanding Subsection (12)(b):

(A) Passage age raptors that fledged from the prior year may not be taken after March 1st; and

(B) Passage age gyrfalcons (Falco rusticolus) may be taken at any time.

(c) Licensed falconers may take any raptor from the wild that is authorized under this rule for take for their class level.

(i) A wild caught raptor that is banded with a Federal Bird Banding Laboratory aluminum band may be taken, provided the Federal Bird Banding Laboratory is notified of the removal of the banded raptor from the wild;

(ii) The Federal Bird Banding Laboratory aluminum band may be removed if the raptor is to be retained, after notifying the Federal Bird Banding Laboratory.

(iii) Capture of any raptor that is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird must be reported to the Division no more than 5 business days after the capture.

(iv) Capture of any raptor that is marked with any other band, research marking, or attached research transmitter attached to it must be promptly reported to the Federal Bird Banding Laboratory at 1-800-327-2263.

(13) Nonresident Take of Wild Raptors

(a) A nonresident falconer may not take any raptor from the wild without first obtaining a Nonresident Raptor Capture Permit from the Division.

(b) Nonresidents must show proof of a valid federal falconry permit or falconry license issued by their state of residency to purchase a Nonresident Raptor Capture Permit.

(c) Nonresident take of raptors is subject to all other applicable regulations set forth in this rule.

(14) Special provisions for take of wild peregrine falcons.

(a) Only General and Master Class falconers only may take wild eyas or passage age peregrine falcons as provided in this rule.

(b) The areas open for taking eyas and passage age peregrine falcons will be designated annually by the Falconry Program Coordinator.

(c) A peregrine falcon that is marked with a with a Federal Bird Banding Laboratory aluminum band and/or a research band such as a colored band with alphanumeric codes or some other research marking attached must be immediately released.

(i) Research band numbers and location and date of capture must be reported to the Division and the Federal Bird Banding Laboratory (1-800-327-2263) within 5 business days of the date of capture.

(15) Special provisions for take of wild golden eagles

(a) A Master Class falconer with a COR to take golden eagles may take no more than three from the wild, subject to the requirements in federal statute 50 CFR 21 and Section R657-20-14(2)(c)(i).

(i) A Master Class Falconer that is authorized to take golden eagles may take no more than two golden eagles from the wild in any calendar year and only in a livestock depredation area during the time the depredation area declaration is in effect.

(A) The establishment, boundaries, and duration of a livestock depredation area in Utah are declared by U.S.D.A. Wildlife Services and the U. S. Fish and Wildlife Service in Lakewood, CO.

(ii) A Master Class falconer authorized to take golden eagles for use in falconry may capture an immature or subadult golden eagle only in a livestock depredation area during the time the depredation area is in effect in Utah.

(A) A Master Class Falconer may capture a nesting adult golden eagle, or take an eyas from its nest, in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the parent adult eagle is preying on livestock.

(B) A government employee who has trapped a golden eagle under Federal, State, or tribal permit may transfer the eagle to a Master Class falconer that is authorized to possess golden eagles if the eagle cannot be released in an appropriate location.

(iii) A Master Class Falconer authorized to take a golden eagle for falconry must contact USDA, Wildlife Services or the U. S. Fish and Wildlife Service in Lakewood, CO to determine the establishment and location of a livestock depredation area in Utah

(A) The Division does not provide livestock depredation area information.

(B) The Master Class falconer must have permission from the private landowner to capture a golden eagle on private lands.

(16) Other special provisions for obtaining raptors for falconry

([2]a) A permittee may receive assistance from another individual in capturing a wild raptor, but the permittee must be present at the capture site

([a]b) Regardless of the assistance of another person in capturing a wild raptor:

(i) The permittee is always considered to be the individual who removes the bird from the wild; and

(ii) the permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

([3]c) A permittee with a long-term or permanent physical impairment that prevents their attendance at the capture of a raptor for use in falconry, or is otherwise unable to be present at the immediate location where the raptor is taken from the wild, may contact a General or Master Class falconer only to capture a raptor on their behalf.

([a]i) The impaired permittee is legally responsible for complying with the reporting requirements for capturing a raptor from the wild, as provided in Subsection (1).

([b]ii) The raptor will count against the take of wild raptors that the impaired permittee is allowed in any year.

([e]iii) The raptor will not count as one of the two replacement raptors the General or Master Class falconer who offers assistance is allowed to capture in any year.

([d]iv) The raptor will not count as being taken from the wild by the permittee acting on behalf of the impaired permittee.

([4]d) Individuals authorized to do so may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are legally authorized to possess the raptor.

([a) Any transfer or exchange for a raptor must be reported to the Division within 10 business days either by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email to falconry@utah.gov.

(b) A permittee may not purchase, sell, trade, or barter a wild raptor.

(i)e) A permittee may transfer a raptor to another permittee who is legally authorized to possess the raptor, provided there is no pecuniary consideration for the transfer.

(e)j) The number of wild caught or captive-bred raptors transferred to a permittee may not exceed the established possession limit for each permit class.

(5) Anytime a permittee acquires, transfers, rebands, or microchips a raptor; or a raptor in their possession is stolen; or is lost to the wild and is not recovered within 30 days; or dies; the occurrence must be reported to the Division within 10 days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to the Division or FWS pdf i-381A via email to falconry@utah.gov.]f) A licensed falconer may acquire directly from a rehabilitator a raptor of any age or species that the falconer is permitted to possess.

(i) A wild raptor acquired for falconry from a rehabilitator will count as one of the raptors the falconer is allowed to take from the wild that calendar year.

R657-20-14. Raptors Injured Due to Falconer Trapping Efforts.

(1) Falconers that injure a raptor during trapping efforts are responsible for the costs of care and rehabilitation of the injured raptor.

(a) An injured raptor retained by the permittee must be placed on the permittee's falconry permit.

(b) The injured raptor must be treated by a veterinarian or a permitted wildlife rehabilitator.

(c) The injured raptor must be immediately transported to a veterinarian, a permitted wildlife rehabilitator, or an appropriate wildlife agency employee.

(d) The injured raptor will not count against the permittee's allowed take or the permittee's possession limit.

R657-20-15. Recapture of Falconry Raptors.

(1) A falconry raptor that has been lost may be recaptured at any time without the need to purchase a Raptor Capture Permit.

(2) Recapture of a lost or escaped "wild" raptor is not considered to be the taking of a raptor from the wild.

(3) A raptor wearing falconry equipment or a lost or escaped captive-bred raptor may be recaptured at any time by any other permitted falconer - even if the permittee performing the recapture is not allowed to possess the species.

(4) A recaptured raptor will not count against a permitted falconer's possession limit, nor will its recapture from the wild count against the permitted falconer's replacement limit.

(a) A recaptured falconry raptor must be returned to the permittee who lost it if that individual may legally take possession.

(i) Disposition of a recaptured falconry raptor where the permittee's legal authority to possess the bird is in question will be determined by the Division.

(ii) A recaptured falconry raptor temporarily held for return to the permittee who lost it will not count against the possession or replacement limit on take of raptors from the wild if the individual temporarily holding the raptor has reported the recapture to the Division.

R657-20-16. Flying a Hybrid Raptor in Falconry.

(1) When flown free, a hybrid raptor must have at least two attached radio transmitters for tracking.

R657-20-17. Hacking of Falconry Raptors and other Training Techniques.

(1) A General or Master Class Falconer only may hack a falconry raptor or raptors.

(2) Raptors at hack count against possession limits and must be a species authorized for possession.

(3) Hybrid raptors at hack must have two attached and functioning radio transmitters.

(4) Raptors are not to be released at hack near the nesting area of a federally threatened or endangered bird species or in any other location where the raptor is likely to harm a federally listed threatened or endangered animal species that might be disturbed or taken by the raptor at hack.

(a) The Division must be notified prior to hacking a falconry raptor.

(b) Information on federally-listed species can be obtained from the Service.

(5) Use of other falconry training or conditioning techniques.

(a) Other acceptable falconry practices may be used, such as the use of tethered flying, lures, balloons, or kites in training or conditioning raptors for falconry.

(b) Falconry raptors may be flown at pen-raised animals or at bird species not protected under this rule or the Migratory Bird Treaty Act.

R657-20-18. Permission to Conduct Falconry Activities on Public or Private lands.

(1) A falconer must comply with all applicable Federal, State, local, or tribal laws regarding falconry activities, including hunting, on private, public, and tribal lands.

(a) All falconry activities shall be conducted consistent with the trespass requirements in Section 23-20-14.

(b) A person may not engage in any falconry activity on Tribal trust lands without authorization.

(2) Raptor training is not allowed on state waterfowl and wildlife management areas without authorization.

(3) Practicing the sport of falconry without permission is prohibited on all National Parks in Utah

(4) Practicing the sport of falconry without permission is prohibited on all Utah state Parks.

R657-20-19. Practicing Falconry in the Vicinity of a Federally Listed Threatened or Endangered Animal Species.

(1) Individuals practicing falconry must ensure that such activities do not result in the take of federally listed threatened or endangered wildlife.

(2) Under the federal Endangered Species Act:

(a) "Take" means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct".

(b) "Harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering; and

(c) "Harm" means an act that actually kills or injures wildlife

(3) Information about threatened or endangered species that may occur in Utah is available by contacting the Service or the Division.

