

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Nancy L. Lancaster, Managing Editor

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The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 02, 2017, 12:00 a.m., and December 15, 2017, 11:59 p.m. are included in this, the January 01, 2018, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 Rules being repealed are completely struck out.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 usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may 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 Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least January 31, 2018. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through May 1, 2018, the agency may notify the Office 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 Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

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

Attorney General, Administration  
**R105-2**  
 Records Access and Management

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42367

FILED: 12/08/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide information about submitting requests and appeals to the Attorney General's Office under the Government Records Access and Management Act (GRAMA).

**SUMMARY OF THE RULE OR CHANGE:** The email address for the GRAMA Coordinator for the Attorney General's Office has been amended.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63G-2-204

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The change in the rule only updates the contact information for the GRAMA Coordinator with the Attorney General's Office.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments. The change in the rule only updates the contact information for the GRAMA Coordinator with the Attorney General's Office.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The change in the rule only updates the contact information for the GRAMA Coordinator with the Attorney General's Office.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The change in the rule only updates the contact information for the GRAMA Coordinator with the Attorney General's Office.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The change in the rule only updates the contact information for the GRAMA Coordinator with the Attorney General's Office.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated fiscal impacts that this rule may have on a business. The change in the rule only updates contact information for the GRAMA Coordinator with the Attorney General's Office.

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

ATTORNEY GENERAL  
 ADMINISTRATION  
 ROOM 230 UTAH STATE CAPITOL  
 350 N STATE ST  
 SALT LAKE CITY, UT 84114  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at [nicolealder@utah.gov](mailto:nicolealder@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Bridget Romano, Chief Deputy Attorney General

**R105. Attorney General, Administration.  
 R105-2. Records Access and Management.**

**R105-2-1. Purpose.**

This rule provides information about submitting requests and appeals to the Attorney General's Office under the Government Records Access and Management Act.

**R105-2-2. Requests for Access.**

All requests for records shall be directed to:

TABLE

[{If by hand delivery[?]}:]

GRAMA Coordinator  
 Office of the Attorney General  
 Utah State Capitol Complex  
 350 North State Street Suite 230  
 Salt Lake City, Utah 84114

[{If by mail[?]}:]

GRAMA Coordinator  
 Office of the Attorney General  
 PO Box 140860  
 Salt Lake City, Utah 84114-0860

[{If by email[?]}:]

GRAMA Coordinator  
[grama\\_coordinator@utah.gov](mailto:grama_coordinator@utah.gov) AGO\_GRAMA\_Coordinator@agutah.gov

**R105-2-3. Appeals.**

Appeals regarding questions of access to records shall be directed to:

TABLE

[{If by hand delivery[?]}:]

GRAMA Appeal  
Office of the Attorney General  
Utah State Capitol Complex  
350 North State Street Suite 230  
Salt Lake City UT 84114

[{If by mail[?]}:]

GRAMA Appeal  
Office of the Attorney General  
PO Box 140860  
Salt Lake City, Utah 84114-0860

[{If by email[?]}:]

GRAMA Coordinator  
[grama\_coordinator@utah.gov] AGO\_GRAMA\_Coordinator@agutah.gov

**R105-2-4. Records of Client Agencies.**

Requesters seeking copies of records of client agencies of the Attorney General's Office must make their request directly to the client agency. See Section 67-5-15(1).

**R105-2-5. Record Sharing.**

For the purpose of record sharing between governmental entities as provided in Section 63G-2-206, the Attorney General's Office is one governmental entity and all divisions in the office are part of that entity.

**KEY:** public records, government documents, records access, GRAMA

**Date of Enactment or Last Substantive Amendment:** [~~October 25, 2018~~] 2018

**Notice of Continuation:** September 28, 2016

**Authorizing, and Implemented or Interpreted Law:** 63G-2-204

Commerce, Occupational and  
Professional Licensing  
**R156-42a**  
Occupational Therapy Practice Act  
Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42381

FILED: 12/12/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Occupational Therapy Licensing Board and the Division of Occupational and Professional Licensing (Division) recommend these proposed amendments to clarify the education and examination requirements for licensure as

an occupational therapist and an occupational therapy assistant.

**SUMMARY OF THE RULE OR CHANGE:** Sections R156-42a-302b and R156-42a-302d are deleted as they are unnecessary and confusing. Section R156-42a-302b simply repeats some of the statutory language in Subsections 58-42a-302(1)(d) and (2)(d), while Section R156-42a-302d needlessly sets apart the examination component of the certification requirement. New Section R156-42a-302a replaces the deleted Sections R156-42a-302b and R156-42a-302d. This new section clarifies that an applicant shall meet the education and examination requirements of Section 58-42a-302 by holding a current certification with the National Board for Certification in Occupational Therapy (NBCOT). Specifically, an applicant for an occupational therapist license shall hold current certification as an Occupational Therapist Registered (OTR), and an applicant for an occupational therapy assistant shall hold current certification as a Certified Occupational Therapy Assistant (COTA). New Section R156-42a-302b clarifies: 1) that to obtain a license by endorsement, an applicant's license must be both active and in good standing; and 2) that the phrase "notwithstanding the other requirements of this section" in Subsection 58-42a-302(3) refers only to the modified education, experience, or examination requirements and not the other requirements for licensure, such as the requirement for good moral character as it relates to the functions and responsibilities of the profession.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-42a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact the state beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.
- ◆ **LOCAL GOVERNMENTS:** These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact local governments.
- ◆ **SMALL BUSINESSES:** These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments only clarify the existing requirements for licensure; accordingly, they will not cause

anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These amendments only clarify the existing requirements for licensure and do not impose any additional compliance cost on any affected person.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These rule changes only clarify the existing requirements for licensure, and will not cause anyone to experience a cost or benefit, and will not alter the price or quantity of any exchanges between any parties. Therefore, this rule is not expected to impact small businesses. These rule amendments are not expected to impact small or non-small businesses.

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

COMMERCE  
 OCCUPATIONAL AND PROFESSIONAL  
 LICENSING  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY, UT 84111-2316  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mark Steinagel, Director

**Appendix: Regulatory Impact Analysis for Small and Non-Small Businesses**

	FY 2018	FY 2019	FY 2020
<b>Fiscal Costs</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	\$0	\$0	\$0

<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits:</b>	\$0	\$0	\$0

These rule amendments are not expected to impact small or non-small businesses.

**R156. Commerce, Occupational and Professional Licensing. R156-42a. Occupational Therapy Practice Act Rule. R156-42a-302a. Qualifications for Licensure - Education and Examination Requirements.**

In accordance with Subsections 58-42a-302(1)(d) and (f), 58-42a-302(2)(d) and (f), and 58-42a-302(3)(b), the education and examination requirements for licensure are established as follows:

(1) An applicant for licensure as an occupational therapist shall hold current certification as an Occupational Therapist Registered (OTR) with the National Board for Certification in Occupational Therapy (NBCOT).

(2) An applicant for licensure as an occupational therapy assistant shall hold current certification as a Certified Occupational Therapy Assistant (COTA) with the National Board for Certification in Occupational Therapy (NBCOT).

~~**R156-42a-302b. Qualifications for Licensure - Education Requirements.**~~

~~The education requirements for licensure, in accordance with Section 58-42a-302, are established as follows:~~

~~(1) An applicant for licensure as an occupational therapist shall graduate from an occupational therapy program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.~~

~~(2) An applicant for licensure as an occupational therapy assistant shall graduate from an occupational therapy assistant program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education.]~~

**R156-42a-302b. Qualifications for Licensure - Endorsement or Examination.**

(1) In accordance with Section 58-1-302, an applicant for licensure by endorsement under Subsection 58-42a-302(3)(a) shall submit satisfactory evidence that the applicant's license was both active and in good standing.

(2) As used in Subsection 58-42-302(3), the phrase "Notwithstanding the other requirements of this section" refers only to the education, experience, or examination requirements of Section 58-42a-302 as specifically modified by Subsection 58-42-302(3). All other requirements for licensure, such as good moral



character as it relates to the functions and responsibilities of the profession, shall still apply.

~~[R156-42a-302d. Qualifications for Licensure – Examination Requirements.~~

~~The examination requirements for licensure, in accordance with Section 58-42a-302, are established as follows:~~

~~(1) An applicant for licensure as an occupational therapist shall pass the examination for certification from the National Board for Certification in Occupational Therapy as an occupational therapist registered.~~

~~(2) An applicant for licensure as an occupational therapy assistant shall hold current certification from the National Board for Certification in Occupational Therapy as a certified occupational therapy assistant.]~~

**KEY: licensing, occupational therapy**

**Date of Enactment or Last Substantive Amendment: [June 8, 2017]2018**

**Notice of Continuation: January 21, 2014**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-42a-101**

**Education, Administration  
R277-705  
Secondary School Completion and  
Diplomas**

**NOTICE OF PROPOSED RULE  
(Amendment)**

**DAR FILE NO.: 42394  
FILED: 12/15/2017**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Rule R277-705 is amended to provide options for a student with a significant cognitive disability to be awarded an alternative diploma and provide a student with an Individualized Education Program (IEP) or Section 504 plan to receive a career development credential.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to Rule R277-705 define Student with a significant cognitive disability and a free appropriate public education (FAPE); provide standards for an local education agency (LEA) to award an alternate diploma to a student with a significant cognitive disability; and provide standards for an LEA to award a career development credential to a student with an IEP or Section 504 plan.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsection 53A-1-402(1)(b) and Subsection 53A-1-402(1)(c)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This rule change is not estimated to have a fiscal impact on the state budget.
- ◆ **LOCAL GOVERNMENTS:** This rule change is not estimated to have a fiscal impact on local government.
- ◆ **SMALL BUSINESSES:** This rule change is not estimated to have a fiscal impact on small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not estimated to have a fiscal impact on other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change is not estimated to have a fiscal impact. It enables LEAs to award an alternate diploma to a student with a significant cognitive disability. Currently, LEAs may award traditional diplomas and certificates of completion to students including a student with a significant cognitive disability. This rule change gives LEAs another option while maintaining a student's eligibility to receive a FAPE. The work of determining what graduation path a student is on would be done by the student's IEP team. This change should not create any new costs because IEP teams are already in place and LEAs already award a diploma or certificate of completion to their students including a student with a significant cognitive disability. The rule change also enables LEAs to award a career development credential to a student with an IEP or Section 504 plan who meets the outlined requirements.

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

**EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Office of Administrative Rules.**

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018**

**AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication**

**Appendix 1: Fiscal Impact Analysis Summary Table**

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
Net Fiscal Benefits:	\$0	\$0	\$0

**Appendix 2: Fiscal Impact Analysis**

This rule change is not estimated to have a fiscal impact. It enables local education agencies (LEAs) to award an alternate diploma to a student with a significant cognitive disability. Currently, LEAs may award traditional diplomas and certificates of completion to students including a student with a significant cognitive disability. This rule change gives LEAs another option while maintaining a student's eligibility to receive a free appropriate public education (FAPE). The work of determining what graduation path a student is on would be done by the student's Individualized Education Program (IEP) team. This change should not create any new costs because IEP teams are already in place and LEAs already award a diploma or certificate of completion to their students including a student with a significant cognitive disability. The rule change also enables LEAs to award a career development credential to a student with an IEP or Section 504 plan who meets the outlined requirements. There are no additional costs due to this change. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

**R277. Education, Administration.**

**R277-705. Secondary School Completion and Diplomas.**

**R277-705-1. Authority and Purpose.**

(1) This rule is authorized by:  
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;  
 (b) Subsections 53A-1-402(1)(b) and (c), which direct the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and  
 (c) ~~Subsection 53A-1-401(3)~~, which allows the Board to ~~adopt~~make rules ~~in accordance with its responsibilities~~to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:  
 (a) provide consistent definitions;  
 (b) provide alternative methods for a student to earn credit and alternate methods for schools to award credit; ~~and~~  
 (c) provide rules and procedures for the assessment of all students as required by law~~[-]; and~~  
(d) provide rules for a student to receive an alternative to a traditional diploma if appropriate criteria are met.

**R277-705-2. Definitions.**

(1) "Alternate Diploma" means a diploma issued in accordance with Section R277-705-5.

~~(1)2~~ "Demonstrated competence" means subject mastery as determined by LEA standards and review. LEA review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

~~(2)3~~ "Diploma" means an official document awarded by an LEA consistent with state and LEA graduation requirements and the provisions of this rule.

(4) "FAPE" means a free appropriate public education, which includes special education and related services that are provided at public expense, under public supervision and direction, and without charge in accordance with Board rule and the IDEA.

~~(3)5~~(a) "Secondary school" means grades 7-12 in whatever kind of school the grade levels exist.

(b) Grade 6 may be considered a secondary grade for some purposes.

~~(4)6~~ "Section 504 plan" means a written statement of reasonable accommodations for a student with a qualifying disability that is developed, reviewed, and revised in accordance with Section 504 of the Rehabilitation Act of 1973.

~~(5)7~~(a) "Special purpose school" means a school designated by a regional accrediting agency, adopted by the Board.

(b) "Special purpose school" includes a school:  
 (i) that serves a specific population such as a student with a disability, youth in custody, or a school with a specific curricular emphasis; and

(ii) with curricula designed to serve specific populations that may be modified from a traditional program.

(8) "Student with a significant cognitive disability" or "SCD" is determined by a comprehensive understanding of a whole student, including review of educational considerations and data obtained through the IEP process, including whether a student:

(a) requires intensive, repeated, modified, and direct individualized instruction and requires substantial supports to learn, maintain, and generalize skills in the student's grade and age-appropriate curriculum;

(b) has special education eligibility documentation indicating the disability significantly impacts intellectual functioning and adaptive behavior;

(c) demonstrates cognitive functioning and adaptive behavior in home, school, and community environments, which are significantly below age expectations, even with program modifications, adaptations, and accommodations;

(d) has a severe and complex cognitive disability, which limits the student from meaningful participation in the standard academic core curriculum or achievement of the academic content standards established at grade level, without substantial support, modifications, adaptations, and accommodations;

(e) may be eligible to participate in alternate assessments; and

(f) has a disability, which increases the need for dependence on others for many, if not all, daily living needs, and is expected to require extensive ongoing support through adulthood.

([6]9) "Supplemental education provider" means a private school or educational service provider:

(a) that may or may not be accredited; and

(b) that provides courses or services similar to public school courses or classes.

([7]10)(a) "Transcript" means an official document or record generated by one or several schools which includes:

(i) the courses in which a secondary student was enrolled;

(ii) grades and units of credit earned; and

(iii) citizenship and attendance records.

(b) A transcript is one part of a student's permanent record or cumulative file that may include:

(i) birth certificate

(ii) immunization records; and

(iii) other information as determined by the school in possession of the record.

([8]11) "Unit of credit" means credit awarded for a course taken:

(a) consistent with this rule;

(b) upon LEA authorization; or

(c) for mastery demonstrated by approved methods.

### **R277-705-3. Required LEA Policy Explaining Student Credit.**

(1)(a) An LEA governing board shall establish a policy, in an open meeting, explaining the process and standards for acceptance and reciprocity of credits earned by a student in accordance with state law.