R657-20-20. Releasing a Falconry Raptor to the Wild.

(1) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may not be permanently released into the wild.

(a) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may be transferred to another falconry permittee authorized for possession.

(2) A raptor that is native to the State of Utah and captive-bred may not be permanently released into the wild without prior authorization from the Division.

(a) Once authorization for release of a captive-bred native raptor is received, the raptor must be hacked (allow it to adjust) to the wild at an appropriate time of year and at an appropriate location as determined by the falconer.

(b) The falconry or captive-bred band must be removed and release of the bird reported to the Division in accordance with Section R657-20-24.

(3) If the species to be released is native to the State of Utah and was taken from the wild, the raptor may be released only at an appropriate time of year and at an appropriate location as determined by the falconer.

(a) If the raptor is banded, the band must be removed and release of the bird reported to the Division in accordance with Section R657-20-24.

R657-20-21. Reporting Requirements

(1) All activities, including wild take, acquisition, transfer, exchange, band/reband or microchip implant, loss (if not recovered within 30 days), recapture, injuries, and theft of any falconry raptor must be reported to the Division within 10 business days of the date of the event, as follows:

(a) Submit to the Division a completed paper Form 3-186a by mail or email; and

(b) Enter the required information in the electronic database located at <http://permits.fws.gov/186A>

([6]2) A permittee must retain copies of all electronic database submissions documenting take, transfer, loss, rebanding or micro chipping or any other transaction for each falconry raptor for up to 5 years after the given transaction or event has taken place.

([7]3) Date of capture, sex of the raptor, and location of the capture must be recorded on the Raptor Capture Permit for all species.

(a) Nest locations are held for use by the Division's sensitive species biologists and will not be made available to the public.

~~(8) On an annual basis, the falconry Program Coordinator shall determine the number of capture permits issued for the taking of eyas raptors listed on the most recent edition of the Utah sensitive species list.]4) All Resident falconers holding a valid falconry COR must submit a completed falconry Annual Report to the Division by January 31 of each year, as follows:~~

~~[(a) Notice of any limitations on the number of eyas capture permits available for sensitive raptors shall be available by February 1 of each year.~~

~~(b) Application procedures for taking sensitive raptor species are provided in Section R657-20-11.] (a) By December 31 of each year, the Division will provide each resident falconer with an annual report form.~~

~~(b) Each resident falconer must complete the annual report and return the report to the Division by the following January 31.~~

R657-20-22. Unintentional Take of Protected Wildlife by a Falconry Raptor.

~~(1) A falconry raptor may be allowed to feed on a prey animal taken unintentionally, provided the prey animal is not taken into the falconer's possession.~~

~~(2) Unintentional take of any federally listed threatened or endangered species must be reported to the Division and the U. S. Fish and Wildlife Ecological Services Field Office in Salt Lake City within 48 hours of the take event.~~

~~(3) Unintentional take of any Utah protected wildlife must be reported to the Division within 48 hours of the take event.~~

[R657-20-22,]R657-20-23. Banding or Tagging Raptors Used in Falconry.

~~(1) A falconer who has captured or acquired a wild northern goshawk, wild Harris's hawk (*Parabuteo unicinctus*), wild peregrine falcon, or wild gyrfalcon must band the raptor with a permanent, nonreusable, black-colored numbered [U. S. Fish and Wildlife] Service leg band.~~

~~(a) A falconer must contact the Division for information on obtaining and disposing of bands.~~

~~(b) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.~~

~~(2) Take or acquisition of any wild raptor must be reported to the Division by either entering the required information including, when required, the band number or microchip information in the electronic database at <http://permits.fws.gov/186A>, or by submitting a paper form 3-186A or FWS pdf i 381A via email no later than 10 business days after capture or acquisition of the raptor.~~

~~(3) Raptors bred in captivity must be banded with a [U. S. Fish and Wildlife] Service seamless metal band described in 50 CFR 21 Section 21.30, or plastic, numbered [U. S. Fish and Wildlife] Service yellow band.~~

~~(a) Unbanded raptors, or black, or yellow banded raptors may not be sold, traded or bartered in any way.~~

~~(b) In addition to banding the raptor, a falconer may also purchase and implant an ISO (International Organization for Standardization)-compliant (1234.2 kHz) implantable microchip.~~

~~(c) Removal or loss of a seamless band must be reported to the Division within 10 business days of the event and a replacement non-reusable band attached to the raptor.~~

~~(d) New and replacement band or microchip information must be reported to the Division [by either entering the required information including the band number and microchip information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i 381A via email, no later than 10 business days after banding the raptor.] pursuant to Section R657-20-24.~~

~~[(4)3] In the event a non-reusable band is removed or lost from a banded raptor, the removal or loss of the band must be reported to the Division [within 5 business days] pursuant to Section R657-20-24 and a replacement band requested.~~

~~(a) Immediately upon rebanding the raptor, the required information must be submitted [at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i 381A via email,] to the Division [] pursuant to Section R657-20-24~~

~~[(5)4] A band may not be altered, defaced, or counterfeited.~~

~~[(6)5] Exemptions for banding of raptors will be considered on a case-by-case basis, as follows:~~

~~(a) Documented health or injury problems for a raptor that are caused by the band~~

~~(b) A copy of the exemption paperwork must be kept by the permittee when transporting or flying the raptor.~~

~~(c) If the raptor is a wild northern goshawk, wild Harris's hawk, wild peregrine falcon, or wild gyrfalcon, the band must be replaced with an ISO-compliant microchip.~~

~~(i) Substituting a microchip for a band on a wild goshawk, wild Harris's hawk, wild peregrine falcon, or wild gyrfalcon will not be authorized unless it has been demonstrated that a band causes an injury or a health problem for the raptor.~~

~~[(7) A raptor removed from the wild may not be banded with a with a U. S. Fish and Wildlife Service seamless metal band or plastic, numbered U. S. Fish and Wildlife Service yellow band.~~

R657-20-23. Raptors Injured Due to Falconer Trapping Efforts.

~~(1) Falconers that injure a raptor during trapping efforts are responsible for the costs of care and rehabilitation of the injured raptor.~~

~~(a) An injured raptor retained by the permittee must be placed on the permittee's falconry permit.~~

~~(b) Take of the injured raptor from the wild]~~

R657-20-24. Importation Requirements for Residents and Nonresidents.

~~(1) A person is not required to obtain a special COR from the Division to import a raptor brought into Utah from another state when the raptor is imported and used for falconry purposes.~~

~~(a) Importation of a raptor used for any purposes other than falconry is governed by Rule R657-3.~~

~~(b) A raptor imported into Utah is required to have:~~

~~(i) A certificate of veterinary inspection from the state, tribe, or territory of origin; and~~

~~(ii) An entry permit number issued through the Utah Department of Agriculture, Animal Health Office pursuant to R58-1-4.~~

~~(2) Any raptor brought into the state on a permanent basis must be reported to the Division [by either entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A, or FWS pdf i-381A via email, no later than 10 business days after capture of the raptor.~~

~~(i) The injured raptor must be treated by a veterinarian or a permitted wildlife rehabilitator.~~

~~(ii) The injured raptor will count against the permittee's possession limit.~~

~~(b) An injured raptor must be immediately transported to a veterinarian, a permitted wildlife rehabilitator, or an appropriate wildlife agency employee.~~

~~(i) the injured raptor will not count against the permittee's allowed take or the permittee's possession limit.~~

R657-20-24. Releasing a Falconry Raptor to the Wild.

~~(1) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may not be permanently released into the wild.~~

~~(a) A raptor that is non-native to the State of Utah or that is a hybrid of any kind, may be transferred to another falconry permittee authorized for possession.~~

~~(2) A raptor that is native to the State of Utah and captive-bred may not be permanently released into the wild without prior authorization from the Division.~~

~~(a) Once authorization for release of a captive-bred native raptor is received, the raptor must be hauled (allow it to adjust) to the wild at an appropriate time of year and at an appropriate location as determined by the falconer.~~

~~(b) The falconry or captive-bred band must be removed and release of the bird reported to the Division by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email.~~

~~(3) If the species to be released is native to the State of Utah and was taken from the wild, the raptor may be released only at an appropriate time of year and at an appropriate location as determined by the falconer.~~

~~(a) If the raptor is banded, the band must be removed and release of the bird reported to the Division by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A or FWS pdf i-381A via email.]pursuant to Section R657-20-24~~

R657-20-25. [Hacking of Falconry Raptors and other Training Techniques.]Falconry Meets or Trials.

~~[(1) A General or Master Class Falconer only may hawk a falconry raptor or raptors.~~

~~(2) Raptors at hawk count against possession limits and must be a species authorized for possession.~~

~~(3) Hybrid raptors at hawk must have two attached and functioning radio transmitters.~~

~~(4) Raptors are not to be released at hawk near the nesting area of a federally threatened or endangered bird species or in any other location where the raptor is likely to harm a federally listed threatened or endangered animal species that might be disturbed or taken by the raptor at hawk.~~

~~(a) The Division must be notified prior to hacking a falconry raptor.~~

~~(b) Information on federally-listed species can be obtained from the U. S. Fish and Wildlife Service.~~

~~(5) Use of other falconry training or conditioning techniques:~~

~~(a) Other acceptable falconry practices may be used, such as the use of tethered flying, lures, balloons, or kites in training or conditioning raptors for falconry.](1) Falconers participating in falconry meets or trials must possess a valid falconry license and federal falconry permit, if applicable.~~

~~(2) A falconry meet license is not required for participation in a falconry trial.~~

~~(3) A falconry meet or trial may not be held on state waterfowl and wildlife management areas from April 1 through August 15, except in those areas approved by the Division.~~

~~(4) An organizer of a falconry meet must obtain prior approval from the Wildlife Board for non-residents to purchase a 5-day non-resident meet license.~~

~~(5) A nonresident entering Utah to participate in the sport of falconry at an organized meet must be 12 years of age or older and must obtain a nonresident falconry meet license if hunting protected wildlife.~~

~~(6) A falconry meet license may be obtained by completing an application and submitting the application and appropriate fees to the Division.~~

~~(7) A falconry meet license is valid only for nonresidents and only for five (5) consecutive calendar days as designated on the license.~~

~~(8) The holder of a nonresident falconry meet license may engage in the sport of falconry on protected wildlife during the specified five-day period in accordance with the applicable proclamations of the Wildlife Board.~~

~~[(b) Falconry raptors may be flown at pen-raised animals or at bird species not protected under this rule or the Migratory Bird Treaty Act.~~

~~](9) A nonresident participating in an organized meet must provide a health certificate and an entry permit number obtained from the Utah Department of Agriculture, Animal Health Section, on each raptor brought into the state.~~

R657-20-26. Use of Pen-Reared Game Birds for Meets, Trials and Training.

(1) Any falconer using pen-reared game birds for meets, trials or training must have an invoice or bill of sale or a copy thereof in their possession showing lawful personal possession or ownership of such birds.

(2) Pen-reared game birds may be held in possession no longer than 60 calendar days unless the person possessing the pen-reared game birds first obtains a private aviculture COR as provided in Rule R657-4.

(3) Each pen-reared game bird must be marked with an aluminum leg band or other permanent marking before being released except as provided in Subsection (c).

(a) Aluminum leg bands may be purchased at any Division office.

(b) The aluminum leg band or other permanent marking must remain attached to the pen-reared game bird.

(c) Each pen-reared game bird used on a commercial hunting area may be released without marking.

(4) Pen-reared game birds used for a meet may be released only on the property specified and only during the dates approved for the falconry meet.

(5) Released pen-reared game birds may be taken using falconry raptors, as follows:

(a) By the individual who released the pen-reared game birds, or by any individual participating in the meet; and

(b) Only during the approved dates of the meet.

(6) Once released, any pen-reared game birds that leave the property where the meet is held or are not retrieved at the conclusion of the meet become the property of the State of Utah and may not be recaptured or taken, except as prescribed in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(7) Pen-reared game birds used for training raptors, or for a trial that escape or are not recovered on the day of the training, or pen-reared game birds that escape, become property of the State of Utah and may not be recaptured or taken, except as prescribed in the Upland Game and Waterfowl proclamations of the Wildlife Board and elsewhere in this rule.

~~R657-20-27. [Practicing Falconry in the Vicinity of a Federally Listed Threatened or Endangered Animal Species.~~

~~(1) Individuals practicing falconry must ensure that such activities do not result in the take of federally listed threatened or endangered wildlife.~~

~~(2) Under the federal Endangered Species Act:~~

~~(a) "Take" means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct".~~

~~(b) "Harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering; and~~

~~(c) "Harm" means an act that actually kills or injures wildlife.~~

~~(3) Information about threatened or endangered species that may occur in Utah is available by contacting the U. S. Fish and Wildlife Service or the Division.~~

~~R657-20-28. Permission to Conduct Falconry Activities on Public or Private Lands.~~

~~(1) A falconer must comply with all applicable Federal, State, local, or tribal laws regarding falconry activities, including hunting, on private, public, and tribal lands.~~

~~(a) All falconry activities shall be conducted consistent with the trespass requirements in Section 23-20-14.~~

~~(b) A person may not engage in any falconry activity on Tribal trust lands without authorization from the affected Indian tribe.~~

~~(2) Raptor training is not allowed on state waterfowl and wildlife management areas without authorization.~~

~~(3) Practicing the sport of falconry without permission is prohibited on all National Parks in Utah.~~

~~(4) Practicing the sport of falconry without permission is prohibited on all Utah state Parks.~~

~~R657-20-29. Use of Feathers and Carcasses.~~

~~(1) Feathers that a falconry bird or birds molt may be used for imping.~~

(a) Flight feathers for each species of raptor currently in possession or previously held may be kept for imping for as long as needed by a falconer with a valid falconry COR.

(i) Feathers for imping purposes may be received from or provided to other licensed falconers, wildlife rehabilitators, or propagators in the United states.

(ii) Licensed falconers may not buy, sell, or barter molted raptor feathers.

(b) Molted feathers from a falconry bird, except golden eagle feathers, may be donated to any person or institution with a valid permit for possession.

(c) Except for primary or secondary wing feathers or rectrix (tail) feathers from a golden eagle, a falconer is not required to gather feathers that are molted or otherwise lost by a falconry bird held under a valid COR.

(i) Molted feathers may be left where they fall, stored for imping, or destroyed.

(ii) A licensed falconer possessing a golden eagle must collect any molted flight feathers and rectrices.

(iii) Collected golden eagle feathers that are not to be retained for imping must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(d) Once a falconry COR expires and is not renewed or is revoked, the falconer must donate molted feathers of any species of falconry raptor to any person or institution authorized by permit to acquire and possess the feathers.

(i) Molted feathers that are not donated must be burned, buried, or otherwise destroyed.

(2) Disposition of carcasses of falconry birds that die.

(a) The entire carcass of a golden eagle held for falconry that dies, including all feathers, talons, and other parts, must be sent to the National Eagle Repository at U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022 (303-287-2110).

(b) The body or feathers of any other species of falconry raptor may be donated to any person or institution authorized by permit to acquire and possess raptor parts or raptor feathers.

(c) A falconry raptor, except a golden eagle, that was either banded or micro chipped prior to its death may be retained by the licensed falconer.

(i) The body of the raptor may be kept so that the feathers are available for imping, or the body may be mounted by a taxidermist.

(A) The mounted raptor may be used in conservation education programs.

(B) If the falconry raptor was banded, the band must be left in place on the mounted raptor body.

(C) If the falconry raptor has an implanted microchip, the microchip must be left in place on the mounted raptor body.

(d) The body and feathers of a deceased falconry raptor that are not donated or retained must be burned, buried, or otherwise destroyed within 10 calendar days of the death of the bird or after final examination by a veterinarian to determine cause of death.

(e) A licensed falconer that does not wish to donate or destroy the flight feathers of a deceased raptor or have the body

mounted by a taxidermist, may possess the flight feathers for as long as they possess a valid falconry COR, provided:

- (i) The feathers are not be bought, sold, or bartered; and
- (ii) The paperwork documenting lawful possession of the deceased raptor is retained.

R657-20-[30-]28. Other Uses of Raptors.

(1) Transfer of wild raptors captured for falconry to other permitted uses.

(a) A wild-caught falconry raptor may be transferred to a person authorized to possess raptors for propagation purposes only after the raptor has been used in falconry for at least:

- (i) 12 months from the date of capture for a sharp-shinned hawk, Cooper's hawk, merlin, or American kestrel; and
- (ii) 24 months from the date of capture for all other falconry raptors.

(b) The time periods imposed in Subsection (1)(a) for transferring a wild-caught falconry raptor to a person authorized to possess raptors for propagation purposes may be waived by the Division if the raptor has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the raptor can no longer be flown for falconry.

(i) In order to permanently transfer an injured raptor to a propagation permit, the falconer must provide the Division and the Federal migratory bird permits office that administers propagation permits a certification from the treating veterinarian or rehabilitator stating that the raptor is injured and cannot be used in falconry.

(c) Upon transfer of a wild raptor to a propagation permit, the falconer must provide a copy of the 3-186A form documenting acquisition of the raptor by the propagator to the Division and the Federal migratory bird permit office that administers propagation permits.

(2) Transfer of captive-bred falconry raptors to other permitted uses.

(a) Captive-bred falconry raptors may be transferred to another person if the recipient is authorized for possession.

~~[(i) Transfer must be reported to the Division within 10 business days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a standard paper form 3-186A, or FWS pdf i-381A via email.]~~ (3) Use of raptors possessed for falconry in captive propagation

(a) Raptors possessed for falconry may be bred in captivity if the falconer or the person overseeing the propagation has the necessary permits.

(b) Formal transfer of a raptor from a falconry permit to a captive propagation permit is required if the raptor is to be permanently used for propagation.

(c) Formal transfer of a raptor from a falconry permit to a captive propagation permit is not required if the raptor is used for propagation less than 8 months in a year.

(i) The licensed propagator must have a signed and dated statement from the falconer authorizing the temporary possession, plus a copy of the falconer's original FWS Form 3-186A for that raptor.

(4) Use of falconry raptors in conservation education programs.

(a) A General or Master Class falconer may use a falconry raptor in conservation education programs presented in public venues.

(i) A Federal education permit is not required to conduct conservation education activities using a falconry raptor held under a Utah falconry COR.