(b) An LEA policy described in Subsection (1)(a) shall include specific and adequate notice to a student and a parent of all policy requirements and limitations.

(2)(a) An LEA shall accept credits and grades awarded to a student from a school or a provider accredited by an accrediting entity adopted by the Board.

(b) An LEA policy may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted.

(3) An LEA policy shall provide various methods for a student to earn credit from a non-accredited source, course work, or education provider including:

(a) satisfaction of coursework by demonstrated competency, as evaluated at the LEA level;

(b) assessment as proctored and determined at the school or school level;

(c) review of student work or projects by an LEA administrator; and

(d) satisfaction of electronic or correspondence coursework, as approved at the LEA level.

(4) An LEA may require documentation of compliance with Section 53A-11-102 prior to reviewing a student's home school or competency work, assessment or materials.

(5) An LEA policy for participation in extracurricular activities, awards, recognitions, and enhanced diplomas may be determined locally consistent with the law and this rule.

(6) An LEA has the final decision-making authority for the awarding of credit and grades from a non-accredited source consistent with state law, due process, and this rule.

### **R277-705-4. Diplomas and Certificates of Completion.**

(1) An LEA shall award diplomas and certificates of completion.

(2) An LEA shall establish criteria for a student to earn a certificate of completion that may be awarded to a student who:

(a) has completed the student's senior year;

(b) is exiting or aging out of the school system; and

(c) has not met all state or LEA requirements for a diploma.[

### **R277-705-5. Students with Disabilities.]**

([1]3) A student with a disability served by a special education program shall satisfy high school completion or graduation criteria, consistent with state and federal law and the student's IEP.

([2]4) An LEA may award a student a certificate of completion consistent with state and federal law and the student's IEP or Section 504 [P]lan.

### **R277-705-5. Alternate Diploma.**

(1) An LEA may award an alternate diploma to a student with a significant cognitive disability if:

(a) the student accesses grade-level Core standards through the Essential Elements;

(b) the student's IEP team makes graduation substitutions in the same content area, from a list of alternative courses approved by the Superintendent; and

(c) the student meets all graduation requirements prior to exiting school at or before age 22.

(2) An alternate diploma issued in accordance with Subsection (1) may not indicate that the recipient is a student with a disability.

(3) Notwithstanding the award of an alternate diploma, an LEA may still be obligated to provide FAPE to an eligible student in accordance with the IDEA.

(4)(a) The Superintendent shall provide a list of alternative courses that may be considered for student with cognitive disabilities working to receive an alternate diploma.

(b) An LEA may submit courses to the Superintendent to be considered for possible inclusion on the list required by Subsection (4)(a).

(c) The Superintendent shall annually update the list of alternative courses required under Subsection (4)(a) following review of LEA recommendations made under Subsection (4)(b).

#### **R277-705-6. Career Development Credentials.**

(1) An LEA may award a career development credential to a student with an IEP or Section 504 plan:

(a) who meets the requirements of a career focused work experience prior to leaving school; and

(b) consistent with:

(i) state and federal law; and

(ii) the student's IEP or Section 504 plan.

(2) Prior to receiving a career development credential, a student shall:

(a) earn the following credits in core content:

(i) English Language Arts (3.0);

(ii) Mathematics (2.0);

(iii) Science (1.0); and

(iv) Social Studies (1.0);

(b) complete 120 hours of community based work experience, to include:

(i) 40 hours of paid employment; or

(ii) documentation of completion of intake with a vocal rehabilitation counselor or the Department of Workforce Services;

(c) complete an LEA approved transition curriculum class or coursework that includes:

(i) disability awareness;

(ii) accommodations;

(iii) self-advocacy training;

(iv) career exploration; and

(v) workplace soft skills;

(d) receive .5 credits in a CTE Work Based Learning internship, including accommodations or modifications as appropriate and allowed by industry standards; and

(e) verify concentration in a CTE pathway in the student's area of interest.

#### **R277-705-[6]7. Adult Education Students.**

(1) An adult education student is eligible only for an adult education secondary diploma.

(2) An adult education diploma may not be upgraded or changed to a traditional, high school-specific diploma.

(3) A school district shall establish a policy:

(a) allowing or disallowing adult education student participation in graduation activities or ceremonies; and

(b) establishing timelines and criteria for satisfying adult education graduation and diploma requirements.

#### **R277-705-[7]8. Student Rights and Responsibilities Related to Graduation, Transcripts and Receipt of Diplomas.**

(1) An LEA shall supervise the granting of credit and awarding of diplomas, but may delegate the responsibility to schools within the LEA.

(2) An LEA may determine criteria for a student's participation in graduation activities, honors, and exercises, independent of a student's receipt of a diploma or certificate of completion.

(3) A diploma, a certificate, credits, or an unofficial transcript may not be withheld from a student for nonpayment of school fees.

(4)(a) An LEA shall establish a consistent timeline for all students for completion of graduation requirements.

(b) A timeline described in Subsection (4)(a) shall be consistent with state law and this rule.

(5) An LEA's graduation requirements may not apply retroactively.

**KEY: high school credits, adult education, graduation requirements**

**Date of Enactment or Last Substantive Amendment: [January 7, 2016]2018**

**Notice of Continuation: December 15, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-401[~~3~~]**

## Environmental Quality, Air Quality R307-350-3 Exemptions

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42368  
FILED: 12/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Air Quality Board directed staff to add conditions for granting an exemption for medical devices.

**SUMMARY OF THE RULE OR CHANGE:** This rule change provides specific actions a source must meet in order to be exempted from Rule R307-350.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no cost or savings to the state budget as a result of these changes because these changes do not change the way the rule impacts the state.

♦ **LOCAL GOVERNMENTS:** There is no cost or savings to local governments as a result of these changes because these changes do not change the way the rule impacts local governments.

♦ **SMALL BUSINESSES:** Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because this rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/08/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**  
**R307-350. Miscellaneous Metal Parts and Products Coatings.**  
**R307-350-3. Exemptions.**  
 (1) The requirements of R307-350 do not apply to the following:  
 (a) The surface coating of automobiles subject to R307-354 and light-duty trucks;  
 (b) Flat metal sheets and strips in the form of rolls or coils;  
 (c) Surface coating of aerospace vehicles and components subject to R307-355;  
 (d) The exterior of marine vessels;  
 (e) Customized top coating of automobiles and trucks if production is less than 35 vehicles per day;  
 (f) Military munitions manufactured by or for the Armed Forces of the United States;  
 (g) Operations that are exclusively covered by Department of Defense military technical data and performed by a Department of

Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces;  
 (h) Stripping of cured coatings and adhesives;  
 (i) Canned aerosol coating products;  
 (j) Research and development, quality control, or performance testing activities; or  
 (k) The provisions of R307-350 shall not apply to coating products on medical devices up to 800 pounds of VOC per year[-] if:  
(i) the source has completed an application to the Federal Drug Administration (FDA) for approval of the coating meeting the requirements of R307-350;  
(ii) the source has submitted to DAO a copy of the application to FDA with a demonstration that it was submitted; and  
(iii) the source submits to DAO a quarterly update on the progress of their application to FDA.  
 (2) The requirements of R307-350-5 do not apply to the following:  
 (a) Stencil and hand lettering coatings;  
 (b) Safety-indicating coatings;  
 (c) Solid-film lubricants;  
 (d) Electric-insulating and thermal-conducting coatings;  
 (e) Magnetic data storage disk coatings; or  
 (f) Plastic extruded onto metal parts to form a coating.  
 (3) The requirements of R307-350-6 do not apply to the following:  
 (a) Touch-up coatings;  
 (b) Repair coatings; or  
 (c) Textured finishes.

**KEY: air pollution, emission controls, coatings, miscellaneous metal parts**  
**Date of Enactment or Last Substantive Amendment: [2017]2018**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

**Environmental Quality, Air Quality**  
**R307-353-3**  
**Exemptions**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 42369  
 FILED: 12/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Air Quality Board directed staff to add conditions for granting an exemption for medical devices.

**SUMMARY OF THE RULE OR CHANGE:** This rule change provides specific actions a source must meet in order to be exempted from Rule R307-353.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no cost or savings to the state budget as a result of these changes because these changes do not change the way the rule impacts the state.
- ◆ **LOCAL GOVERNMENTS:** There is no cost or savings to local governments as a result of these changes because these changes do not change the way the rule impacts local governments.
- ◆ **SMALL BUSINESSES:** Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities will not be impacted by these changes because this rule does not apply to them.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Sources that seek to be exempt may have additional costs related to applying for approval from the Federal Drug Administration; however, the savings from being exempt should offset any costs of applying for approval.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/08/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**  
**R307-353. Plastic Parts Coatings.**  
**R307-353-3. Exemptions.**

- (1) The provisions of this rule shall not apply to any of the following:

- (a) Stencil coatings;
- (b) Safety-indicating coatings;
- (c) Electric-insulating and thermal-conducting coatings;
- (d) Magnetic data storage disk coatings;
- (e) Plastic extruded onto metal parts to form a coating; and
- (f) Textured finishes.

(2) If a coating line is subject to the requirements for existing automobile, light-duty truck, and other product and material coatings or for existing metallic surface coating lines, the coating line shall be exempt from this rule.

(3) Canned aerosol coating products up to 22 fl. oz. that are used exclusively for touch-up and repairs.

(4) Aerospace vehicles and components subject to R307-355.

(5) The provisions of R307-353 shall not apply to coating products on medical devices [-]up to 800 pounds of VOC per year[-] if

(i) the source has completed an application to the Federal Drug Administration (FDA) for approval of the coating meeting the requirements of R307-353;

(ii) the source has submitted to DAQ a copy of the application to FDA with a demonstration that it was submitted; and

(iii) the source submits to DAQ a quarterly update on the progress of their application to FDA.

(6) Research and development, quality control, or performance testing activities.

**KEY: air pollution, emission controls, coatings, plastic parts**

**Date of Enactment or Last Substantive Amendment: [2017]2018**

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

## Environmental Quality, Air Quality R307-355-3 Exemptions

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42370

FILED: 12/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Air Quality Board directed staff to add an exemption to Rule R307-355 for the cleaning of laser hardware, scientific instruments, and high-precision optics.

**SUMMARY OF THE RULE OR CHANGE:** This change adds an exemption in Section R307-355-3 for the cleaning of laser hardware, scientific instruments, and high-precision optics.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no cost or savings to the state budget as a result of this change because this change does not change the way the rule impacts the state.

- ◆ LOCAL GOVERNMENTS: There is no cost or savings to local governments as a result of these changes because these changes do not affect the way the rule impacts local governments.
- ◆ SMALL BUSINESSES: The extension of the exemption may lead to a savings; however, the amount of cleaning material used for these operations are so small the savings would be minimal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities will not be impacted by this change because this rule does not apply to them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no added compliance costs because of this change. The change to add an exemption for cleaning laser hardware, scientific instruments, and high-precision optics, does not result in additional compliance costs because the requirements of this rule otherwise remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The extension of the exemption may lead to a savings; however, the amount of cleaning material used for these operations are so small the savings would be minimal.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/08/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**  
**R307-355. Aerospace Manufacture and Rework Facilities.**  
**R307-355-3. Exemptions.**

- (1) R307-355 does not apply to the following:
  - (a) Cleaning and coating activities in research and development, quality control, laboratory testing, and electronic parts and assemblies, except for cleaning and coating of completed assemblies;

- (b) Manufacturing or rework operations involving space vehicles;
- (c) Rework operations performed on antique aerospace vehicles or components;
- (d) Touchup and repair operations;
- (e) Hand-held aerosol spray cans up to 24 fluid ounces;
- (f) Department of Defense classified coatings;
- (g) Separate formulations that are used in volumes of less than 50 gallon per year subject to a maximum exemption of 200 gallons in any calendar year; ~~and~~
- (h) Adhesives with separate formulations that are used in volumes of less than 0.5 gallons on any day or 10 gallons in any calendar year; and
- (i) Cleaning of laser hardware, scientific instruments, and high-precision optics.

**KEY: air pollution, coating, aerospace**  
**Date of Enactment or Last Substantive Amendment: ~~2017~~2018**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)**  
**(a)**

**Insurance, Administration**  
**R590-102**  
**Insurance Department Fee Payment**  
**Rule**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 42395  
 FILED: 12/15/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to add a fee for guaranteed asset protection retailers and to remove two fees that were repealed during the 2017 General Session (H.B. 42 and H.B. 336). It also makes a number of minor corrections including dates, formatting, and references.

SUMMARY OF THE RULE OR CHANGE: These changes add an assessment to the annual guaranteed asset protection retailer sellers per Subsection 31A-6b-201(2), remove the fee for the risk adjustment program that was repealed during the 2017 General Session by H.B. 336, and remove the fee for a health insurance purchasing alliance that was repealed during the 2017 General Session by H.B. 42. It also corrects a reference for guaranteed asset protection providers (from a license fee to a registration fee); corrects the due date fee for "Other Organizations" from May 1 to March 1; clarifies the fee for alien surplus lines insurers; and makes formatting corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-3-103(3)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. No new fee has been added. The state did not enact a risk adjustment program, therefore no fees were ever collected. The Department of Insurance (Department) has only received one application for a health insurance purchasing alliance that was licensed from 2008 to 2010. Assessments have previously collected for guaranteed asset protection retailer sellers pursuant to Subsection 31A-6b-201(2).

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. These changes only apply to fees collected by the Department from its licensees and will not impact local governments.

◆ **SMALL BUSINESSES:** The annual assessment of \$50 for guaranteed asset protection retailer sellers applies to small businesses that act as a retail seller of guaranteed asset protection. It is, and has been, collected pursuant to Subsection 31A-6b-201(2).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The annual assessment of \$50 for guaranteed asset protection retailer sellers applies to any person that is acting as a retail seller of guaranteed asset protection. It is, and has been, collected pursuant to Subsection 31A-6b-201(2).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance cost for an affected person is an annual \$50 assessment for a guaranteed asset protection retailer seller.

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

I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** There is a fiscal impact to guaranteed asset protection retailer sellers of up to \$50 per annum. This assessment is collected to cover the costs of regulating the industry.

II. **AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** During 2016, the Department collected assessments from 121 entities, and 125 entities in 2017. It is expected there will be an average of 3% growth per year.

III. **AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** The Department is unable to determine which of the 125 entities that paid the assessment in 2017 are small businesses. The Department estimates that 50% of the guaranteed asset protection retailer sellers are small businesses.

IV. **A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS:** Businesses acting as a guaranteed asset protection retailer seller will have an annual assessment of \$50 as required by 31A-6b-201.

V. **DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS:** This analysis represents the Department's

best estimate of the maximum fiscal impact this rule amendment may have on businesses.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018**

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

◆ 01/18/2018 01:00 PM, State Office Building, 450 N State Street, Room 3112, Salt Lake City, UT

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018**

**AUTHORIZED BY: Steve Gooch, Information Specialist**

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$3,225	\$3,325	\$3,425
Non-Small Businesses	\$3,225	\$3,325	\$3,425
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$6,450</b>	<b>\$6,650</b>	<b>\$6,850</b>
<b>Fiscal Benefits</b>			
State Government	\$6,450	\$6,650	\$6,850
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0



Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$6,450</b>	<b>\$6,650</b>	<b>\$6,850</b>
Net Fiscal Benefits:	\$0	\$0	\$0

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are 125 guaranteed asset protection retailers in Utah. The Utah Insurance Department (Department) assesses a \$50 annual fee to cover the costs of regulating the industry. In FY 2017, the total assessment for the 125 affected businesses was \$6,250. The Department is unable to determine with certainty how many of the affected businesses are small businesses; however, the Department estimates that approximately 50% are small businesses.