(ii) In order to permanently transfer an injured raptor to an education permit, the falconer must provide the Division and the Federal migratory bird permits office that administers education permits a certification from the treating veterinarian or rehabilitator stating that the raptor is injured and cannot be used in falconry.

(b) Conservation programs may be presented by an Apprentice Falconer who is accompanied by their General or Master Class sponsor.

(c) Raptors used to present conservation programs must primarily be used for falconry.

(d) A falconer may charge a fee for presentation of a conservation education program.

(i) The fee charged may not exceed the amount required to recoup costs of presenting the conservation education program.

(e) When presenting conservation education programs, the falconer must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation.

(f) A falconer may not give presentations using a falconry raptor that do not address falconry and conservation education.

(g) The falconer is responsible for all liability associated with conservation education activities undertaken.

(5) Other educational uses of falconry raptors.

(a) A falconer may allow photography, filming, or other similar uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds.

(i) A falconer may not be paid or otherwise compensated for such activities..

(b) A falconer may not use falconry raptors or permit the use of falconry raptors to make movies, commercials, or in other commercial ventures that are not related to the practice of falconry or the biology, ecological roles, and conservation needs of raptors and other migratory birds..

(c) Falconry raptors may not be used for:

- (i) Commercial entertainment for advertisements;
- (ii) promoting or endorsing any business, company, corporation, or other organization; or
- (iii) promoting or endorsing any product, merchandise, good, service, meeting, or fair, except for products related directly to falconry, such as hoods, telemetry equipment, giant hoods, perches, and materials for raptor facilities.

(6) Assisting in rehabilitation of raptors in preparation for release.

(a) A General or Master Class Falconer may assist a permitted migratory bird rehabilitator in conditioning raptors in preparation for their release to the wild.

(i) The falconer may keep the raptor being rehabilitated in their facilities up to 180 calendar days.

(ii) The rehabilitator must provide the falconer with a letter or form that identifies the raptor and explains that the falconer is assisting in the rehabilitation of the raptor to be released.

(iii) Facilities where the raptor will be temporarily housed must adhere to standards outlined in Sections R657-20-[8-]7, R657-20-[9-]8, and R657-20-[10-]9 of this rule.

(iv) The falconer is not required to add any raptor possessed for rehabilitation to their COR; the raptor will remain under the permit of the rehabilitator.

(v) The falconer must permanently release any raptor capable of sustaining itself in the wild or return it to the rehabilitator within the 180-day timeframe in which the rehabilitator is authorized to possess the raptor, unless the Division authorizes the falconer to retain the bird for longer than 180 calendar days.

(7) Using a falconry raptors in abatement activities.

(a) Abatement activities may only be conducted with captive bred raptors.

(b) A Master Class falconer may conduct abatement activities with raptors possessed for falconry and receive compensation for such activities, if the falconer is in possession of a Special Purpose Abatement permit issued by the [~~U.S. Fish and Wildlife~~] Service.

(c) A General Class falconer may conduct abatement activities only as a subpermittee of a Master Class falconer that possesses an abatement permit.

(d) An Apprentice Class falconer may not conduct abatement activities.

(8) A person who possesses a raptor for any purpose other than falconry, including raptor propagation, educational uses, and rehabilitation, shall obtain the appropriate authorization from the Division as provided in Rule R657-3 and the appropriate authorization from the [~~U.S. Fish and Wildlife~~] Service.

KEY: wildlife, birds, falconry

Date of Enactment or Last Substantive Amendment: [April 2, 2012]2013

Notice of Continuation: December 12, 2011

Authorizing, and Implemented or Interpreted Law: 23-17-7; 50 CFR 21

**Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification
R722-360
Certificate of Removal from the Sex
Offender and Kidnap Offender Registry**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37232

FILED: 01/29/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures by which a petitioner may seek a certificate of removal pursuant to Section 77-41-112, and to carry out the statute change in H.B. 13 (2012 General Session).

SUMMARY OF THE RULE OR CHANGE: This rule establishes procedures for applying for a certificate of removal from the Sex Offender and Kidnap Offender Registry, agency review of a decision to deny an application for a certificate of removal, and judicial review.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-40-102(10) and Section 77-41-102 and Section 77-41-112 and Subsection 63G-4-203(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to state budget. This proposed rule addresses the actual procedures of applying for a certificate of removal from the Sex Offender and Kidnap Offender Registry and the adjudication proceedings. This program is intended to be cost neutral, non-revenue generating, and the fees associated with the certificate of removal application and issuance are intended to merely cover the cost of administering the program.

◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government. This proposed rule addresses the actual procedures of applying for a certificate of removal from the Sex Offender and Kidnap Offender Registry and the adjudication proceedings. Thus, no aggregate cost or savings to local government is anticipated.

◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses. This proposed rule addresses the actual procedures of applying for a certificate of removal from the Sex Offender and Kidnap Offender Registry and the adjudication proceedings. Thus, no aggregate cost or savings to small businesses is anticipated.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons applying for a certificate of removal from the Sex Offender and Kidnap Offender Registry are assessed a \$168 application fee, and a \$25 fee if a certificate of removal is issued. These fees were determined in the 2012 General Session, and are intended to cover the cost of administering this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons may seek a certificate of removal from the Sex Offender and Kidnap Offender Registry on a voluntary basis. Those seeking this service will be required to pay a \$168 application fee, and a \$25 fee if a certificate of removal is issued.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This should not have any particular fiscal impact on businesses. This rule implements procedures for the application and issuance of a certificate of removal according to statutory requirements, and applies to individual persons.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-360. Certificate of Removal from the Sex Offender and Kidnap Offender Registry.

R722-360-1. Purpose.

The purpose of this rule is to establish procedures by which a petitioner may seek a certificate of removal pursuant to Section 77-41-112.

R722-360-2. Authority.

This rule is authorized by Subsection 63G-4-203(1).

R722-360-3. Definitions.

(1) Terms used in this rule are defined in Section 77-41-102.

(2) In addition:

(a) "certificate of removal" means a document issued by the bureau indicating that the petitioner meets the requirements found in Subsections 77-41-112(1)(b) and (d);

(b) "petitioner" means a person seeking a certificate of removal from the bureau; and

(c) "traffic offense" means the same thing as defined in Subsection 77-40-102(10).

R722-360-4. Application for a Certificate of Removal.

(1)(a) A person may apply for a certificate of removal by submitting a completed Application for Removal of Name from the Sex Offender/Kidnap Registry form to the bureau.

(b) The application form must be accompanied by a payment of the application fee established by the bureau in the form of cash, check, money order, or credit card.

(2)(a) Upon receipt of a completed application form and payment of the application fee, the bureau shall review each criminal episode contained on the petitioner's criminal history, in its entirety, to determine whether the petitioner meets the requirements for a certificate of removal found in Subsections 77-41-112(1)(b) and (d).

(b) In making its determination, the bureau shall also review all federal, state and local criminal records, to which it has access.

(3) If the bureau has insufficient information to determine whether the petitioner meets the requirements for a certificate of removal, the bureau may require the petitioner to submit additional information.

(4) If the bureau finds that the petitioner meets the requirements for the issuance of a certificate of removal, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner must pay the issuance fee established by the bureau in order to receive the certificate of removal.

(5) If the bureau finds that the petitioner does not meet the criteria for the issuance of a certificate of removal, the bureau shall send a letter to the petitioner, at the address indicated on the application form, which describes the reasons why the petitioner's application was denied and notifies the petitioner that the petitioner may seek agency review of the bureau's decision by following the procedures outlined in R722-360-5.

R722-360-5. Agency Review of a Decision to Deny an Application for a Certificate of Removal.

(1) A petitioner may seek agency review of the denial of an application for a certificate of removal, as provided by Section 63G-4-301, by mailing a written request for review to the bureau within 30 days from the date the denial letter is issued.

(2) The request for agency review must:

(a) be signed by the petitioner;

(b) state the specific grounds upon which relief is requested;

(c) indicate the date upon which it was mailed; and

(d) include documentation which supports the petitioner's request for review.

(3) An employee of the bureau shall be designated to review the petitioner's written request, any accompanying documents supplied by the petitioner, and the materials contained in the application file to determine whether the petitioner meets the requirements for a certificate of removal.

(4)(a) Within a reasonable time after receiving the request for review, the bureau shall issue a final written order on review, which shall be mailed to the petitioner at the address indicated on the application.

(b) If further review indicates that the petitioner meets the requirements for the issuance of a certificate of removal, the order shall indicate that the petitioner must pay the issuance fee before receiving the certificate of removal.

(c) If further review indicates that the petitioner does not meet the requirements for a certificate of removal, the order shall describe the reasons why the bureau's decision was upheld and notify the petitioner that the petitioner's opportunity to review the bureau's decision is limited to review by the district court as described in R722-360-6.

R722-360-6. Judicial Review.

A petitioner may seek judicial review of the bureau's final written order on review denying an application for a certificate of removal, as provided by Section 63G-4-402, by filing a complaint in the district court within 30 days from the date that the bureau's final written order is issued.

KEY: certificate of removal, sex offender registry, kidnap offender registry

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: 63G-4-203(1); 77-41-112; 77-41-102; 77-40-102(10)

Workforce Services, Unemployment
Insurance
R994-406-301
Claimant Fault

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37238

FILED: 01/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to specify when certain overpayments are fault overpayments.