The Department further estimates a 3% annual increase in the number of retailers doing business in Utah. This estimate is factored into Appendix 1, above. The head of the Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**R590. Insurance, Administration.**

**R590-102. Insurance Department Fee Payment Rule.**

**R590-102-1. Authority.**

This rule is adopted pursuant to Subsection[s] 31A-3-103(3), which requires the commissioner to publish the schedule of fees approved by the legislature and to establish deadlines for payment of each of the various fees.

**R590-102-2. Purpose and Scope.**

- (1) The purposes of this rule are to:
  - (a) publish the schedule of fees approved by the legislature;
  - (b) establish fee deadlines; and
  - (c) disclose this information to licensees and the public.
- (2) The rule applies to:
  - (a) all persons engaged in the business of insurance in Utah;
  - (b) all licensees;
  - (c) applicants for licenses, registrations, certificates, or other similar filings; and

(d) all persons requesting services provided by the department for which a fee is required.

**R590-102-3. Definitions.**

In addition to the definitions in Title 31A, the following definitions shall apply for the purposes of this rule:

(1) "Admitted insurers" include: fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property-casualty, title insurers, and a prescription drug plan.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under Subsections 31A-23a-301, 31A-25-207, and 31A-26-209.

(3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, sponsored captive, and special purpose financial captive.

(4) "Deadline" means the final date or time:

(a) imposed by:

- (i) statute;
- (ii) rule; or
- (iii) order, and

(b) by which

(i) a payment must be received by the department without incurring penalties for late payment or non-payment; or

(ii) required information must be received by the department without incurring penalties for late receipt or non-receipt.

(5) "Fee" means an amount set by the commissioner, by statute, or by rule and approved by the legislature for licenses, registrations, certificates, and other filings and services provided by the Insurance Department.

(6) "Full-line agency" includes producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third party administrator.

(8) "Limited-line agency" includes bail bond and limited-line producer.

(9) "Limited-line individual" includes bail bond agent, limited-lines producer and customer service representative.

(10) "Other organizations" include: home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider and health discount program.

(11) "Paper application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.

(12) "Paper filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.

(13) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the postmark date, if delivered by mail;

(c) the delivery service's postmark date or pick-up date, if delivered by a delivery service; or

(d) the received date recorded on an item delivered, if delivered by:

- (i) facsimile;
- (ii) email; or

- (iii) another electronic method; or
- (e) a date specified in:
  - (i) a statute;
  - (ii) a rule; or
  - (iii) an order.

**R590-102-4. General Instructions.**

(1) Any fee payable to the department not included in Subsections R590-102-5 through [24]23, shall be due when service is requested, if applicable, otherwise by the due date on the invoice.

**(2) Payment.**

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

**(b) Check.**

(i) Checks shall be made payable to the Utah Insurance Department.

(ii) A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

(iii) Late fees and other penalties, resulting from the voided action will apply until proper payment is made.

(iv) A check payment that is dishonored is a violation of this rule.

(c) Cash. The department is not responsible for un-receipted cash that is lost or misdelivered.

**(d) Electronic.****(i) Credit Card.**

(A) Credit cards may be used to pay any fee due to the department.

(B) Credit card payments that are dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties, resulting from the voided action, will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

**(ii) Automated clearinghouse (ACH).**

(A) Payers or purchasers desiring to use this method must contact the department for the proper routing and transit information.

(B) Payments that are made in error to another agency or that are not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) Late fees and other penalties resulting from the voided action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

**(4) Refunds.**

(a) All fees in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) Requests for return of overpayments must be in writing.

(5) A non-electronic processing fee will be assessed for a particular service if the department has established an electronic process for that service. See R590-102-23.

**R590-102-5. Admitted Insurer and Prescription Drug Plan Fees.****(1) Annual license fees:**

(a) certificate of authority, initial license application - due with license application: \$1,000;

(b) certificate of authority - renewal - due by the due date on the invoice: \$300;

(c) certificate of authority - late renewal - due for any renewal paid after the date on the invoice: \$350;

(d) certificate of authority - reinstatement - due with application for reinstatement: \$1,000.

**(2) Other license fees:**

(a) certificate of authority - amendments - due with request for amendment: \$250;

(b)(i) Form A - application for merger, acquisition, or change of control, due with filing: \$2,000.

(ii) Expenses incurred for consultant services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing - due with filing: \$2,000; and

(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes - due with application: \$1,000.

(3) The annual initial or annual renewal license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business - due annually on March 1;

(b) filing holding company registration statement - Form B;

(c) filing application for material transactions between affiliated companies - Form D;

(d) application for: stock solicitation permit, public offering filing, but not an SEC filing; an SEC filing; private placement offering; and

(e) application for individual license to solicit in accordance with the stock solicitation permit.

**(4) Annual service fee:**

(a) Due annually by the due date on the invoice.

(b) A prescription drug plan is exempted from payment of a service fee.

(c) The fee is based on the Utah premium as shown in the latest annual statement on file with the National Association of Insurance Commissioners and the department. Fee calculation example: the 2004 annual service fee calculation will use the Utah premium shown in the December 31, 2003 annual statement.

**(d) Fee schedule:**

(i) \$0 premium volume: no service fee;

(ii) more than \$zero but less than \$1 million in premium volume: \$700;

(iii) \$1 million but less than \$3 million in premium volume: \$1,100;

(iv) \$3 million but less than \$6 million in premium volume: \$1,550;

(v) \$6 million but less than \$11 million in premium volume: \$2,100;

(vi) \$11 million but less than \$15 million in premium volume: \$2,750;

(vii) \$15 million but less than \$20 million in premium volume: \$3,500; and

(viii) \$20 million or more in premium volume: \$4,350.

(e) The annual service fee includes the following services for which no additional fee is required:

- (i) filing of amendments to articles of incorporation, charter, or bylaws;
- (ii) filing of power of attorney;
- (iii) filing of registered agent;
- (iv) affixing commissioner's seal and certifying any paper;
- (v) filing of authorization to appoint and remove agents;
- (vi) filing of producer/agency appointment with an insurer - initial;
- (vii) filing of producer/agency appointment with an insurer - termination;
- (viii) report filing, all lines of insurance;
- (ix) rate filing, all lines of insurance; and
- (x) form filing, all lines of insurance.

(f) The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.

(5) Other fees:

- (a) e-commerce fee: see R590-102-23; and
- (b) insurer examination costs reimbursements from examined insurers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-6. Foreign Surplus Lines Insurer, Accredited Reinsurer, Certified Reinsurer, Trusteed Reinsurer, and Employee Welfare Fund Administrative/Service Fees.**

(1) Initial Fee - due with application [~~alien surplus lines insurers file Utah State Alien Surplus Lines Information Form~~]: \$1,000.

(2) Annual Fee - due annually by the due date on the invoice: \$500;

(3) Late annual payment - due for any annual payment paid after the due date on the invoice: \$550;

(4) Reinstatement - due with application [~~alien surplus insurers submit request for reinstatement~~]: \$1,000[;].

(5) [~~The initial or annual surplus line fee includes the surplus lines annual statement filing for:~~

- ~~(a) U.S. companies - due annually on May 1; and~~
- ~~(b) foreign companies - due within 60 days of the annual statement's filing with the insurance regulatory authority where the company is domiciled.~~

~~(6) The initial or annual accredited reinsurer and trusteed reinsurer license fee includes the annual statement filing - due annually on March 1.~~

~~(7) The annual fee includes the following services for which no additional fee is required and is paid in advance:~~

- ~~(a) filing of power of attorney; and~~
- ~~(b) filing of registered agent.~~

~~(8)(6) E-commerce fee: see R590-102-23.~~

**R590-102-7. Other Organization Fees.**

(1) Annual license fee:

- (a) initial - due with application: \$250;
- (b) renewal - due annually by the due date on the invoice: \$200;
- (c) late renewal - due for any renewal paid after the date on the invoice: \$250;

(d) reinstatement - due with application for reinstatement: \$250;

(e) The annual other organization initial or renewal fee includes the risk retention group annual statement filing - due annually on ~~May~~ March 1.

(2) Annual service fee - due annually by the due date on the invoice: \$200.

(a) The annual service fee includes the following services for which no additional fee is required:

- (i) filing of power of attorney;
- (ii) filing of registered agent; and
- (iii) rate, form, report or service contract filing.

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(3) E-commerce fee: see R590-102-23.

**R590-102-8. Captive Insurer Fees.**

(1) Initial license application - due with license application: \$200.

(2) Initial license application review - due by the due date on the invoice: actual costs incurred by the department to review the application.

(3) Annual license fees:

- (a) initial - due by the due date on the invoice: \$5,000;
- (b) renewal - due by the due date on the invoice: \$5,000;
- (c) late renewal - due for any renewal paid after the date on the invoice: \$5,050;

(d) reinstatement - due with application for reinstatement: \$5,050.

(4) Other fees:

- (a) e-commerce fee: see R590-102-23; and
- (b) examination costs reimbursements from examined captive insurers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-9. Captive Cell Fees.**

(1) Initial license application -[-] due with license application: \$200.

(2) Initial license application review -[-] due by the due date on the invoice: actual costs incurred by the department to review the application.

(3) Annual license fees:

- (a) initial -[-] due by the due date on the invoice: \$1,000;
- (b) renewal -[-] due by the due date on the invoice: \$1,000;
- (c) late renewal -[-] due for any renewal paid after the date on the invoice: \$1,050.

**R590-102-10. Life Settlement Provider Fees.**

(1) Annual license fees:

- (a) initial - due with application: \$1,000;
- (b) renewal - due by the due date on the invoice: \$300;
- (c) late renewal - due for any renewal paid after the date on the invoice: \$350;
- (d) reinstatement - due with reinstatement application: \$1,000.
- (2) Annual service fee - due by the due date on the invoice: \$600.

(a) The annual service fee includes the following service for which no additional fee is required: rate, form, report or service contract filing.

(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.

(3) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) examination costs reimbursements from examined viatical settlement providers - due by due date on the invoice: actual costs plus overhead expense.

**R590-102-11. Professional Employer Organization (PEO) Fees.**

(1) Annual license fees:

(a) PEO - not certified by an assurance organization:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$2,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$2,050;

(iv) reinstatement - due with reinstatement application: \$2,050;

(b) PEO - certified by an assurance organization:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;

(iv) reinstatement - due with reinstatement application: \$1,050;

(c) PEO - small operator:

(i) initial - due with application: \$2,000;

(ii) renewal - due by the due date on the invoice: \$1,000;

(iii) late renewal - due for any renewal paid after the date on the invoice: \$1,050;

(iv) reinstatement - due with reinstatement application: \$1,050.

(5) E-commerce fee: see R590-102-23.

**R590-102-12. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.**

(1) Biennial resident and non-resident full-line individual initial license or renewal fee:

(a) initial license fee - due with application: \$70;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$70;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$120.

(2) Biennial resident and non-resident limited-line individual initial or renewal license fee:

(a) initial license fee - due with application: \$45;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$45;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$95.

(3) Other license fees: addition of producer classification or line of authority to individual producer license - due with request for additional classification or line of authority: \$25.

(4) The biennial initial and renewal full-line producer and limited-line producer fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) individual continuing education services.

(5) The biennial initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.

(6) Other fees:

(a) e-commerce fee: see R590-102-23; and

(b) title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: \$25.

**R590-102-13. Individual Navigator.**

(1) Individual navigator per annual license period:

(a) initial license fee -[-] due with application: \$35;

(b) renewal license fee if renewed prior to license expiration date -[-] due with renewal application: \$35;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date -[-] due with application for reinstatement: \$60.

(2) The annual initial and renewal individual license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license; and

(d) individual continuing education services.

(3) The annual initial and renewal individual license fee includes will provide during the year. The fee is paid in advance of providing the services.

(4) E-commerce fee: see R590-102-23.

**R590-102-14. Agency License Fees, Other than Navigator or Bail Bond Agencies.**

(1) Biennial resident and non-resident agency initial or renewal license for a full-line agency and for a limited-line agency:

(a) initial license fee - due with application: \$75;

(b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$75;

(c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$125;

(d) resident title license:

(i) initial license fee - due with application: \$100;

(ii) renewal license fee, if renewed prior to license expiration date - due with renewal application: \$100.

(iii) reinstatement license fee, if reinstated within one year following the license inactivation date -[-] due with application for reinstatement: \$150.

(2) Other license fees: addition of producer classification or line of authority to agency license - due with request for additional classification or line of authority: \$25.

(3) The biennial initial and renewal agency license fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

- (c) issuance of duplicate license;
  - (d) filing of producer designation to agency license - initial;
  - (e) filing of producer designation to agency license - termination;
  - (f) filing of amendment to agency license; and
  - (g) filing of power of attorney.
- (4) E-commerce fee: see R590-102-23.

**R590-102-15. Navigator Agency.**

- (1) Navigator agency per annual license period:
    - (a) initial license fee -[-] due with application: \$40;
    - (b) renewal license fee if renewed prior to license expiration date -[-] due with renewal application: \$40;
    - (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date -[-] due with application for reinstatement: \$65.
  - (2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:
    - (a) issuance of letter of certification;
    - (b) issuance of letter of clearance;
    - (c) issuance of duplicate license;
    - (d) filing of producer designation to agency license -[-] initial;
    - (e) filing of producer designation to agency license -[-] termination;
    - (f) filing of amendment to agency license; and
    - (g) filing of power of attorney.
- (3) E-commerce fee: see R590-102-23.

**R590-102-16. Bail Bond Agency.**

- (1) Annual bail bond agency per annual license period:
    - (a) initial license fee - due with application: \$250;
    - (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$250;
    - (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$300.
  - (2) The annual initial and renewal agency license fee includes the following services for which no additional fee is required:
    - (a) issuance of letter of certification;
    - (b) issuance of letter of clearance;
    - (c) issuance of duplicate license;
    - (d) filing of producer designation to agency license - initial;
    - (e) filing of producer designation to agency license - termination;
    - (f) filing of amendment to agency license; and
    - (g) filing of power of attorney.
- (3) E-commerce fee: see R590-102-23.

**R590-102-17]. ~~Health Insurance Purchasing Alliance.~~**

- ~~(1) Annual license fee:~~
  - ~~(a) initial - due with application: \$500;~~
  - ~~(b) renewal - due by the due date on the invoice: \$500;~~
  - ~~(c) late renewal - due for any renewal paid after the date of the invoice: \$550; and~~
  - ~~(d) reinstatement - due with application for reinstatement: \$550.~~

~~\_\_\_\_\_ (2) E-commerce fee: see R590-102-23.~~

**R590-102-18]. Continuing Care Provider.**

- (1) Annual registration fee:
    - (a) initial -[-] due with application: \$6,900;
    - (b) renewal -[-] due by the due date on the invoice: \$6,900;
    - (c) reinstatement -[-] due with application for reinstatement: \$6,950.
  - (2) Disclosure statement:
    - (a) initial -[-] due with application: \$600;
    - (b) renewal -[-] due with annual renewal disclosure statement: \$600.
- (3) E-commerce fee: see R590-102-23.