SUMMARY OF THE RULE OR CHANGE: A claimant might receive unemployment benefits to which her or she is not entitled because the claimant under-reported his or her wages. If it is because the claimant was unaware of his or her actual wages at the time the weekly benefit filing was made, the claimant is still liable for repayment of the overpayment amount.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-4-406 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This is a federally-funded program 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 local government.

◆ **SMALL BUSINESSES:** There are no costs or savings to any small businesses as there are no fees associated with this program and it is federally funded.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any other persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

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. These changes will not impact any employer's contribution rate.

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. These changes will have no impact on any employer's contribution tax rate.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
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 03/18/2013

THIS RULE MAY BECOME EFFECTIVE ON: 03/25/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

**R994. Workforce Services, Unemployment Insurance.
R994-406. Fraud, Fault and Nonfault Overpayments.
R994-406-301. Claimant Fault.**

(1) Elements of Fault.

Fault is established if all three of the following elements are present, or as provided in subsection (3) and (4) of this section. If one or more elements cannot be established, the overpayment does not fall under the provisions of Subsection 35A-4-405(5).

(a) Materiality.

Benefits were paid to which the claimant was not entitled.

(b) Control.

Benefits were paid based on incorrect information or an absence of information which the claimant reasonably could have provided.

(c) Knowledge.

The claimant had sufficient notice that the information might be reportable.

(2) Claimant Responsibility.

The claimant is responsible for providing all of the information requested by the Department regarding his or her Unemployment Insurance claim. If the claimant has any questions about his or her eligibility for unemployment benefits, or the Department's instructions, the claimant must ask the Department for clarification before certifying to eligibility. If the claimant fails to obtain clarification, he or she will be at fault in any resulting overpayment.

(3) Receipt of Settlement or Back-Pay.

(a) A claimant is "at fault" for the resulting overpayment if he or she fails to advise the Department that grievance procedures

are being pursued which may result in payment of wages for weeks during which he or she claims benefits.

(b) If the claimant advises the Department prior to receiving a settlement that he or she has filed a grievance with the employer and makes an assignment directing the employer to pay to the Department that portion of the settlement equivalent to the amount of unemployment compensation received, the claimant will not be "at fault" if an overpayment is created due to payment of wages attributable to weeks for which the claimant received benefits. If the grievance is resolved in favor of the claimant and the employer was properly notified of the wage assignment, the employer is liable to immediately reimburse the Department upon settlement of the grievance. If reimbursement is not made to the Department consistent with the provisions of the assignment, collection procedures will be initiated against the employer.

(c) If the claimant refuses to make an assignment of the wages claimed in a grievance proceeding, benefits will be withheld on the basis that the claimant is not unemployed because of anticipated receipt of wages. In this case, the claimant should file weekly claims and if back wages are not received when the grievance is resolved, benefits will be paid for weeks properly claimed provided the claimant is otherwise eligible.

(4) Receipt of Retirement Income.

Notwithstanding any other provision of this section, a claimant who could be eligible for retirement income but does not apply until after unemployment benefits have been paid, is "at fault" for any overpayment resulting from a retroactive payment of retirement benefits. See R994-401-203(1)(d) and (2)

(5) Correcting Earlier Weekly Claims.

If a claimant reports incorrect information about his or her income or earnings, the claimant must immediately contact the Department to correct the information. A claimant who contacts the Department to correct reported income is considered to be "at fault" and is responsible for repaying any resulting overpayment even if at the time the claimant filed the weekly claim for benefits he or she was unaware of the correct income or earnings. A claimant who fails to contact the Department to correct inaccurately reported earnings may be subject to fraud penalties under subsection R994-406-401.

KEY: overpayments, unemployment compensation

Date of Enactment or Last Substantive Amendment: [January 2,] 2013

Notice of Continuation: May 22, 2012

Authorizing, and Implemented or Interpreted Law: 35A-4-406(2); 35A-4-406(3); 35A-4-406(4); 35A-4-406(5)

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

Environmental Quality, Water Quality **R317-9** Administrative Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37239
FILED: 01/31/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements the Administrative Procedures Act, Title 63G, Chapter 4, as required, for the Division of Water Quality. The Water Quality Board is given rulemaking authority in Section 19-4-104, of the Utah Water Quality 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 comments have been received either supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets forth the administrative procedures of the Division of Water Quality in compliance with the Administrative Procedures Act and consolidates these procedures into one location. Therefore, this rule should be continued.

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

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 01/31/2013

Environmental Quality, Water Quality **R317-13** Approvals and Permits for a Water Reuse Project

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37240
FILED: 01/31/2013

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 was adopted in 2008 to implement the requirements of the Wastewater Reuse Act, Title 73, Chapter 3c. The Water Quality Board is given rulemaking authority in Section 19-4-104 of the Utah Water Quality 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 comments either supporting or opposing the rule were received since the rule was originally adopted in February 2008.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments either supporting or opposing the rule were received since the rule was originally adopted in February 2008.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The proposed rule defines terms and establishes administrative requirements for water reuse projects, including application and approval procedures. This rule is necessary to implement the provisions of the Wastewater Reuse Act and the Board's authority to issue reuse permits under Subsection 19-5-104(3)(f). Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The proposed rule defines terms and adds administrative procedures for considering changes in the point of discharge from a publicly owned wastewater treatment plant. These procedures are needed to implement the requirements of Section 73-3c-304 and administer the Utah Pollution Discharge Elimination System (UPDES) under Rule R317-8. Therefore, this rule should be continued.

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

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

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

AUTHORIZED BY: Walter Baker, Director

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 01/31/2013

EFFECTIVE: 01/31/2013

Environmental Quality, Water Quality
R317-14
 Approval in Change in Point of
 Discharge of POTW

**Health, Health Care Financing,
 Coverage and Reimbursement Policy**
R414-301
 Medicaid General Provisions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37241
 FILED: 01/31/2013

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37221
 FILED: 01/23/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

**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 was adopted in 2008 to implement the requirements of the Wastewater Reuse Act, Section 73-3c-304. The Water Quality Board is given rulemaking authority in Section 19-4-104 of the Utah Water Quality Act.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement provisions of the Medicaid program through administrative rules. In addition, 42 CFR 431.220 through 431.246 authorizes the Department to set forth hearing rights and procedures for Medicaid clients.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it defines Medicaid programs, groups and eligibility, spells out client rights and responsibilities, and sets forth the provisions for the Department of Human Services and the Department of Workforce Services to do eligibility determinations and provide a fair hearing process under contract with the Department.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-302
Eligibility Requirements

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37215
FILED: 01/23/2013

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: Requirements for determining Medicaid eligibility are found at 42 CFR 435 Subpart E, and Section 26-18-3 requires the Department to implement these requirements through its administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it sets forth eligibility requirements for Medicaid clients to receive Medicaid services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-303
Coverage Groups

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37216
FILED: 01/23/2013

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: Subparts B, C and D of 42 CFR 435 set forth requirements and options to cover categorically needy individuals and medically needy individuals within the Medicaid program. In addition, Section 26-18-3 requires the Department to implement coverage for these individuals through its administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it establishes requirements for certain groups who qualify for Medicaid coverage and allows these groups to receive Medicaid services.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it establishes income-based eligibility requirements for Medicaid applicants and recipients who want to become eligible for certain Medicaid programs.

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

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

EFFECTIVE: 01/23/2013

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-304
Income and Budgeting

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-305
Resources

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37217
FILED: 01/23/2013

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37222
FILED: 01/23/2013

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: Subpart G of 42 CFR 435 sets forth general financial eligibility requirements and options for Medicaid recipients. In addition, Section 26-18-3 requires the Department to implement these requirements and options through its administrative rules.

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 26-18-3 requires the Department to implement the Medicaid program through administrative rules. 42 CFR 435.840 also requires the Department to use a single resource standard for each medically needy group.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it establishes resource standards to determine eligibility for categorically and medically needy Medicaid recipients.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it establishes criteria for program benefits available to Medicaid recipients and the dates of eligibility for these services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-306
Program Benefits and Date of Eligibility

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

DAR FILE NO.: 37218
FILED: 01/23/2013

**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: Subpart B of 42 CFR 440 sets forth requirements and limits that apply to all Medicaid services. In addition, Section 26-18-3 requires the Department to implement these requirements and limits through its administrative rules.

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-308
Application, Eligibility Determinations
and Improper Medical Assistance

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

DAR FILE NO.: 37223
FILED: 01/23/2013

**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 26-18-3 requires the Department to implement the Medicaid program through administrative rules. In addition, 42 CFR 435.952 requires the agency to verify client information independently to determine Medicaid eligibility.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it informs Medicaid recipients of requirements for medical assistance applications, eligibility decisions, and improper medical assistance.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 01/23/2013

**Human Services, Substance Abuse
and Mental Health, State Hospital
R525-2
Patient Rights**

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

DAR FILE NO.: 37211
FILED: 01/23/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 62A-15-105(5) gives the Division of Substance Abuse and Mental Health (DSAMH) the authority to develop administrative rules. DSAMH is aware of the flaw in Section 62A-15-606 and is in the process of getting that fixed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DSAMH and the Utah State Hospital (USH) have not received any written comments since the last five-year review of 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 USH is continuing this rule that identifies the hospital's responsibility to inform patients and family members of their rights regarding care and treatment while at the USH and possible restrictions of these rights.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
◆ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/23/2013

**Human Services, Substance Abuse
and Mental Health, State Hospital
R525-3
Medication Treatment of Patients**

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

DAR FILE NO.: 37224
FILED: 01/24/2013

**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-15-105 provides the Division of Substance Abuse and Mental Health (DSAMH) with rulemaking authority. Section 62A-15-704 requires DSAMH to establish rule for due process procedures for

children prior to any invasive treatment from a local mental health authority. DSAMH is aware that Section 62A-15-606 is obsolete and is in the process of getting that fixed in the 2013 legislative general session.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DSAMH and the Utah State Hospital have not received any written comments since the last five-year review of 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: Continuation of this rule is necessary to inform patients and family members of the hospital's procedures for obtaining informed consent for medication treatment and for due process hearings when patients cannot or refuse to consent to medication treatment.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/24/2013

Human Services, Substance Abuse
and Mental Health, State Hospital

R525-4

Visitors

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

DAR FILE NO.: 37210

FILED: 01/23/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Subsection 62A-15-105(5) gives the Division of Substance Abuse and Mental Health (DSAMH) the authority to develop administrative rules. DSAMH is aware of the flaw in Section 62A-15-606 and is in the process of getting that fixed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DSAMH and the Utah State Hospital have not received any written comments since the last five-year review of 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: Continuation of this rule is necessary to identify for the public how to access visitation of patients at the Utah State Hospital.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/23/2013

Human Services, Substance Abuse
and Mental Health, State Hospital

R525-5

Background Checks

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

DAR FILE NO.: 37214

FILED: 01/23/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 62A-15-105(5) gives

the Division of Substance Abuse and Mental Health (DSAMH) the authority to develop administrative rules. DSAMH is aware of the flaw in Section 62A-15-606 and is in the process of getting that fixed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DSAMH and the Utah State Hospital (USH) have not received any written comments since the last five-year review of 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: Continuation of this rule is necessary to inform the public that the USH conducts background checks on all potential employees and volunteers to determine appropriateness for employment and/or volunteer services and to ensure safety for patients.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 SUBSTANCE ABUSE AND MENTAL HEALTH,
 STATE HOSPITAL
 UTAH STATE HOSPITAL
 PROVO, UT 84603-0270
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
 ♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/23/2013

**Human Services, Substance Abuse
 and Mental Health, State Hospital
 R525-6
 Prohibited Items and Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 37212
 FILED: 01/23/2013**

**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 76-8-311.3(2) provides that a mental health facility may provide by rule what items are prohibited within that facility. In addition, Section 62A-15-603 provides that directors of mental health facilities that house involuntary detainees or detainees committed pursuant to judicial order may establish secure areas.

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 Division of Substance Abuse and Mental Health (DSAMH) and the Utah State Hospital (USH) have not received any written comments since the last five-year review of 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: Continuation of this rule is necessary to provide a safe environment for patients, staff, and the visitors by notifying the public of secure areas on the USH campus.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 SUBSTANCE ABUSE AND MENTAL HEALTH,
 STATE HOSPITAL
 UTAH STATE HOSPITAL
 PROVO, UT 84603-0270
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
 ♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/23/2013

**Human Services, Substance Abuse
 and Mental Health, State Hospital
 R525-7
 Complaints/Suggestions/Concerns**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION
 DAR FILE NO.: 37213
 FILED: 01/23/2013**

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**
 CONCISE EXPLANATION OF THE PARTICULAR
 STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 62A-15-105(5) gives the Division of Substance Abuse and Mental Health (DSAMH) the authority to develop administrative rules. DSAMH is aware of the flaw in Section 62A-15-606 and is in the process of getting that fixed.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DSAMH and the Utah State Hospital (USH) have not received any written comments since the last five-year review of 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: Continuation of this rule is necessary to identify the process to assist the public in providing feedback on the care and treatment USH provides.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 01/23/2013

Human Services, Recovery Services

R527-302

Income Withholding Fees

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37231

FILED: 01/28/2013

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-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Section 62A-11-406 allows the payor of income to deduct a fee for income withholding in accordance with Rule 64D, Utah Rules of Civil Procedure. Section 78A-2-216 authorizes the payor of income to withhold a \$25 fee for a continuing garnishment. This rule allows the payor of income to withhold a one-time \$25 fee to offset the administrative costs it incurs to process the income withholding. In addition, this rule allows payors to deduct the entire \$25 in the first month of withholding or to deduct the amount in monthly increments pursuant to Section 62A-11-406.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received since the last five-year review of the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule will be continued because the statues under which this rule is enacted are still in effect and the rule is reflected in current policy, practices, and procedures of the ORS/Child Support Services (CSS). Also, the rule provides the payor of income with the option to withhold the income withholding fee in one lump sum at the beginning of the month or to deduct the amount in increments over a period of time.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8509, or by Internet E-mail at snance@utah.gov

AUTHORIZED BY: Liesa Corbridge, Director

EFFECTIVE: 01/28/2013

Natural Resources, Administration

R634-1

Americans With Disabilities Complaint Procedure

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

DAR FILE NO.: 37219
FILED: 01/23/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Subsection 63G-3-201(2) of the state Administrative Rulemaking Act. The department, pursuant to 28 CFR 35.107, 2002 ed., adopts, defines and publishes within this rule complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities 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 supporting or opposing Rule R634-1 were received since 01/25/2008 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 R634-1 implements the provisions of Title II of the Americans With Disabilities Act, 42 USC 12201, which provides that no qualified individual with a disability, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by this or any such entity.

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

NATURAL RESOURCES
ADMINISTRATION
ROOM 3710
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kaelyn Anfinsen by phone at 801-538-7201, by FAX at 801-538-7315, or by Internet E-mail at kaelynanfinsen@utah.gov

AUTHORIZED BY: Michael Styler, Executive Director

EFFECTIVE: 01/23/2013

**Professional Practices Advisory
Commission, Administration****R686-100****Professional Practices Advisory
Commission, Rules of Procedure:
Complaints and Hearings****FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37243
FILED: 02/01/2013

**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 53A-6-306(1)(a) directs the Utah Professional Practices Advisory Commission (UPPAC) to adopt rules consistent with applicable law and Board rules to carry out its responsibilities under the law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has 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 continued because it provides necessary procedures regarding complaints against educators and licensing hearings for UPPAC to follow.

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

PROFESSIONAL PRACTICES ADVISORY
COMMISSION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 02/01/2013

**Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification
R722-320**

Undercover Identification

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

DAR FILE NO.: 37226
FILED: 01/24/2013

**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 Utah Department of Public Safety has been tasked in Subsection 53-10-104(1), (9), and (14) to: 1) provide and coordinate the delivery of support services to law enforcement agencies; 2) provide investigative assistance to law enforcement and other government agencies; and 3) perform the functions specified in this chapter. This rule is to establish a program whereby the Department of Public Safety can assist federal, state, county, and local law enforcement agencies in concealing the true identity of undercover peace officers.

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 were received during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Peace officers have a continuous need for undercover identification to carry out their duties, thus the need for continuation of the rule.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

AUTHORIZED BY: Alice Moffat, Bureau Chief

EFFECTIVE: 01/24/2013

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

**NOTICES OF
FIVE-YEAR REVIEW EXTENSIONS**

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

The five-year review extension is governed by Subsections 63G-3-305(4) and (5).

Governor, Economic Development

R357-2

Rural Broadband Service Fund

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 37206

FILED: 01/16/2013

EXTENSION REASON AND NEW DEADLINE: The Governor's Office of Economic Development requests an extension for the five-year review of Rule R357-2. The rule is no longer being used and a repeal of the rule has been filed but the deadline for the review will occur before the repeal is through the process. New deadline is 05/30/2013.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Zachary Derr by phone at 801-538-8746, by FAX at 801-538-8888, or by Internet E-mail at zderr@utah.gov

AUTHORIZED BY: Spencer Eccles, Executive Director

EFFECTIVE: 01/16/2013

End of the Notices of Five-Year Review Extensions Section

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

Regulatory Services

No. 37027 (AMD): R70-310. Grade A Pasteurized Milk

Published: 12/01/2012

Effective: 01/29/2013

No. 36915 (AMD): R70-320-18. Transport Tanks, Operators

Published: 11/01/2012

Effective: 01/29/2013

No. 36914 (AMD): R70-330. Raw Milk for Retail

Published: 11/01/2012

Effective: 01/29/2013

Commerce

Occupational and Professional Licensing

No. 37073 (AMD): R156-3a-102. Definitions

Published: 12/15/2012

Effective: 01/24/2013

No. 37074 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule

Published: 12/15/2012

Effective: 01/24/2013

No. 37071 (AMD): R156-44a. Nurse Midwife Practice Act Rules

Published: 12/15/2012

Effective: 01/22/2013

Environmental Quality

Administration

No. 36554 (REP): R305-6. Administrative Procedures

Published: 08/15/2012

Effective: 01/31/2013

No. 36554 (CPR): R305-6. Administrative Procedures

Published: 01/01/2013

Effective: 01/31/2013

No. 36553 (NEW): R305-7. Administrative Procedures

Published: 08/15/2012

Effective: 01/31/2013

No. 36553 (CPR): R305-7. Administrative Procedures

Published: 01/01/2013

Effective: 01/31/2013

Air Quality

No. 36723 (AMD): R307-101-2. Definitions

Published: 10/01/2012

Effective: 02/01/2013

No. 36723 (CPR): R307-101-2. Definitions

Published: 01/01/2013

Effective: 02/01/2013

No. 36741 (AMD): R307-307. Davis, Salt Lake, and Utah Counties: Road Salting and Sanding