**R590-102-[19]18. Guaranteed Asset Protection[Provider].**

- (1) Annual guaranteed asset protection provider registration fee per annual period:
  - ~~(a) [Annual license fee:~~
    - ~~(1)-]initial -[-] due with application: \$1,000;~~
    - ~~(2)b) renewal -[-] due by the due date on the invoice: \$1,000; and~~
    - ~~(3)c) late renewal -[-] due for any renewal paid after the date on the invoice: \$1,050.~~
  - (2) Annual guaranteed asset protection retail seller assessment per annual period:
    - (a) annual assessment - due by the due date on the invoice: \$50; and
    - (b) late fee - due for any retail seller assessment fee paid after the due date on the invoice: \$50.

**R590-102-[20]19. Continuing Education Fees.**

- (1) Annual continuing education provider license fees per annual license period:
  - (a) initial license fee - due with application: \$250;
  - (b) renewal license fee if renewed prior to license expiration date - due with renewal application: \$250;
  - (c) reinstatement license fee if inactive license is reinstated within one year following the license expiration date - due with application for reinstatement: \$300.
- (2) Continuing education course post-approval fee - due with request for approval: \$5 per credit hour, minimum fee \$25.

**R590-102-[21]20. Non-electronic Processing or Payment Fees.**

- (1) Non-electronic filing processing fee - assessed on a non-electronic filing when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing - due with each paper non-electronic filing or by the due date on the invoice: \$5.
  - (2) Non-electronic application processing fee - assessed on a non-electronic application when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application - due with each paper non-electronic application or by the due date on the invoice: \$25.
  - (3) Non-electronic payment processing fee - assessed on a non-electronic payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment - due with each non-electronic payment or by the due date on the invoice: \$25.

**R590-102-[22]21. Dedicated Fees.**

The following are fees dedicated to specific uses:

(1)(a) annual fraud assessment fee as calculated under Section 31A-31-108 and stated in the invoice - due by the due date on the invoice;

(b) late fee ~~[-]~~ due for any fraud assessment fee paid after the due date on the invoice: \$50;

(2) annual title insurance regulation assessment fee as calculated under Section 31A-23a-415 and Rule R592-10 and stated in the invoice - due by the due date on the invoice;

(3) annual title assessment for the Title Recovery, Education, and Research Fund fee:

(a) individual title licensee applicant for initial license or renewal license - due with the initial application or the renewal application: \$15;

(b) agency title licensee applicant - due with the initial application: \$1,000;

(c) annual agency title licensee assessment based on annual written title insurance premium - due by the due date on the invoice:

(i) Band A: \$0 to \$1 million: \$125;

(ii) Band B: more than \$1 million to \$10 million: \$250;

(iii) Band C: more than \$10 million to \$20 million: \$375;

(iv) Band D: more than \$20 million: \$500;

(4)(a) relative value study book fee - due when book purchased or by invoice due date: \$10;

(b) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice ~~[-]~~ due by the due date on the invoice;

(5)(a) code book ~~[-]~~ due when book purchased or by invoice due date: \$57;

(b) mailing fee for books - due if book is to be mailed to purchaser: \$3;

(6) fingerprint fee - due with application for individual license:

(a) Bureau of Criminal Investigation (BCI): \$20; and

(b) Federal Bureau of Investigation (FBI): \$12;

(7) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice - due by the due~~[-]~~ date on the invoice~~[-]~~;

~~(8) risk adjustment program insurer assessment per covered life per year: \$0.96 as stated in the invoice -- due by the due date on the invoice.~~

**R590-102-[23]22. Electronic Commerce Dedicated Fees.**

(1) Electronic commerce, e-commerce, and internet technology services fee:

(a) admitted insurer and surplus lines insurer - due with the initial, annual, renewal, or reinstatement application: \$75;

(b) captive insurer - due with the initial, annual renewal, or reinstatement application: \$250;

(c) other organization including professional employer organization, continuing care provider, and life settlement provider - due with the initial, annual renewal, or reinstatement application: \$50;

(d) continuing education provider - due with the initial, annual renewal, or reinstatement application: \$20;

(e) agency - due with the initial, biennial renewal, or reinstatement application: \$10; and

(f) ~~[health insurance purchasing alliance - due with the initial, annual renewal, or reinstatement application: \$10; and~~  
~~(g) individual - due with the initial, biennial renewal, or reinstatement application: \$5.~~

(2) Database access fees:

(a) information accessed through an electronic portal set up for that purpose - due when the department's database is accessed to input or acquire data: \$3 per transaction;

(b) rate and form filing database access to an electronic public rate and form filing:

(i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty);

(ii) each line of insurance accessed is charged the following fees:

(A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD: \$45;

(B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time: \$45;

(iii) additional DVD: \$2;

(iv) payment due at time of service or by the due date on the invoice.

**R590-102-[24]23. Other Fees.**

(1) Photocopy fee - per page: \$0.50.

(2) Complete annual statement copy fee - per statement: \$40.

(3) Fee for accepting service of legal process: \$10.

(4) Fees for production of information lists regarding licensees or other information that can be produced by list:

(a) printed list, if the information is already in list format and only needs to be printed or reprinted: \$1 per page;

(b) electronic list compiled by accessing information stored in the Department's database:

(i) a separate fee is assessed for each list compiled;

(ii) each list is assessed one or more of the following fees:

(A) a base fee, which entitles the requestor up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor -- due with request for information: \$50~~[-, due with request for information]~~;

(B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor ~~[-]~~ due by the due date on the invoice: \$50;

(iii) additional CD ~~[-]~~ due by the due date on the invoice: \$1.

(5) Returned check fee: \$20.

(6) Workers compensation loss cost multiplier schedule: \$5.

(7) Address correction fee ~~[-]~~ assessed when department has to research and enter new address for a licensee ~~[-]~~ due by the due date on the invoice: \$35.

(8) Independent Review Organization. Initial application fee ~~[-]~~ due with application: \$250.

(9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more ~~[-]~~ due with plan of orderly withdrawal submission: \$50,000.

(10) Administrative disciplinary action removal from public access on Insurance Department controlled website ~~[-]~~ due with application: \$185.

**R590-102-[25]24. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance fees**

**Date of Enactment or Last Substantive Amendment:** [~~March 24, 2017~~]**2018**

**Notice of Continuation:** December 12, 2016

**Authorizing, and Implemented or Interpreted Law:** 31A-3-103

## Natural Resources, Wildlife Resources

### R657-5

### Taking Big Game

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42371

FILED: 12/11/2017

**RULE ANALYSIS**

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

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule do the following: 1) add a definition for "Ewe"; 2) clarify the definition of "Ram"; 3) make technical corrections in Section R657-5-4; 4) add "Crossbows" to Section R657-5-8 and set the criteria for using them; 5) make technical corrections to Sections R657-5-9 and R657-5-10; 6) lower the minimum bow pull from 40 pounds at the draw to 30 pounds; 7) remove the 300 grains weight requirement for arrows; 8) simplify rule language in Section R657-5-11; 9) remove "prima facie evidence" and replaces it with "probable cause"; 10) add illuminated sight pins on a bow to the list of allowable light sources not applicable to spotlighting restrictions; 11) condense Hunter Orange references and requirements to one section and simplifies the language; 12) establish the process and protocol for multi-season hunting opportunities; 13) establish the process and protocol for "desert bighorn ewe" and "Rocky Mountain bighorn ewe" hunts; 14) establish the process and protocol for "cactus buck deer" hunts; and 15) make technical corrections as needed.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These proposed rule amendments either clarify current regulations or set protocol for new hunts, all of these changes can be initiated within the current

workload and resources of the Division of Wildlife Resources (DWR), therefore, the Division determines that these amendments do not create a 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 the existing budget.

◆ **LOCAL GOVERNMENTS:** Since these proposed amendments only make adjustments to current regulations or in many instances simplifies current restrictions, this filing does not create any direct cost or savings to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** These amendments have the potential to create a cost impact to those individuals wishing to participate in the newly created hunting opportunities. However, permit numbers for these new hunts will not be set until early spring, so it would be impossible to estimate how many hunters might be impacted. The cost of the permits is in line with the Fee Schedule approved by the State Legislature in 2017 and will be followed when setting the fee for each permit. Hunting activities in the state of Utah are voluntary and as such, this cost would not be assessed to individuals not wishing to participate. Small businesses would not be directly or indirectly impacted because the rule does not create a situation requiring services from them.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments have the potential to create a cost impact to those individuals wishing to participate in the newly created hunting opportunities. However, permit numbers for these new hunts will not be set until early spring, so it would be impossible to estimate how many hunters might be impacted. The cost of the permits is in line with the Fee Schedule approved by the State Legislature in 2017 and will be followed when setting the fee for each permit. Hunting activities in the state of Utah are voluntary and as such, this cost would not be assessed to individuals not wishing to participate.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR determines that these amendments may create additional costs for those wanting to participate in the new multi-season hunting opportunities, the new Cactus Buck Deer hunt, or the new ewe sheep hunts.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to 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 Office 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 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

**R657. Natural Resources, Wildlife Resources.****R657-5. Taking Big Game.****R657-5-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking big game.

**R657-5-2. Definitions.**

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

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism and safety attached to the device.

(l) "Drone" means an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.

(m) "Ewe" means a female bighorn sheep or any bighorn sheep younger than one year of age.

(n) "Hunter's choice" means either sex may be taken.

([m]o) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big

game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

([n]p) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

([o]q) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

([p]r) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

([q]s) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep older than one year of age.

([r]t) "Spike bull" means a bull elk which has at least one antler beam with no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.[

~~(s) "Drone" means an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.]~~

**R657-5-3. License, Permit, and Tag Requirements.**

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or its parts in accordance with Section 23-19-1 and the rules or guidebooks of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

(3) A person must possess or obtain a Utah hunting or combination license to apply for or obtain any big game hunting permit.

**R657-5-4. Age Requirements and Restrictions.**

(1)(a) ~~[Subject to the exceptions in subsection (c), a]~~ A person 12 years of age or older may apply for or obtain a permit to hunt big game.

~~(b)~~ A person 11 years of age may apply for a permit to hunt big game~~[+f]~~, provided that person's 12th birthday falls within the calendar year for which the permit is issued~~[-~~

~~(b) A]~~ and that person ~~[may]~~ does not use ~~[a]~~ the permit to hunt big game before their 12th birthday.

(2)(a) A person at least 12 years of age and under 16 years of age must be accompanied by his parent or legal guardian, or other responsible person 21 years of age or older and approved by his parent or guardian, while hunting big game with any weapon.

(b) As used in this section, "accompanied" means at a distance within which visual and verbal communication are maintained for the purposes of advising and assisting.

**R657-5-5. Duplicate License and Permit.**

(1) Whenever any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may



obtain a duplicate from a division office or online license agent, for ten dollars or half of the price of the original license, permit, or certificate of registration, whichever is less.

(2) The division may waive the fee for a duplicate unexpired license, permit, tag or certificate of registration provided the person did not receive the original license, permit, tag or certificate of registration.

#### **R657-5-6. Hunting Hours.**

Big game may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

#### **R657-5-7. Prohibited Weapons.**

(1) A person may not use any weapon or device to take big game other than those expressly permitted in this rule.

(2) A person may not use:

(a) a firearm capable of being fired fully automatic;

(b) any light enhancement device or aiming device that casts a visible beam of light; or

(c) a firearm equipped with a computerized targeting system that marks a target, calculates a firing solution and automatically discharges the firearm at a point calculated most likely to hit the acquired target.

(3) Nothing in this Section shall be construed as prohibiting laser range finding devices or illuminated sight pins for archery equipment.

#### **R657-5-8. Rifles ~~and~~, Shotguns, and Crossbows.**

(1) ~~[The following rifles and shotguns may be]~~ A rifle used to ~~[take]~~ hunt big game~~[-~~

~~\_\_\_\_\_ (a) any rifle firing] must fire~~ centerfire cartridges and expanding bullets~~[-and]~~.

~~\_\_\_\_\_ (b)2 [a]A shotgun[-]~~ used to hunt big game must be 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

~~\_\_\_\_\_ (3)(a) A crossbow used to hunt big game must have a minimum draw weight of 125 pounds and a positive mechanical safety mechanism.~~

~~\_\_\_\_\_ (b) A crossbow arrow or bolt used to hunt big game must be at least 16 inches long and have:~~

~~\_\_\_\_\_ (i) fixed broadheads that are at least 7/8 inch wide at the widest point; or~~

~~\_\_\_\_\_ (ii) expandable, mechanical broadheads that are at least 7/8 inch wide at the widest point when the broadhead is in the open position.~~

~~\_\_\_\_\_ (c) Unless otherwise authorized by the division through a certificate of registration, it is unlawful for any person to:~~

~~\_\_\_\_\_ (i) hunt big game with a crossbow during a big game archery hunt;~~

~~\_\_\_\_\_ (ii) carry a cocked crossbow containing an arrow or a bolt while in or on any motorized vehicle on a public highway or other public right-of-way; or~~

~~\_\_\_\_\_ (iii) hunt any protected wildlife with a crossbow utilizing a bolt that has any chemical, explosive or electronic device attached.~~

~~\_\_\_\_\_ (4) A crossbow used to hunt big game may have a fixed or variable magnifying scope only during an any weapon hunt.~~

#### **R657-5-9. Handguns.**

(1) A handgun may be used to take deer and pronghorn, provided the handgun:

~~\_\_\_\_\_ (a) is a minimum of .24 caliber[-];~~

~~\_\_\_\_\_ (b) fires a centerfire cartridge with an expanding bullet; and~~

~~\_\_\_\_\_ (c) develops 500 foot-pounds of energy at the muzzle.~~

(2) A handgun may be used to take elk, moose, bison, bighorn sheep, and Rocky Mountain goat, provided the handgun:

~~\_\_\_\_\_ (a) is a minimum of .24 caliber[-];~~

~~\_\_\_\_\_ (b) fires a centerfire cartridge with an expanding bullet; and~~

~~\_\_\_\_\_ (c) develops 500 foot-pounds of energy at 100 yards.~~

#### **R657-5-10. Muzzleloaders.**

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

(a) can be loaded only from the muzzle;

(b) has open sights, peep sights, or a variable or fixed power scope, including a magnifying scope;

(c) has a single barrel;

(d) has a minimum barrel length of 18 inches;

(e) is capable of being fired only once without reloading;

(f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;

(g) is loaded with black powder or black powder substitute, which must not contain smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A bullet 130 grains or heavier, or a sabot 170 grains or heavier, must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit for a big game hunt may:

(i) use only muzzleloader equipment authorized in this Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a rifle or shotgun while in the field during the muzzleloader hunt.

~~\_\_\_\_\_ (b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found[-"Field"], but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.~~

~~\_\_\_\_\_ (c) The provisions of Subsection (a) do not apply to:~~

~~\_\_\_\_\_ (i) a person [licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Guidebook and Waterfowl Guidebook, respectively, and possessing only legal weapons to take]lawfully hunting upland game or waterfowl;~~

~~\_\_\_\_\_ (ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;~~

~~\_\_\_\_\_ (iii) livestock owners protecting their livestock; or~~

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

(4) A person who has obtained an any weapon permit for a big game hunt may use muzzleloader equipment authorized in this Section to take the species authorized in the permit.

#### **R657-5-11. Archery Equipment.**

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

(a) the minimum bow pull is ~~[40]~~30 pounds at the draw or the peak, whichever comes first; ~~and~~

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock~~; and must weigh at least 300 grains~~.

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

(a) a crossbow, except as provided in Subsection (5) and Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw, except as provided in Subsection (5) and Rule R657-12;

(d) a release aid that is not hand held or that supports the draw weight of the bow, except as provided in Subsection (5) and Rule R657-12; or

(e) a bow with a magnifying aiming device.

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

(4)(a) A person who has obtained an archery permit for a big game hunt may:

(i) ~~use~~ only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock, rifle, shotgun or muzzleloader while in the field during an archery hunt.

(~~[A]~~[b]) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found~~["Field"].~~ but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(~~[b]~~[c]) The provisions of Subsection (a) do not apply to:

(i) a person ~~[licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Guidebook and Waterfowl Guidebook, respectively, and possessing only the weapons authorized to take]~~lawfully hunting upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt, provided the person is in compliance with the regulations of that hunt and possesses only the weapons authorized for that hunt;

(iii) livestock owners protecting their livestock;

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

(v) a person possessing a crossbow or draw-lock under a certificate of registration issued pursuant to R657-12.

(5) A person who has obtained an any weapon permit for a big game hunt may use archery equipment authorized in this Section to take the species authorized in the permit, including a crossbow or draw-lock.

~~[(6)(a) A crossbow used to hunt big game must have:~~

~~(i) a minimum draw weight of 125 pounds;~~

~~(ii) a minimum draw length of 14 inches, measured between the latch (nocking point) and where the bow limbs attach to the stock;~~

~~(iii) an overall length of at least 24 inches, measured between the butt stock end and where the bow limbs attach to the stock; and~~

~~(iv) a positive mechanical safety mechanism.~~

~~(b) A crossbow arrow or bolt used to hunt big game must be at least 16 inches long and have:~~

~~(i) fixed broadheads that are at least 7/8 inch wide at the widest point; or~~

~~(ii) expandable, mechanical broadheads that are at least 7/8 inch wide at the widest point when the broadhead is in the open position.~~

~~(c) It is unlawful for any person to:~~(6)(a) A person hunting an archery-only season on a once-in-a-lifetime hunt may:

(i) [hunt big game with a crossbow during a big game archery hunt, except as provided in R657-12-8;]only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) [carry a cocked crossbow containing an arrow or a bolt while in or on any motorized vehicle on a public highway or other public right-of-way, except as provided in R657-12-4; or]not possess or be in control of a crossbow, draw-lock, rifle, shotgun or muzzleloader while in the field during the archery-only season.

(iii) hunt any protected wildlife with a crossbow;[b] "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

~~(A) bolt that has any chemical, explosive or electronic device attached; or~~

~~(B) that has an attached magnifying aiming device, except as provided in Subsection (7).~~

~~(7) A crossbow used to hunt big game during an any weapon hunt may have a fixed or variable magnifying scope.]~~

#### **R657-5-12. Areas With Special Restrictions.**

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-614-4.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may:

(a) only use archery equipment to take buck deer and bull elk south of I-80 and east of I-15;

(b) only use archery equipment to take big game in Emigration Township; and

(c) not hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the guidebook of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Scott M. Matheson Wetland Preserve.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

#### **R657-5-13. Spotighting.**

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to:

(i) take protected wildlife; or

(ii) locate protected wildlife while in possession of a rifle, shotgun, archery equipment, crossbow, or muzzleloader.

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is ~~[prima facie evidence]~~ probable cause of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights, illuminated sight pins on a bow, or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

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

#### **R657-5-14. Use of Vehicle or Aircraft.**

(1)(a) A person may not use an airplane, drone, or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or

moved by any vehicle, device, or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

(2)(a) A person may not use any type of aircraft, drone, or other airborne vehicle or device from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends to:

(i) transport a hunter or hunting equipment into a hunting area;

(ii) transport a big game carcass; or

(iii) locate, or attempt to observe or locate any protected wildlife.

(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).

(3) The provisions of this section do not apply to the operation of an aircraft, drone, or other airborne vehicle or device in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.

#### **R657-5-15. Party Hunting and Use of Dogs.**

(1) A person may not take big game for another person, except as provided in Section 23-19-1 and Rule R657-12.

(2) A person may not use the aid of a dog to take, chase, harm or harass big game. The use of one blood-trailing dog controlled by leash during lawful hunting hours within 72 hours of shooting a big game animal is allowed to track wounded animals and aid in recovery.

#### **R657-5-16. Big Game Contests.**

A person may not enter or hold a big game contest that:

(1) is based on big game or its parts; and

(2) offers cash or prizes totaling more than \$500.

#### **R657-5-17. Tagging.**

(1) The carcass of any species of big game must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue big game after any of the notches have been removed from the tag or the tag has been detached from the permit.

(3) The tag must remain with the largest portion of the meat until the animal is entirely consumed.

#### **R657-5-18. Transporting Big Game Within Utah.**

(1) A person may transport big game within Utah only as follows:

(a) the head or sex organs must remain attached to the largest portion of the carcass;

(b) the antlers attached to the skull plate must be transported with the carcass of an elk taken in a spike bull unit; and

(c) the person who harvested the big game animal must accompany the carcass and must possess a valid permit corresponding to the tag attached to the carcass, except as provided in Subsection (2).

(2) A person who did not take the big game animal may transport it only after obtaining a shipping permit or disposal receipt from the division or a donation slip as provided in Section 23-20-9.

**R657-5-19. Exporting Big Game From Utah.**

(1) A person may export big game or its parts from Utah only if:

(a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or

(b) the person exporting the big game animal or its parts, if it is not the person who harvested the animal, has obtained a shipping permit from the division.

**R657-5-20. Purchasing or Selling Big Game or its Parts.**

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

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

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

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

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

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

(2)(a) Protected wildlife that is obtained by the division by any means may be sold or donated at any time by the division or its agent.

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

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

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

**R657-5-21. Possession of Antlers and Horns.**

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

(a) lawfully harvested big game;

(b) antlers or horns lawfully obtained as provided in Section R657-5-20; or

(c) shed antlers or shed horns.

(2)(a) A person may gather shed antlers or shed horns or parts of shed antlers or shed horns at any time. An authorization is required to gather shed antlers or shed horns or parts of shed antlers or shed horns during the shed antler and shed horn season published in the guidebook of the Wildlife Board for taking big game.

(b) A person must complete a wildlife harassment and habitat destruction prevention course annually to obtain the required authorization to gather shed antlers during the antler gathering season.

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

(a) has been dropped naturally from a big game animal as part of its annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

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

**R657-5-22. Poaching-Reported Reward Permits.**

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

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

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

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

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

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

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

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

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

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

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

(6) Any person who receives a poaching-reported reward permit must possess or obtain a Utah hunting or combination

license and otherwise be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

**R657-5-23. General Archery Buck Deer Hunt.**

(1) The dates of the general archery buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment prescribed in R657-5-11 to take:

(a) one buck deer within the general hunt area specified on the permit for the time specified in the guidebook of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within extended archery areas as provided in the guidebook of the Wildlife Board for taking big game.

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

(d) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within premium limited entry deer or limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for big game.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within extended archery areas during the extended archery area seasons as provided in the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b)(i) A person must complete the Archery Ethics Course annually to hunt any extended archery areas during the extended archery season.

(ii) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

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

(5) If a person 17 years of age or younger obtains a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-23(3).]

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

**R657-5-24. General Any Weapon Buck Deer Hunt.**

(1) The dates for the general any weapon buck deer ~~hunt~~ hunts are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general any weapon buck permit may use any legal weapon to take one buck deer within the hunt area and season dates specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

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

(c) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for big game.

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

(a) antlerless deer, as provided in R657-5-27; and

(b) any person 17 years of age or younger on July 31 of the current year, may hunt the general archery, extended archery, general any weapon and general muzzleloader buck deer seasons applicable to the unit specified on the general any weapon buck deer permit, using the appropriate equipment as provided in Sections R657-5-7 through R657-5-11, respectively.

**R657-5-25. General Muzzleloader Buck Deer Hunt.**

(1) The dates for the general muzzleloader buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general muzzleloader buck permit may use a muzzleloader, as prescribed in R657-5-10, to take one buck deer within the general hunt area specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

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

(c) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within premium limited entry deer or limited entry deer areas, except as provided by the Wildlife Board in the guidebooks for big game.

(3)(a) A person who has obtained a general muzzleloader buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer, as provided in R657-5-27.

(b) If a person 17 years of age or younger purchases a general muzzleloader buck deer permit, that person may only hunt during the general muzzleloader deer season.]

~~(4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the guidebooks of the Wildlife Board for taking big game.]~~

**R657-5-26. Premium Limited Entry and Limited Entry Buck Deer Hunts.**

(1)(a) To hunt in a premium limited entry or limited entry buck deer area, hunters must obtain the respective limited entry buck permit. Limited entry areas are not open to general archery buck deer, general any weapon buck deer, or general muzzleloader buck deer hunting, except as specified in the guidebook of the Wildlife Board for taking big game.

(b)(i) The Wildlife Board may establish in guidebook a limited entry buck deer hunt on a general season buck deer unit.

(ii) The season dates for a limited entry hunt under this Subsection will not overlap the season dates for the underlying general season hunt on the unit.

(iii) A landowner association under R657-43 is not eligible to receive limited entry permits that occur on general season units.

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

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

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a premium limited entry or limited entry buck permit may not:

(a) obtain any other deer permit, except an antlerless deer permit as provided in R657-5-27 and the guidebooks of the Wildlife Board; or

(b) hunt during any other deer hunt, except unsuccessful archery hunters may hunt within extended archery areas as provided in Subsection (7).

(5)(a) The Wildlife Board may establish a multi-season hunting opportunity in the big game guidebooks for selected premium limited entry and limited entry buck deer hunts.

(b) A person that obtains a premium limited entry or limited entry buck deer permit with a multi-season opportunity may hunt during any of the following limited entry buck deer seasons established in the guidebooks of the Wildlife Board for the unit specified on the premium limited entry or limited entry buck deer permit:

(i) archery season, using only archery equipment prescribed in R657-5-11 for taking deer;

(ii) muzzleloader season, using only muzzleloader equipment prescribed in R657-5-10 for taking deer; and

(iii) any weapon season, using any legal weapon prescribed in R657-5 for taking deer.

(c) A landowner association under R657-43 is not eligible to receive a multi-season hunting opportunity for premium limited entry or limited entry units.

(6) A premium limited entry or limited entry buck deer permit, including a permit with a multi-season opportunity, is valid only within the boundaries of the unit designated on the permit, excluding:

(a) areas closed to hunting;

(b) deer cooperative wildlife management units; and

(c) Indian tribal trust lands.

(7) A person who possesses an archery buck deer permit for a premium limited entry or limited entry unit, including a permit with a multi-season opportunity, may hunt buck deer within any extended archery area during the established extended archery season for that area, provided the person:

(a) did not take a buck deer during the premium limited entry or limited entry hunt;

(b) uses the prescribed archery equipment for the extended archery area;

(c) completes the annual Archery Ethics Course required to hunt extended archery areas during the extended archery season; and

(d) possesses on their person while hunting:

(i) the multi-season limited entry or limited entry buck deer permit; and

(ii) the Archery Ethics Course Certificate of Completion.

#### **R657-5-27. Antlerless Deer Hunts.**

(1)(a) To hunt antlerless deer, a hunter must obtain an antlerless deer permit.

(b) A person may obtain only one antlerless deer permit or a two-doe antlerless deer permit through the division's antlerless big game drawing.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer using the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe antlerless deer permit allows a person to take two antlerless deer using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt antlerless deer on any deer cooperative wildlife management unit unless that person obtains an antlerless deer permit for that specific cooperative wildlife management unit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permits, except as provided in R657-44-3.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the applicable permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used, if hunting antlerless deer during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless deer during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader, [~~or~~] any weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader, [~~or~~] any weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(v) Limited entry bull elk for archery, muzzleloader, any weapon, or multi-season; or

(vi) Antlerless elk.

(c) A person that possess an unfilled antlerless deer permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless deer as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

#### **R657-5-28. General Archery Elk Hunt.**

(1) The dates of the general archery elk hunt are provided in the guidebooks of the Wildlife Board for taking big game.

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

(i) an antlerless elk or a bull elk on a general any bull elk unit, excluding elk cooperative wildlife management units;

(ii) an antlerless elk or a spike bull elk on a general spike bull elk unit, excluding elk cooperative wildlife management units;

(iii) an antlerless elk or a bull elk on extended archery areas as provided in the guidebook of the Wildlife Board for taking big game.

(3)(a) A person who obtains a general archery elk permit may hunt within the extended archery areas during the extended archery area seasons as provided in the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b)(i) A person must complete the Archery Ethics Course annually to hunt the extended archery areas during the extended archery season.

(ii) A person must possess an Archery Ethics Course Certificate of Completion on their person while hunting.

(4) A person who has obtained an archery elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-33(3) and by the guidebooks of the Wildlife Board for taking big game. [

~~(5) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study the rifle hunt tables to identify these areas described in the guidebook of the Wildlife Board for taking big game.]~~

#### **R657-5-29. General Season Bull Elk Hunt.**

(1) The dates and areas for the general season bull elk hunts are provided in the guidebooks of the Wildlife Board for taking big game, except the following areas are closed to general any weapon bull elk hunting:

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

(b) elk cooperative wildlife management units.

(2)(a) A person may purchase either a spike bull elk permit or an any bull elk permit.

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

(c) A person who has obtained a general season any bull elk permit may take any bull elk, including a spike bull elk, on a general season any bull elk unit. Spike bull elk units are closed to any bull elk permittees.

(3) A person who has obtained a general season bull elk permit may use any legal weapon to take a spike bull elk or any bull elk, as specified on the permit.

(4) A person who has obtained a general season bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-33(3).

(5) The Wildlife Board may establish multi-season hunting opportunities in the big game guidebooks for general season spike and bull elk hunts consistent with the following parameters:

(a) an individual with a multi-season spike elk permit may use:

(i) archery equipment as prescribed in R657-5-11 to take an antlerless elk or spike bull elk on a general season spike unit during the archery season;

(ii) archery equipment as prescribed in R657-5-11 to take an antlerless elk or any bull elk on a general season any bull unit during the archery season;

(iii) muzzleloader equipment as prescribed in R657-5-10 to take spike bull elk on general season spike units during the muzzleloader season; or

(iv) any legal weapon as prescribed in R657-5 to take a spike bull elk on a general season spike unit during the any legal weapon season.