Published: 10/01/2012

Effective: 02/01/2013

No. 36741 (CPR): R307-307. Davis, Salt Lake, and Utah Counties: Road Salting and Sanding

Published: 01/01/2013

Effective: 02/01/2013

No. 36740 (NEW): R307-312. Aggregate Processing Operations for PM2.5 Nonattainment Areas

Published: 10/01/2012

Effective: 02/01/2013

No. 36740 (CPR): R307-312. Aggregate Processing Operations for PM2.5 Nonattainment Areas

Published: 01/01/2013

Effective: 02/01/2013

No. 36725 (REP): R307-340. Ozone Nonattainment and Maintenance Areas: Surface Coating Processes

Published: 10/01/2012

Effective: 02/01/2013

NOTICES OF RULE EFFECTIVE DATES

No. 36725 (CPR): R307-340. Ozone Nonattainment and Maintenance Areas: Surface Coating Processes
Published: 01/01/2013
Effective: 02/01/2013

No. 36726 (NEW): R307-344. Paper, Film, and Foil Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36726 (CPR): R307-344. Paper, Film, and Foil Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36727 (NEW): R307-345. Fabric and Vinyl Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36727 (CPR): R307-345. Fabric and Vinyl Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36728 (NEW): R307-346. Metal Furniture Surface Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36728 (CPR): R307-346. Metal Furniture Surface Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36729 (NEW): R307-347. Large Appliance Surface Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36729 (CPR): R307-347. Large Appliance Surface Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36730 (NEW): R307-348. Magnet Wire Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36730 (CPR): R307-348. Magnet Wire Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36731 (NEW): R307-349. Flat Wood Panel Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36731 (CPR): R307-349. Flat Wood Panel Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36732 (NEW): R307-350. Miscellaneous Metal Parts and Products Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36732 (CPR): R307-350. Miscellaneous Metal Parts and Products Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36733 (NEW): R307-351. Graphic Arts
Published: 10/01/2012
Effective: 02/01/2013

No. 36733 (CPR): R307-351. Graphic Arts
Published: 01/01/2013
Effective: 02/01/2013

No. 36734 (NEW): R307-352. Metal Container, Closure, and Coil Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36734 (CPR): R307-352. Metal Container, Closure, and Coil Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36736 (NEW): R307-354. Automotive Refinishing Coatings
Published: 10/01/2012
Effective: 02/01/2013

No. 36736 (CPR): R307-354. Automotive Refinishing Coatings
Published: 01/01/2013
Effective: 02/01/2013

No. 36737 (NEW): R307-355. Control of Emissions from Aerospace Manufacture and Rework Facilities
Published: 10/01/2012
Effective: 02/01/2013

No. 36737 (CPR): R307-355. Control of Emissions from Aerospace Manufacture and Rework Facilities
Published: 01/01/2013
Effective: 02/01/2013

Drinking Water

No. 36562 (AMD): R309-515-6. Ground Water - Wells
Published: 08/15/2012
Effective: 01/16/2013

No. 36562 (CPR): R309-515-6. Ground Water - Wells
Published: 12/01/2012
Effective: 01/16/2013

Insurance

Administration

No. 37018 (AMD): R590-102. Insurance Department Fee
Payment Rule

Published: 11/15/2012

Effective: 01/18/2013

No. 36846 (AMD): R590-171. Surplus Lines Procedures
Rule

Published: 10/15/2012

Effective: 01/22/2013

No. 36846 (CPR): R590-171. Surplus Lines Procedures
Rule

Published: 12/15/2012

Effective: 01/22/2013

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 36992 (AMD): R649-3-38. Surface Owner Protection Act
Provisions

Published: 11/15/2012

Effective: 01/23/2013

Wildlife Resources

No. 37069 (AMD): R657-13. Taking Fish and Crayfish

Published: 12/15/2012

Effective: 01/22/2013

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, 2013 through February 01, 2013. 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
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-21	Trichomoniasis	36962	AMD	01/04/2013	2012-22/16
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	37027	AMD	01/29/2013	2012-23/6
R70-320-18	Transport Tanks, Operators	36915	AMD	01/29/2013	2012-21/8
R70-330	Raw Milk for Retail	36914	AMD	01/29/2013	2012-21/9
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-2	Capitol Hill Complex Facility Use	37064	AMD	01/07/2013	2012-23/9
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-3a-102	Definitions	37073	AMD	01/24/2013	2012-24/6
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	37074	AMD	01/24/2013	2012-24/7
R156-37	Utah Controlled Substances Act Rule	37040	AMD	01/08/2013	2012-23/18
R156-37-502	Unprofessional Conduct	37175	NSC	01/30/2013	Not Printed
R156-37f	Controlled Substance Database Act Rule	37039	NEW	01/08/2013	2012-23/21
R156-44a	Nurse Midwife Practice Act Rules	37071	AMD	01/22/2013	2012-24/11
<u>Real Estate</u>					
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	36973	AMD	01/02/2013	2012-22/19
<u>Securities</u>					
R164-31-1	Guidelines for the Assessment of Administrative Fines	37042	AMD	01/08/2013	2012-23/26
CRIME VICTIM REPARATIONS					
<u>Administration</u>					
R270-1	Award and Reparation Standards	37061	AMD	01/07/2013	2012-23/27
R270-1	Award and Reparation Standards	37166	NSC	01/30/2013	Not Printed
R270-2	Crime Victim Reparations Adjudicative Proceedings	37063	AMD	01/07/2013	2012-23/33
R270-2	Crime Victim Reparations Adjudicative Proceedings	37167	NSC	01/30/2013	Not Printed
EDUCATION					
<u>Administration</u>					
R277-502	Educator Licensing and Data Retention	37058	AMD	01/07/2013	2012-23/34
R277-509	Licensure of Student Teachers and Interns	37059	AMD	01/07/2013	2012-23/39

ENVIRONMENTAL QUALITY

Administration

R305-6	Administrative Procedures	36554	REP	01/31/2013	2012-16/28
R305-6	Administrative Procedures	36554	CPR	01/31/2013	2013-1/32
R305-7	Administrative Procedures	36553	NEW	01/31/2013	2012-16/45
R305-7	Administrative Procedures	36553	CPR	01/31/2013	2013-1/32

Air Quality

R307-101-2	Definitions	36723	AMD	02/01/2013	2012-19/29
R307-101-2	Definitions	36723	CPR	02/01/2013	2013-1/38
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	36741	AMD	02/01/2013	2012-19/42
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	36741	CPR	02/01/2013	2013-1/45
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	36740	NEW	02/01/2013	2012-19/45
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	36740	CPR	02/01/2013	2013-1/47
R307-340	Ozone Nonattainment and Maintenance Areas: Surface Coating Processes	36725	REP	02/01/2013	2012-19/49
R307-340	Ozone Nonattainment and Maintenance Areas: Surface Coating Processes	36725	CPR	02/01/2013	2013-1/48
R307-344	Paper, Film, and Foil Coatings	36726	NEW	02/01/2013	2012-19/65
R307-344	Paper, Film, and Foil Coatings	36726	CPR	02/01/2013	2013-1/52
R307-345	Fabric and Vinyl Coatings	36727	NEW	02/01/2013	2012-19/67
R307-345	Fabric and Vinyl Coatings	36727	CPR	02/01/2013	2013-1/54
R307-346	Metal Furniture Surface Coatings	36728	NEW	02/01/2013	2012-19/69
R307-346	Metal Furniture Surface Coatings	36728	CPR	02/01/2013	2013-1/57
R307-347	Large Appliance Surface Coatings	36729	NEW	02/01/2013	2012-19/71
R307-347	Large Appliance Surface Coatings	36729	CPR	02/01/2013	2013-1/59
R307-348	Magnet Wire Coatings	36730	NEW	02/01/2013	2012-19/73
R307-348	Magnet Wire Coatings	36730	CPR	02/01/2013	2013-1/61
R307-349	Flat Wood Panel Coatings	36731	NEW	02/01/2013	2012-19/74
R307-349	Flat Wood Panel Coatings	36731	CPR	02/01/2013	2013-1/63
R307-350	Miscellaneous Metal Parts and Products Coatings	36732	NEW	02/01/2013	2012-19/76
R307-350	Miscellaneous Metal Parts and Products Coatings	36732	CPR	02/01/2013	2013-1/65
R307-351	Graphic Arts	36733	NEW	02/01/2013	2012-19/80
R307-351	Graphic Arts	36733	CPR	02/01/2013	2013-1/69
R307-352	Metal Container, Closure, and Coil Coatings	36734	NEW	02/01/2013	2012-19/84
R307-352	Metal Container, Closure, and Coil Coatings	36734	CPR	02/01/2013	2013-1/73
R307-354	Automotive Refinishing Coatings	36736	NEW	02/01/2013	2012-19/88
R307-354	Automotive Refinishing Coatings	36736	CPR	02/01/2013	2013-1/79
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	36737	NEW	02/01/2013	2012-19/91
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	36737	CPR	02/01/2013	2013-1/82