(b) An individual with a multi-season any bull elk permit may use:

(i) archery equipment as prescribed in R657-5-11 to take an antlerless elk or spike bull elk on a general season spike unit during the archery season;

(ii) archery equipment as prescribed in R657-5-11 to take an antlerless elk or any bull elk on a general season any bull unit during the archery season;

(iii) muzzleloader equipment as prescribed in R657-5-10 to take any bull elk on general season any bull units during the muzzleloader season; or

(iv) any legal weapon as prescribed in R657-5 to take any bull elk on a general season any bull unit during the any legal weapon season.

(c) An individual who obtains a multi-season bull elk permit may hunt within the extended archery areas during the extended archery area seasons described in the guidebook of the Wildlife Board for taking big game, provided that individual:

(i) completes the Archery Ethics Course prior to going afield; and

(ii) possesses the Archery Ethics Course Certificate of Completion on their person while hunting.

#### **R657-5-30. General Muzzleloader Bull Elk Hunt.**

(1) The dates and areas for general muzzleloader bull elk hunts are provided in the guidebooks of the Wildlife Board for taking big game, except the following areas are closed to general muzzleloader bull elk hunting:

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

(b) elk cooperative wildlife management units.

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

(b) A person who has obtained a general muzzleloader spike bull elk permit may use a muzzleloader, prescribed in R657-5-

10, to take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may use a muzzleloader, as prescribed in R657-5-10, to take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) On selected units identified in the guidebook of the Wildlife Board for taking big game, a person who has obtained a general muzzleloader bull elk permit may use muzzleloader equipment to take either an antlerless elk or a bull elk.

(4) A person who has obtained a general muzzleloader bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-33(3).

**R657-5-31. Youth General Any Bull Elk Hunt.**

(1)(a) For purposes of this section "youth" means any person 17 years of age or younger on July 31 of the current year.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A qualified person may obtain a youth any bull elk permit only once during their life.

(2) The youth any bull elk hunting season and areas are published in the guidebook of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including antlerless elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk or antlerless elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-33(3).

(5) Preference points shall not be awarded or utilized when applying for or obtaining a youth general any bull elk permit.

**R657-5-32. Limited Entry Bull Elk Hunts.**

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

(2)(a) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except as provided in Subsection (5) and excluding elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) The Wildlife Board may establish a multi-season hunting opportunity in the big game guidebooks for selected limited entry bull elk units.

(b) A person that obtains a limited entry bull elk permit with a multi-season opportunity may hunt during any of the following limited entry bull elk seasons established in the guidebooks of the Wildlife Board for the unit specified on the limited entry bull elk permit:

(i) archery season, using only archery equipment prescribed in R657-5-11 for taking elk;

(ii) muzzleloader season, using only muzzleloader equipment prescribed in R657-5-10 for taking elk; and

(iii) any weapon season, using any legal weapon prescribed in R657-5 for taking elk.

(c) A landowner association under R657-43 is not eligible to receive a multi-season hunting opportunity for limited entry units.

(4) A limited entry bull elk permit, including a permit with a multi-season opportunity, is valid only within the boundaries of the unit designated on the permit, excluding:

(a) areas closed to hunting;

(b) elk cooperative wildlife management units; and

(c) Indian tribal trust lands.

(5) A person who possesses any limited entry archery bull elk permit, including a permit with a multi-season opportunity, may hunt bull elk within any extended archery area during the established extended archery season for that area, provided the person:

(a) did not take a bull elk during the limited entry hunt;

(b) uses the prescribed archery equipment for the extended archery area;

(c) completes the annual Archery Ethics Course required to hunt extended archery areas during the extended archery season; and

(d) possesses on their person while hunting:

(i) the limited entry bull elk permit; and

(ii) the Archery Ethics Course Certificate of Completion.

(6) "Prescribed legal weapon" means for purposes of this subsection:

(a) archery equipment, as defined in R657-5-11, when hunting the archery season, excluding a crossbow or draw-lock;

(b) muzzleloader equipment, as defined in R657-5-10, when hunting the muzzleloader season; and

(c) any legal weapon, including a muzzleloader and crossbow with a fixed or variable magnifying scope or draw-lock when hunting during the any weapon season.

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

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

(8) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (5) and R657-5-33(3).

**R657-5-33. Antlerless Elk Hunts.**

(1) To hunt antlerless elk, a hunter must obtain an antlerless elk permit.



(2)(a) An antlerless elk permit allows a person to take one antlerless elk using the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless elk on an elk cooperative wildlife management unit unless that person obtains an antlerless elk permit for that specific cooperative wildlife management unit.

(3)(a) A person may obtain three elk permits each year, in combination as follows:

(i) a maximum of one bull elk permit;

(ii) a maximum of one antlerless elk permit issued through the division's antlerless big game drawing; and

(iii) a maximum of two antlerless elk permits acquired over the counter or on-line after the antlerless big game drawing is finalized, including antlerless elk:

(A) control permits, as described in Subsection (5);

(B) depredation permits, as described in R657-44-8;

(C) mitigation permit vouchers, as defined in R657-44-2(2); and

(D) private lands only permits, as described in Subsection (6).

(b) Antlerless elk mitigation permits obtained by a landowner or lessee under R657-44-3 do not count towards the annual three elk permit limitation prescribed in this subsection.

(i) "Mitigation permit" has the same meaning as defined in R657-44-2(2).

(c) For the purposes of obtaining multiple elk permits, a hunter's choice elk permit is considered a bull elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the applicable permits listed in Subsection (b), provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used, if hunting antlerless elk during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless elk during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader~~[or]~~, any legal weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader~~[or]~~, any legal weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any legal weapon, or multi-season;

(v) Limited entry bull elk for archery, muzzleloader or any legal weapon~~[;]~~, or multi-season.

(vi) Antlerless deer or elk, excluding antlerless elk control permits.

(c) A person that possess an unfilled antlerless elk permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless elk as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

(5)(a) To obtain an antlerless elk control permit, a person must first obtain a big game buck, bull, or a once-in-a-lifetime permit.

(b) An antlerless elk control permit allows a person to take one antlerless elk using the same weapon type, during the same season dates, and within areas of overlap between the boundary of the buck, bull, or once-in-a-lifetime permit and the boundary of the antlerless elk control permit, as provided in the Antlerless guidebook by the Wildlife Board.

(c) Antlerless elk control permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) A person that possess an unfilled antlerless elk control permit and harvests an animal under the buck, bull, or once-in-a-lifetime permit referenced in Subsection (b), may continue hunting antlerless elk as prescribed in Subsection (b) during the remaining portions of the buck, bull, or once-in-a-lifetime permit season.

(6)(a) A private lands only permit allows a person to take one antlerless elk on private land within a prescribed unit using any weapon during the season dates and area provided in the Big Game guidebook by the Wildlife Board.

(b) No boundary extension or buffer zones on public land will be applied to private lands only permits.

(c) Private lands only permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) "Private lands" means, for purposes of this subsection, any land owned in fee by an individual or legal entity, excluding:

(i) land owned by the state or federal government;

(ii) land owned by a county or municipality;

(iii) land owned by an Indian tribe;

(iv) land enrolled in a Cooperative Wildlife Management Unit under R657-37; and

(v) land where public access for big game hunting has been secured.

#### **R657-5-34. Buck Pronghorn Hunts.**

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

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

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

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

(4) A buck pronghorn permit allows a person to take one buck pronghorn within the area, during the season, and using the weapon type specified on the permit, except on a pronghorn cooperative wildlife management unit located within a limited entry unit.

**R657-5-35. Doe Pronghorn Hunts.**

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

(b) A person may obtain only one doe pronghorn permit or a two-doe pronghorn permit through the division's antlerless big game drawing.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe pronghorn permit allows a person to take two doe pronghorn using the weapon type, within the area, and during the season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt doe pronghorn on any pronghorn cooperative wildlife management unit unless that person obtains an antlerless pronghorn permit for that specific cooperative wildlife management unit.

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

**R657-5-36. Antlerless Moose Hunts.**

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

(2)(a) An antlerless moose permit allows a person to take one antlerless moose using any legal weapon within the area and season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless moose on a moose cooperative wildlife management unit unless that person obtains an antlerless moose permit for that specific cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless moose permit may not hunt moose during any other moose hunt or obtain any other moose permit for that hunt year.

**R657-5-37. Bull Moose Hunts.**

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

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

(3) A bull moose permit allows a person [~~using any legal weapon~~] to take one bull moose within the area [~~and season specified on the permit,~~], during the seasons, and using the weapon type prescribed by the Wildlife Board, excluding any moose cooperative wildlife management unit located within a limited entry unit.

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

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

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative

wildlife management unit permit or bonus point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

**R657-5-38. Bison Hunts.**

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

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

(3) [~~The~~] A hunter's choice bison permit allows a person [~~using any legal weapon~~] to take a bison of either sex within the area [~~and season as specified on the permit,~~], during the seasons, and using the weapon type prescribed by the Wildlife Board.

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

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

(5) A cow bison permit allows a person to take one cow bison [~~using any legal weapon~~] within the area [~~and season~~], during the seasons, and using the weapon types as specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

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

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

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

**R657-5-39. Desert Bighorn and Rocky Mountain Bighorn Sheep Ram Hunts.**

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

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

(3) [~~Desert~~] Ram desert bighorn sheep and ram Rocky Mountain [~~big horn~~] bighorn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) [~~The~~] A ram desert bighorn sheep permit allows a person [~~using any legal weapon~~] to take one desert bighorn ram within the area [~~and season specified on the permit,~~], during the seasons, and using the weapon type prescribed by the Wildlife Board.

(b) ~~[The]A ram~~ Rocky Mountain sheep permit allows a person ~~[using any legal weapon]~~ to take one Rocky Mountain bighorn ram within the area ~~[and season specified on the permit]~~, during the seasons, and using the weapon type prescribed by the Wildlife Board.

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

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

~~————]([7]5) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.~~

~~[(8]6(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.~~

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

#### **R657-5-39.5. Desert Bighorn and Rocky Mountain Bighorn Ewe Hunts.**

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

~~————(2)(a) A ewe permit allows a person to take one ewe using any legal weapon within the area and season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.~~

~~————(3) A person who has obtained a ewe permit may not hunt desert bighorn or Rocky Mountain bighorn sheep during any other sheep hunt or obtain any other sheep permit during that hunt year.~~

~~————(4) Ewe desert bighorn sheep and ewe Rocky Mountain bighorn sheep permits are considered separate hunting opportunities.~~

#### **R657-5-40. Rocky Mountain Goat Hunts.**

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

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

(3) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit.~~—Permittees are encouraged to~~

~~take a mature goat. A mature goat is a goat older than two years of age, as determined by counting the annual rings on the horn.]~~

~~(4) The goat permit allows a person [using any legal weapon] to take one goat within the area [and season specified on the permit], during the seasons, and using the weapon type prescribed by the Wildlife Board.~~

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

~~————(6)—]A female-only goat[-only] permit allows a person to take one [female-goat using any legal weapon]femalegoat within the area, during the seasons, and [season]using the weapon type specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.~~

~~[(7]6) An orientation course is required for Rocky Mountain goat hunters who draw female-goat only permits. Hunters will be notified of the orientation date, time and location.~~

~~[(8]7(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.~~

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

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

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

#### **R657-5-41. Depredation Hunter Pool Permits.**

(1) When big game are causing damage or are considered a nuisance, control hunts not listed in the guidebook of the Wildlife Board for taking big game may be held as provided in Rule R657-44. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) For the purpose of this section, nuisance is defined as a situation where big game animals are found to have moved off formally approved management units onto adjacent units or other areas not approved for that species.

#### **R657-5-42. Carcass Importation.**

(1) It is unlawful to import dead elk, moose, mule deer, or white-tailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:

(a) meat that is cut and wrapped either commercially or privately;

(b) quarters or other portion of meat with no part of the spinal column or head attached;

(c) meat that is boned out;

(d) hides with no heads attached;

(e) skull plates with antlers attached that have been cleaned of all meat and tissue;

- (f) antlers with no meat or tissue attached;
  - (g) upper canine teeth, also known as buglers, whistlers, or ivories; or
  - (h) finished taxidermy heads.
- (2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer, elk, or moose diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.
- (b) Importation of harvested elk, moose, mule deer, or white-tailed deer or its parts from the affected areas are hereby restricted pursuant to Subsection (1).
- (3) Nonresidents of Utah transporting harvested elk, moose, mule deer, or white-tailed deer from the affected areas are exempt if they:
- (a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;
  - (b) do not have their deer, elk, or moose processed in Utah; or
  - (c) do not leave any parts of the carcass in Utah.

**R657-5-43. Chronic Wasting Disease - Infected Animals.**

- (1) Any person who under the authority of a permit issued by the division legally takes a deer, elk, or moose that is later confirmed to be infected with Chronic Wasting Disease may:
- (a) retain the entire carcass of the animal;
  - (b) retain any parts of the carcass, including antlers, and surrender the remainder to the division for proper disposal; or
  - (c) surrender all portions of the carcass in their actual or constructive possession, including antlers, to the division and receive a free new permit the following year for the same hunt.
- (2) The new permit issued pursuant to Subsection (1)(c) shall be for the same species, sex, weapon type, unit, region, and otherwise subject to all the restrictions and conditions imposed on the original permit, except season dates for the permit shall follow the guidebook of the Wildlife Board for taking big game published in the year the new permit is valid.
- (3) Notwithstanding other rules to the contrary, private landowners and landowner associations may refuse access to private property to persons possessing new permits issued under Subsection (1)(c).

**R657-5-44. Management Bull Elk Hunt.**

- (1)(a) For the purposes of this section "management bull" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.
- (b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.
- (c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the guidebook of the Wildlife Board for taking big game.
- (2)(a) Management bull elk permits shall be distributed pursuant to R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.
- (3) Management bull elk permit holders may take one management bull elk during the season, on the area and with the

weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

- (4)(a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.
- (b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.
- (5)(a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a) must have their animal inspected by the division.
- (b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 48 hours after the date of kill.
- (6) Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).
- (7) A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-33(3).

**R657-5-45. General Any Weapon Buck Deer and Bull Elk Combination Hunt.**

- (1) Permit numbers, season dates and unit boundary descriptions for the general any weapon buck deer and bull elk combination hunt shall be established in the guidebook of the Wildlife Board for taking big game.
- (2) A person who obtains a general any weapon buck deer and bull elk combination permit may use any legal weapon to take one buck deer and one bull elk during the season and within the unit specified on the permit.
- (a) A general any weapon buck deer and bull elk combination permit does not authorize the holder to hunt deer or elk within any cooperative wildlife management unit.
- (3) A person who has obtained a general any weapon buck deer and bull elk combination permit may not hunt during any other deer or elk hunt or obtain any other deer or elk permit, except:
- (a) antlerless deer, as provided in Subsection R657-5-27, and
  - (b) antlerless elk, as provided in Subsection R657-5-33.
- (4)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.
- (b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5.
- (c) A refund or credit is not issued for the general archery, general any weapon or general muzzleloader deer permit.