Drinking Water

R309-515-6	Ground Water - Wells	36562	AMD	01/16/2013	2012-16/66
R309-515-6	Ground Water - Wells	36562	CPR	01/16/2013	2012-23/70

Radiation Control

R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	37179	NSC	01/31/2013	Not Printed
R313-21	General Licenses	37181	NSC	01/31/2013	Not Printed
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	37180	NSC	01/31/2013	Not Printed
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	37182	NSC	01/31/2013	Not Printed
R313-28	Use of X-Rays in the Healing Arts	37183	NSC	01/31/2013	Not Printed
R313-32	Medical Use of Radioactive Material	37184	NSC	01/31/2013	Not Printed

RULES INDEX

R313-34	Requirements for Irradiators	37185	NSC	01/31/2013	Not Printed
R313-36	Special Requirements for Industrial Radiographic Operations	37186	NSC	01/31/2013	Not Printed
R313-38	Licenses and Radiation Safety Requirements for Well Logging	37187	NSC	01/31/2013	Not Printed
R313-70	Payments, Categories and Types of Fees	37188	NSC	01/31/2013	Not Printed

Water Quality

R317-9	Administrative Procedures	37239	5YR	01/31/2013	Not Printed
R317-13	Approvals and Permits for a Water Reuse Project	37240	5YR	01/31/2013	Not Printed
R317-14	Approval in Change in Point of Discharge of POTW	37241	5YR	01/31/2013	Not Printed

GOVERNOR

Economic Development

R357-2	Rural Broadband Service Fund	37206	EXT	01/16/2013	Not Printed
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HEALTH

Health Care Financing

R410-14	Administrative Hearing Procedures	37045	AMD	01/09/2013	2012-23/44
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Health Care Financing, Coverage and Reimbursement Policy

R414-27	Medicaid Certification of Nursing Care Facilities	37177	5YR	01/09/2013	2013-3/109
R414-301	Medicaid General Provisions	37221	5YR	01/23/2013	Not Printed
R414-302	Eligibility Requirements	37215	5YR	01/23/2013	Not Printed
R414-303	Coverage Groups	37173	EMR	01/07/2013	2013-3/103
R414-303	Coverage Groups	37216	5YR	01/23/2013	Not Printed
R414-304	Income and Budgeting	37217	5YR	01/23/2013	Not Printed
R414-305	Resources	37222	5YR	01/23/2013	Not Printed
R414-306	Program Benefits and Date of Eligibility	37174	EMR	01/07/2013	2013-3/105
R414-306	Program Benefits and Date of Eligibility	37218	5YR	01/23/2013	Not Printed
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	37223	5YR	01/23/2013	Not Printed

HUMAN SERVICES

Recovery Services

R527-39	Applicant/Recipient Cooperation	37164	5YR	01/02/2013	2013-3/110
R527-56	In-kind Support	37165	5YR	01/02/2013	2013-3/110
R527-302	Income Withholding Fees	37231	5YR	01/28/2013	Not Printed
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	37168	5YR	01/03/2013	2013-3/111
R527-430	Administrative Notice of Lien-Levy Procedures	37169	5YR	01/03/2013	2013-3/111

Substance Abuse and Mental Health, State Hospital

R525-2	Patient Rights	37211	5YR	01/23/2013	Not Printed
R525-3	Medication Treatment of Patients	37224	5YR	01/24/2013	Not Printed
R525-4	Visitors	37210	5YR	01/23/2013	Not Printed
R525-5	Background Checks	37214	5YR	01/23/2013	Not Printed
R525-6	Prohibited Items and Devices	37212	5YR	01/23/2013	Not Printed
R525-7	Complaints/Suggestions/Concerns	37213	5YR	01/23/2013	Not Printed

INSURANCE

Administration

R590-102	Insurance Department Fee Payment Rule	37018	AMD	01/18/2013	2012-22/131
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	37171	5YR	01/07/2013	2013-3/112
R590-171	Surplus Lines Procedures Rule	36846	AMD	01/22/2013	2012-20/74
R590-171	Surplus Lines Procedures Rule	36846	CPR	01/22/2013	2012-24/32
R590-218	Permitted Language for Reservation of Discretion Clauses	37176	5YR	01/09/2013	2013-3/113
R590-243	Commercial Motor Vehicle Insurance Coverage	37172	5YR	01/07/2013	2013-3/113

NATURAL RESOURCES

Administration

R634-1 Americans With Disabilities Complaint Procedure 37219 5YR 01/23/2013 Not Printed

Oil, Gas and Mining: Oil and Gas

R649-3-38 Surface Owner Protection Act Provisions 36992 AMD 01/23/2013 2012-22/140

Parks and Recreation

R651-408 Off-Highway Vehicle Education Curriculum Standards 36856 REP 01/15/2013 2012-20/77

Wildlife Resources

R657-13 Taking Fish and Crayfish 37069 AMD 01/22/2013 2012-24/29
 R657-58 Fishing Contests and Clinics 37203 5YR 01/15/2013 2013-3/114

PROFESSIONAL PRACTICES ADVISORY COMMISSION

Administration

R686-100 Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings 37243 5YR 02/01/2013 Not Printed

PUBLIC SAFETY

Criminal Investigations and Technical Services, Criminal Identification

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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	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>adjudicative procedures</u>					
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	36554	R305-6	CPR	01/31/2013	2013-1/32
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	36554	R305-6	CPR	01/31/2013	2013-1/32
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	36741	R307-307	AMD	02/01/2013	2012-19/42
	36741	R307-307	CPR	02/01/2013	2013-1/45
	36740	R307-312	NEW	02/01/2013	2012-19/45
	36740	R307-312	CPR	02/01/2013	2013-1/47
	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	36727	R307-345	NEW	02/01/2013	2012-19/67
	36727	R307-345	CPR	02/01/2013	2013-1/54
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76

	36732	R307-350	CPR	02/01/2013	2013-1/65
	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
	36737	R307-355	NEW	02/01/2013	2012-19/91
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	36732	R307-350	CPR	02/01/2013	2013-1/65	
	36734	R307-352	NEW	02/01/2013	2012-19/84	
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	36733	R307-351	CPR	02/01/2013	2013-1/69	
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Education, Administration	37058	R277-502	AMD	01/07/2013	2012-23/34	
<u>professional engineers</u>						
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7	
<u>professional land surveyors</u>						
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7	
<u>professional structural engineers</u>						
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7	
<u>program benefits</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37174	R414-306	EMR	01/07/2013	2013-3/105	
	37218	R414-306	5YR	01/23/2013	Not Printed	
<u>prohibited items and devices</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	Not Printed	
<u>public assistance</u>						
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<u>public assistance programs</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37215	R414-302	5YR	01/23/2013	Not Printed	
	37223	R414-308	5YR	01/23/2013	Not Printed	
<u>public buildings</u>						
Capitol Preservation Board (State), Administration	37064	R131-2	AMD	01/07/2013	2012-23/9	
<u>public utilities</u>						
Public Service Commission, Administration	37041	R746-320	AMD	01/07/2013	2012-23/48	
<u>radiation</u>						
Environmental Quality, Radiation Control	37180	R313-25	NSC	01/31/2013	Not Printed	
	37185	R313-34	NSC	01/31/2013	Not Printed	
<u>radiation safety</u>						
Environmental Quality, Radiation Control	37185	R313-34	NSC	01/31/2013	Not Printed	
<u>radioactive materials</u>						
Environmental Quality, Radiation Control	37181	R313-21	NSC	01/31/2013	Not Printed	
	37184	R313-32	NSC	01/31/2013	Not Printed	
	37186	R313-36	NSC	01/31/2013	Not Printed	
	37187	R313-38	NSC	01/31/2013	Not Printed	
	37188	R313-70	NSC	01/31/2013	Not Printed	
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<u>radioactive waste generator permit</u>						
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<u>real estate appraisals</u> Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19
<u>registration</u> Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed
<u>resources</u> Health, Health Care Financing, Coverage and Reimbursement Policy	37222	R414-305	5YR	01/23/2013	Not Printed
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<u>Rural Broadband Service Fund</u> Governor, Economic Development	37206	R357-2	EXT	01/16/2013	Not Printed
<u>rural economic development</u> Governor, Economic Development	37206	R357-2	EXT	01/16/2013	Not Printed
<u>secure areas</u> Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	Not Printed
<u>securities</u> Commerce, Securities	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>securities regulations</u> Commerce, Securities	37042	R164-31-1	AMD	01/08/2013	2012-23/26
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<u>source maintenance</u> Environmental Quality, Drinking Water	36562 36562	R309-515-6 R309-515-6	AMD CPR	01/16/2013 01/16/2013	2012-16/66 2012-23/70
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<u>suggestions</u> Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	Not Printed

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	36725	R307-340	CPR	02/01/2013	2013-1/48
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	36729	R307-347	NEW	02/01/2013	2012-19/71
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	37187	R313-38	NSC	01/31/2013	Not Printed
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	36736	R307-354	NEW	02/01/2013	2012-19/88
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