**R657-5-46. Management Buck Deer Hunt.**

- (1)(a) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.
- (b) For purposes of this section "youth" means any person 17 years of age or younger on July 31.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.

(2) Management buck deer permits shall be distributed pursuant to rule R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.

(3) Management buck deer permit holders may take one management buck deer during the season, ~~in~~ in the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

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

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

(5)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

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

(7) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-~~28(4)~~27.

#### **R657-5-47. Cactus Buck Deer Hunt**

(1) For the purposes of this section "cactus buck" means a buck deer with velvet covering at least 50% of the antlers during the season dates established by the Wildlife Board for a cactus buck deer hunt.

(2)(a) Cactus buck deer permit holders may take one cactus buck deer during the season, in the area, and with the weapon type specified on the permit.

(b) Cactus buck deer hunting seasons, areas and weapon types are published in the guidebooks of the Wildlife Board for taking big game.

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

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

(4)(a) Cactus buck deer permit holders who successfully harvest a cactus buck deer, as defined in Subsection (1)(a), must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of harvest.

(5) Cactus buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1).

(6) A person who has obtained a cactus buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-27.

#### **R657-5-48. Hunter Orange Exceptions.**

(1) A person shall wear a minimum of 400 inches of hunter orange material on the head, chest, and back while hunting any species of big game, with the following exceptions:

(a) Hunters participating in a once-in-a-lifetime, statewide conservation, or statewide sportsmen hunt;

(b) Hunters participating in an archery or muzzleloader hunt outside of an area where an any weapon general season bull elk or any weapon general season buck deer hunt is occurring;

(c) Hunters hunting on a cooperative wildlife management unit unless otherwise required by the operator of the cooperative wildlife management units; and

(d) Hunters participating in a nuisance wildlife removal hunt authorized under a certificate of registration by the division.

**KEY: wildlife, game laws, big game seasons**

**Date of Enactment or Last Substantive Amendment: ~~July 11, 2016~~2018**

**Notice of Continuation: October 5, 2015**

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

## Natural Resources, Wildlife Resources **R657-9** Taking Waterfowl, Wilson's Snipe and Coot

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42376

FILED: 12/11/2017

### 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) waterfowl program.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule add the definition of "motorized vehicle" to Section R657-9-12.

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

## ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment only adds a definition to help clarify a motorized vehicle. Therefore, DWR has determined that this amendment does not create a cost or savings to the state budget or DWR's budget, since the changes will not increase the workload and can be carried out with the existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment has minimal impact on individual hunters and no impact on local governments, DWR finds that this filing does not create any direct cost or savings to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** Since this amendment has minimal impact on individual hunters and no impact on small businesses, DWR finds that this filing does not create any direct cost or savings to small businesses. Nor are small businesses indirectly impacted because this rule does not create a situation requiring services from them.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment only adds a definition for motorized vehicle. Therefore, the amendment does not have the potential to generate a cost or savings to sportsmen or other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that this amendment will not create additional costs for those who participate in wildlife-related activities in Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to 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 Office 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 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

**R657. Natural Resources, Wildlife Resources.****R657-9. Taking Waterfowl, Wilson's Snipe and Coot.****R657-9-11. Airboats.**

(1) Air-thrust or air-propelled boats and personal watercraft are not allowed in designated parts of the following areas for the purposes of waterfowl [~~management or federal refuge areas~~]hunting:

(a) Box Elder County: Box Elder Lake, Bear River, that part of Harold S. Crane within one-half mile of all dikes and levees, Locomotive Springs, Public Shooting Grounds and Salt Creek, that part of Bear River Migratory Bird Refuge north of "D" line dike, and outside Units 1, 3, 4 and 5 as posted.

(b) Daggett County: Brown's Park

(c) Davis County: Howard Slough, Ogden Bay and Farmington Bay within diked units or as posted

(d) Emery County: Desert Lake

(e) Millard County: Clear Lake, Topaz Slough

(f) Tooele County: Timpie Springs

(g) Uintah County: Stewart's Lake

(h) Utah County: Powell Slough

(i) Wayne County: Bicknell Bottoms

(j) Weber County: Ogden Bay within diked units or as posted and the portion of Harold S. Crane Waterfowl Management Area that falls within the county line.

(2) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing or kneeling on the vessel, rather than sitting or standing inside the vessel.

**R657-9-12. Motorized Vehicle Access.**

(1) "Motorized vehicle" for the purposes of this section means a vehicle that is self-propelled or possesses the ability to be self-propelled. This does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assisted mobility device, or an electric assisted bicycle.

(2) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

([2]3) Off-highway vehicles are not permitted on state waterfowl management areas, except as marked and posted open.

([3]4) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

([4]5) Motorized boat use is restricted on waterfowl management areas as specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**KEY: wildlife, birds, migratory birds, waterfowl**

**Date of Enactment or Last Substantive Amendment:** [~~March 13, 2017~~]**2018**

**Notice of Continuation:** August 1, 2016

**Authorizing, and Implemented or Interpreted Law:** 23-14-19; 23-14-18; 50 CFR part 20

## Natural Resources, Wildlife Resources

### **R657-19**

### Taking Nongame Mammals

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42377

FILED: 12/11/2017

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) animal program. These amendments were originally filed as an emergency rule filing, this filing is making the emergency rule final. (EDITOR'S NOTE: A corresponding 120-day (emergency) rule filing for Rule R657-19 that is effective as of 12/14/2017 is under Filing No. 42382 in this issue, January 1, 2018, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The Utah prairie dog is listed as "threatened" under the Endangered Species Act, and its management has been the subject of ongoing litigation in the case of People for the Ethical Treatment of Property Owners v. U.S. Fish and Wildlife Service, et al. and Friends of Animals (Case No. 2:13-cv-00278). In November 2014, Judge Dee Benson issued a decision declaring that the species could not be listed under the Endangered Species Act on non-federal lands, and as such, the state of Utah held management authority in those circumstances. This prompted the development of a specific rule for the management of Utah prairie dogs (Rule R657-70) and modification of DWR's nongame rule (Rule R657-19). The 10th Circuit Court of Appeals recently overturned the District Court's decision, returning full management authority to the federal government. As some provisions of Rule R657-70 may violate terms of the Endangered Species Act, repealing that rule is necessary. Rule R657-19 will largely be restored to the format it was in prior to the issuance of the District Court decision, with two substantive changes: one in Subsection R657-19-7(5) and one in Subsection R657-19-7(6). These changes are necessary to be consistent with the federal rules regulating the take of Utah prairie dogs. The first specifies the dates of allowable take for Utah prairie dogs, and the second specifies the totals for range-wide take of Utah prairie dogs. The remaining differences between this version of Rule R657-19 and its format prior to the issuance of the District Court's decision are nonsubstantive, i.e. changes in zip codes, but are necessary to ensure proper administration of the rule and associated permits. (EDITOR'S NOTE: A corresponding 120-day (emergency) rule filing for Rule R657-70 that is effective as of 12/14/2017 is under Filing No. 42383 in this issue, January 1, 2018, of the Bulletin.)

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

#### **ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. DWR has determined that these amendments will not create any cost or savings to the state budget or DWR's budget, and all changes in the workload can be carried out within their existing budget.

♦ **LOCAL GOVERNMENTS:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. While this rule alone does not create any direct costs to local governments, it is anticipated that the transition to federal management authority mandated by the District Court's decision may increase costs and burdens on local governments.

♦ **SMALL BUSINESSES:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. While this rule alone does not create any direct costs to small businesses, it is anticipated that the transition to federal management authority mandated by the District Court's decision may increase costs and burdens on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. While these amendments alone do not create any direct costs to other persons, it is anticipated that the transition to federal management authority necessitating these amendments may increase costs and burdens on small businesses and citizens affected by Utah prairie dogs.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** These amendments are for clarification and to establish a separate rule for the criteria for the controlled take of Utah prairie dogs. DWR has determined that there are no additional compliance costs associated with this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to 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 Office 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 01/31/2018**

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

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

**R657-19. Taking Nongame Mammals.**

**R657-19-1. Purpose and Authority.**

(1) Under authority of Sections 23-13-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking and possessing nongame mammals.

(2) A person capturing any live nongame mammal for a personal, scientific, educational, or commercial use must comply with R657-3 Collection, Importation, Transportation and Subsequent Possession of Zoological Animals.

**R657-19-2. Definitions.**

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

(2) In addition:

(a) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(b) "Nongame mammal" means:

(i) any species of bats;

(ii) any species of mice, rats, or voles of the families Heteromyidae, Cricetidae, or Zapodidae;

(iii) opossum of the family Didelphidae;

(iv) pikas of the family Ochotonidae;

(v) porcupine of the family Erethizontidae;

(vi) shrews of the family Soricidae; and

(vii) squirrels, prairie dogs, and marmots of the family Sciuridae[~~excluding Utah prairie dogs, *Cynomys parvidens*].~~

**R657-19-3. General Provisions.**

(1) A person may not purchase or sell any nongame mammal or its parts.

(2)(a) The live capture of any nongame mammals is prohibited under this rule.

(b) The live capture of nongame mammals species may be allowed as authorized under Rule R657-3.

(3) Section 23-20-8 does not apply to the taking of nongame mammal species covered under this rule.

**R657-19-4. Nongame Mammal Species - Certificate of Registration Required.**

(1) A certificate of registration is required to take any of the following species of nongame mammals:

(a) bats of any species; and

(b) pika - *Ochotona princeps*.

(2) A certificate of registration is required to take any shrew - Soricidae, all species.

(3) A certificate of registration is required to take a Utah prairie dog, *Cynomys parvidens*, as provided in Sections R657-[70-]19-6, R657-19-7, R657-19-8 and R657-19-9.

(4) A certificate of registration is required to take any of the following species of nongame mammals in Washington County:

(a) cactus mouse - *Peromyscus eremicus*;

(b) kangaroo rats - *Dipodomys*, all species;

(c) Southern grasshopper mouse - *Onychomys torridus*;

and

(d) Virgin River montane vole - *Microtus montanus rivularis*, which occurs along stream-side riparian corridors of the Virgin River.

(5) A certificate of registration is required to take any of the following species of nongame mammals in San Juan and Grand counties:

(a) Abert squirrel - *Sciurus aberti*;

(b) Northern rock mouse - *Peromyscus nasutus*; and

(c) spotted ground squirrel - *Spermophilus pilosoma*.

(6) The division may deny a certificate of registration to any applicant, if:

(a) the applicant has violated any provision of:

(i) Title 23 of the Utah Code;

(ii) Title R657 of the Utah Administrative Code;

(iii) a certificate of registration;

(iv) an order of the Wildlife Board; or

(v) any other law that bears a reasonable relationship to the applicant's ability to safely and responsibly perform the activities that would be authorized by the certificate of registration;

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

(c) taking the nongame mammal as proposed in the application violates any federal, state or local law;

(d) the application is incomplete or fails to meet the issuance criteria set forth in this rule; or

(e) the division determines the activities sought in the application may significantly damage or are not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

**R657-19-5. Nongame Mammal Species - Certificate of Registration Not Required.**

(1) All nongame mammal species not listed in Section R657-19-4 as requiring a certificate of registration, may be taken:

(a) without a certificate of registration;

(b) year-round, 24-hours-a-day; and

(c) without bag or possession limits.

(2) A certificate of registration is not required to take any of the following species of nongame mammals, however, the taking is subject to the provisions provided under Section R657-19-10:

(a) White-tailed prairie dog, *Cynomys leucurus*; and

(b) Gunnison prairie dog, *Cynomys gunnisoni*.

**R657-19-6. Utah Prairie Dog Provisions.**

(1)(a) A person may not take a Utah Prairie dog, *Cynomys parvidens*, without first obtaining a certificate of registration from the division.

(b) A certificate of registration for taking Utah prairie dogs may be issued as provided in Subsection (i) or Subsection (ii), or Subsection (iii), if the taking will not further endanger the existence of the species:

(i) in cases where Utah Prairie dogs are causing damage to agricultural lands as provided in the rules of the U.S. Fish and Wildlife Service; or

(ii) as provided in a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service under an approved Habitat Conservation Plan; or



(iii) as provided under a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service allowing take of Utah prairie dogs on specified private lands as part of an approved conservation agreement enacted between the U.S. Fish and Wildlife Service and the owner of those private lands.

(c) A person may apply for a certificate of registration at the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721.

(d) A landowner, lessee, or their immediate family member, or an employee on a regular payroll and not hired specifically to take Utah prairie dogs, may apply for a certificate of registration.

(e)(i) A person, other than those listed in Subsection (d), may apply for a certificate of registration to take Utah prairie dogs as a designee of the landowner or lessee provided the application includes:

(A) an explanation of the need for the certificate of registration to be issued;

(B) justification for utilization of the designee; and

(C) the landowner or lessee's signature.

(ii) A maximum of two designee certificates of registration may be issued per landowner or lessee.

(iii) Each designee application shall be considered individually based upon the explanation and justification provided.

(f) An application for a certificate of registration must include:

(i) full name;

(ii) complete mailing address;

(iii) phone number;

(iv) date of birth;

(v) weight and height;

(vi) gender;

(vii) color of hair and eyes;

(viii) social security number;

(ix) driver's license number, if issued;

(x) proof of hunter education certification if the applicant was born after December 31, 1965; and

(xi) the township, range, section and 1/4 section of the agricultural lands where the prairie dogs will be taken.

(g) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(h) After review of the application, a certificate of registration may be issued.

(i) A maximum of four certificates of registration may be issued to any landowner or lessee, including those issued to the landowner or lessee's designees.

(j) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom the certificate of registration is issued.

(k) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(l) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(2)(a) A person may take Utah prairie dogs with a firearm during daylight hours or by trapping as specified on the certificate of registration.

(b) A person may not use any chemical toxicant to take Utah prairie dogs.

(c) In addition to the requirements of this rule, any person taking Utah prairie dogs must comply with state laws, and local ordinances and laws.

(d) A person at least 14 years of age and under 16 years of age who takes Utah Prairie dogs must be accompanied by an adult with a valid certificate of registration to take Utah Prairie dogs on the same property.

**R657-19-7. Areas Open to Taking Utah Prairie Dogs -- Dates Open --Limits on Number of Utah Prairie Dogs Taken.**

(1) A person who obtains a valid certificate of registration may take Utah prairie dogs only on private lands within the following counties:

(a) Beaver;

(b) Garfield;

(c) Iron;

(d) Kane;

(e) Millard;

(f) Piute;

(g) Sanpete;

(h) Sevier;

(i) Washington; and

(j) Wayne.

(2) Taking of a Utah prairie dog on any land or by any method, other than as provided in the valid certificate of registration, including any public land, is a violation of state and federal law.

(3) Any person, who is specifically named on a valid certificate of registration, may remove Utah prairie dogs, as provided in the certificate of registration.

(4) The taking of any Utah prairie dog outside the areas provided in this section is prohibited, except by division employees while acting in the performance of their assigned duties.

(5) The taking of Utah prairie dogs is limited to the dates designated on the certificate of registration. All dates are confined to June 15 through December 31, except as provided in Subsection R657-19-6(1)(b)(iii).

(6)(a) A person may take only the total number of Utah prairie dogs designated in the certificate of registration, except as provided in Subsection R657-19-6(1)(b)(iii).

(b) The total annual range-wide take of Utah prairie dogs and the total annual take of Utah Prairie dogs on agricultural lands is governed by federal law.

(c) If the division determines that taking Utah prairie dogs has an adverse effect on conservation of the species, taking shall be further restricted or prohibited.

**R657-19-8. Monthly Reports of Take of Utah Prairie Dogs.**

(1) The following information must be reported to the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721, every 30 days:

(a) the name and signature of the certificate of registration holder;

(b) the person's certificate of registration number;  
(c) the number of Utah prairie dogs taken; and  
(d) the location, method of take, and method of disposal  
of each Utah prairie dog taken during the 30-day period.

(2) Failure to report the information required in  
Subsection (1), within 30 days, may result in the denial of future  
applications for a certificate of registration to take Utah prairie  
dogs.

**R657-19-9. Unlawful Possession of Utah Prairie Dogs.**

A person may not possess a Utah prairie dog or its parts,  
without first obtaining a valid certificate of registration and a  
federal permit.

**R657-19-10. White-tailed and Gunnison Prairie Dogs.**

(1)(a) A license or certificate of registration is not required to take either white-tailed or Gunnison prairie dogs.

(b) There are no bag limits for white-tailed or Gunnison prairie dogs for which there is an open season.

(2)(a) White-tailed prairie dogs, *Cynomys leucurus*, may be taken in the following counties from January 1 through March 31, and June 16 through December 31:

- (i) Carbon County;
- (ii) Daggett County;
- (iii) Duchesne County;
- (iv) Emery County;
- (v) Morgan;
- (vi) Rich;
- (vii) Summit County;
- (viii) Uintah County, except in the closed area as

provided in Subsection (2)(b)(i);

- (ix) Weber; and

(x) all areas west and north of the Colorado River in Grand and San Juan counties.

(b) White-tailed prairie dogs, *Cynomys leucurus*, may not be taken in the following closed area in order to protect the reintroduced population of black-footed ferrets, *Mustela nigripes*:

(i) Boundary begins at the Utah/Colorado state line and Uintah County Road 403, also known as Stanton Road, northeast of Bonanza; southwest along this road to SR 45 at Bonanza; north along this highway to Uintah County Road 328, also known as Old Bonanza Highway; north along this road to Raven Ridge, just south of US 40; southeast along Raven Ridge to the Utah/Colorado state line; south along this state line to point of beginning.

(3) The taking of White-tailed prairie dogs, *Cynomys leucurus*, is prohibited from April 1 through June 15, except as provided in Subsection (5).

(4)(a) The taking of Gunnison prairie dogs, *Cynomys gunnisoni*, is prohibited in all areas south and east of the Colorado River, and north of the Navajo Nation in Grand and San Juan counties from April 1 through June 15.

(b) Gunnison prairie dogs may be taken in the area provided in Subsection (4)(a) from June 16 through March 31.

(5) Gunnison prairie dogs and White-tailed prairie dogs causing agricultural damage or creating a nuisance on private land may be taken at any time, including during the closed season from April 1 through June 15.

**R657-19-[7-]11. Violation.**

(1) Any violation of this rule is a Class C misdemeanor as provided in Section 23-13-11(2).

(2) In addition to this rule any animal designated as a threatened or endangered species is governed by the Endangered Species Act and the unlawful taking of these species may also be a violation of federal law and rules promulgated thereunder.

(3) Pursuant to Section 23-19-9, the division may suspend a certificate of registration issued under this rule.

**KEY: wildlife, game laws**

**Date of Enactment or Last Substantive Amendment:** ~~May 9, 2015~~2018

**Notice of Continuation:** August 5, 2013

**Authorizing, and Implemented or Interpreted Law:** 23-13-3; 23-14-18; 23-14-19

## Natural Resources, Wildlife Resources **R657-41** Conservation and Sportsman Permits

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42379

FILED: 12/11/2017

### RULE ANALYSIS

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

**SUMMARY OF THE RULE OR CHANGE:** The proposed revision to this rule adds clarity for the statewide conservation and sportsman permit holders concerning closed areas for the Rocky Mountain bighorn sheep hunts. This amendment specifically removes the closure for Central Mountains, Nebo/Wasatch Mountains, west sheep unit, and Wasatch Mountains, Avintaquin sheep unit.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This rule amendment simplifies regulations already in place. DWR has determined that this amendment does not create a cost or savings to the state budget or DWR's budget since the changes will not increase the workload and can be carried out with the existing budget.

♦ **LOCAL GOVERNMENTS:** Since the amendment only adds clarity and consistency to a program that is already established, this filing does not create any direct cost or

savings to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

♦ **SMALL BUSINESSES:** Since the amendment only adds clarity and consistency to a program that is already established this filing does not create any direct cost or savings to small businesses because they are not directly affected by this rule. Nor are small businesses indirectly impacted because this rule does not create a situation requiring services from them.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment simply creates more consistency and clarity to an already established program. Therefore, the amendment does not have the potential to generate a cost or savings to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that this amendment will not create additional costs for residents and nonresidents wishing to hunt in Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to 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 Office 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 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

**R657. Natural Resources, Wildlife Resources.  
 R657-41. Conservation and Sportsman Permits.  
 R657-41-2. Definitions.**

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

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season except area turkey permits are valid during

any season option and are valid in any open area during general season hunt.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting the protection and preservation of one or more conservation permit species and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits that the organization retains for eligible projects, excluding interest earned thereon.

(g) "Special Antelope Island State Park Conservation Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued pursuant to R657-41-12(3).

(h) "Special Antelope Island State Park Limited Entry Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(i) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (k), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(j) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(k) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer and elk from September 1 through January 15;

(ii) two turkeys on any open unit from April 1 through May 31;

(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective;

(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permits and the Special Antelope Island State Park Limited Entry Permits; and

(vi) Rocky Mountain bighorn sheep on any open unit, excluding the[=

~~(A)] Box Elder, Pilot Mountain sheep unit, which is closed to both the Sportsmen permit holder and the Statewide conservation permit holder every year[=and~~

~~(B) Central Mountains, Nebo/Wasatch Mountains, West sheep unit and Wasatch Mountains, Avintaquin sheep unit, which are closed to the Sportsmen permit holder on odd-numbered years and closed to the Statewide conservation permit holder on even-numbered years].~~

### **R657-41-3. Determining the Number of Conservation and Sportsman Permits.**

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, and distribution to protect the long-term health of the population;

(b) the hunting and viewing opportunity for the general public, both short and long term; and

(c) the potential revenue that will support protection and enhancement of the species.

(2) One statewide conservation permit may be authorized for each conservation permit species.

(3) A limited number of area conservation permits may be authorized as follows:

(a) the potential number of multi-year and single year permits available for Rocky Mountain bighorn sheep and desert bighorn sheep, assigned to a hunt area or combination of hunt areas, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 5-14 public permits = 1 conservation permit, 15-24 public permits = 2 conservation permits, 25-34 public permits = 3 conservation permits, 35-44 permits = 4 conservation permits, 45-54 public permits = 5 conservation permits, 55-64 = 6 conservation permits, 65-74 public permits = 7 conservation permits and >75 public permits = 8 conservation permits.

(b) the potential number of multi-year and single year permits available for the remaining conservation permit species, for any unit or hunt area, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 11-30 public permits = 1 conservation permit, 31-50 public permits = 2 conservation permits, 51-70 public permits = 3 conservation permits, 71-90 permits = 4 conservation permits, 91-110 public permits = 5 conservation permits, 111-130 = 6 conservation permits, 131-150 public permits = 7 conservation permits and >150 public permits = 8 conservation permits.

(4) The number of conservation permits may be reduced if the number of public permits declines during the time period or which multi-year permits were awarded.

(5) The actual number of conservation and sportsman permits available for use will be determined by the Wildlife Board.

(6) Area conservation permits shall be deducted from the number of public drawing permits.

(7) One sportsman permit shall be authorized for each statewide conservation permit authorized.

(8) All area conservation permits are eligible as multi-year permits except that the division may designate some area conservation permits as single year permits based on the applications received for single year permits.

(9) All statewide permits will be multi-year permits except for a second statewide permit issued for a special event.

### **R657-41-7. Awarding Multi-Year Conservation Permits.**

(1) Distribution of multi-year conservation permits will be based on a sequential selection process where each eligible conservation organization is assigned a position or positions in the selection order among the other participating organizations and awarded credits with which to purchase multi-year permits at an assigned value. The selection process and other associated details are as follows.

(2) Multi-year permits will be awarded to eligible conservation organizations for no more than three years.

(3) The division will determine the number of permits available as multi-year permits after subtracting the proposed number of single year permits.

(a) Season types for multi-year area conservation permits for elk on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- ~~[premium]~~multi-season;

(ii) second permit -- any-weapon;

(iii) third permit -- any-weapon; (iv) fourth permit -- archery;

(v) fifth permit -- muzzleloader;

(vi) sixth permit -- ~~[premium]~~multi-season;

(vii) seventh permit -- any-weapon; and

(viii) eighth permit -- any-weapon.

(b) Season types for multi-year area conservation permits for deer on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- hunter choice of season;

(ii) second permit -- hunter choice of season;

(iii) third permit -- muzzleloader;

(iv) fourth permit -- archery; (v) fifth permit -- any-weapon;

(vi) sixth permit -- any-weapon;

(vii) seventh permit -- muzzleloader; and

(viii) eighth permit -- archery.

(4) The division will assign a monetary value to each multi-year permit based on the average return for the permit during the previous three year period. If a history is not available, the value will be estimated.

(5) The division will determine the total annual value of all multi-year permits.

(6)(a) The division will calculate a market share for each eligible conservation organization applying for multi-year permits.

(b) Market share will be calculated and determined based on:

(i) the conservation organization's previous three years performance;

(ii) all conservation permits (single and multi-year) issued to a conservation organization except for special permits allocated by the Wildlife Board outside the normal allocation process.

(iii) the percent of conservation permit revenue raised by a conservation organization during the three year period relative to all conservation permit revenue raised during the same period by all conservation organizations applying for multi-year permits.

(7) The division will determine the credits available to spend by each group in the selection process based on their market share multiplied by the total annual value of all multi-year permits.

(8) The division will establish a selection order for the participating conservation organizations based on the relative value of each groups market share as follows:

(a) groups will be ordered based on their percent of market share;

(b) each selection position will cost a group 10% of the total market share except the last selection by a group will cost whatever percent a group has remaining;

(c) no group can have more than three positions in the selection order; and

(d) the selection order will be established as follows:

(i) the group with the highest market share will be assigned the first position and ten percent will be subtracted from their total market share;

(ii) the group with the highest remaining market share will be assigned the second position and ten percent will be subtracted from their market share; and

(iii) this procedure will continue until all groups have three positions or their market share is exhausted.

(9) At least two weeks prior to the multi-year permit selection meeting, the division will provide each conservation organization applying for multi-year permits the following items:

(a) a list of multi-year permits available with assigned value;

(b) documentation of the calculation of market share;

(c) credits available to each conservation group to use in the selection process;

(d) the selection order; and

(e) date, time and location of the selection meeting.

(10) Between the establishing of the selection order and the selection meeting, groups may trade or assign draw positions, but once the selection meeting begins draw order cannot be changed.

(11) At the selection meeting, conservation organizations will select permits from the available pool according to their respective positions in the selection order. For each permit selected, the value of that permit will be deducted from the conservation organization's available credits. The selection order will repeat itself until all available credits are used or all available permits are selected.

(12) Conservation organizations may continue to select a single permit each time their turn comes up in the selection order until all available credits are used or all available permits are selected.

(13) A conservation organization may not exceed its available credits except a group may select their last permit for up to 10% of the permit value above their remaining credits.

(14) Upon completion of the selection process, but prior to the Wildlife Board meeting where final assignment of permits are made, conservation organizations may trade or assign permits to other conservation organizations eligible to receive multi-year permits. The group receiving a permit retains the permit for the purposes of marketing and determination of market share for the entire multi-year period.

(15) Variances for an extended season or legal weapon choice may be obtained only on area conservation permits and must be presented to the Wildlife Board prior to the final assignment of the permit to the conservation organization.

(16) Conservation organizations may not trade or transfer multi-year permits to other organizations once assigned by the Wildlife Board.

(17) Conservation organizations failing to comply with the reporting requirements in any given year during the multi-year period shall lose the multi-year conservation permits for the balance of the multi-year award period.

(18) If a conservation organization is unable to complete the terms of marketing the assigned permits, the permits will be returned to the regular public drawing process for the duration of the multi-year allocation period.

**KEY: wildlife, wildlife permits, sportsmen, conservation permits**

**Date of enactment or last Substantive Amendment: [~~November 28, 2016~~2018]**

**Notice of Continuation: October 5, 2015**

**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19**

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## Natural Resources, Wildlife Resources R657-62 Drawing Application Procedures

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42374

FILED: 12/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) drawing application process.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being amended to: 1) add ewe Rocky Mountain bighorn sheep and ewe desert bighorn sheep to the list of species allowed to accumulate bonus points; and 2) set the draw order and eligibility requirements for obtaining ewe Rocky Mountain bighorn sheep or ewe desert bighorn sheep permits.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These rule amendments add two species to the list of species managed through the public draw, it does not create a cost or savings to DWR. Therefore, DWR has determined that these amendments will not create any cost or savings to the state budget or DWR's budget, since the changes will not increase the workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since these amendments only add species to the list of managed species through the public draw which does not have available permits for the species, it does not create any direct cost or savings to local governments since they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** Since these amendments only add species to the list of managed species through the public draw which does not have available permits for the species, it does not create any direct cost or savings to small businesses since they are not directly affected by this rule. Nor are small businesses indirectly impacted because this rule does not create a situation requiring services from them.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amended rule will add two species to the public draw that may at some time in the future have permits available. At this time, this rule is only setting the protocol for draw order and eligibility, DWR has determined that it will not generate a cost or saving to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that these amendments will not create a cost or savings to individuals who participate in hunting in Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to 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 Office 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 01/31/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018**

**AUTHORIZED BY: Mike Fowlks, Deputy Director**

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

**R657-62. Drawing Application Procedures.**

**R657-62-8. Bonus Points.**

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

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

(i) each valid unsuccessful application when applying for limited-entry permits; or

(ii) each valid application when applying for bonus points.

(b) Bonus points are awarded by species for;

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

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

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

(iv) once-in-a-lifetime species including cooperative wildlife management units;

(v) limited entry bear;

(vi) antlerless moose;

(vii) ewe Rocky Mountain bighorn sheep;

(viii) ewe desert bighorn sheep;

(ix) cougar; and

(~~viii~~) turkey.

(3)(a) A person may not apply in the drawing for both a permit and a bonus point for the same species.

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

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

(d) A person may apply for bonus points only during the applicable drawing application for each species.

(4)(a) Fifty percent of the permits for each hunt unit will be reserved for applicants with the greatest number of bonus points.

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

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

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

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

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

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

(6) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species including any permit obtained after the drawing.

(7) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit, expo permit, sportsman permit, or harvest objective bear permit;

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

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

(8) Bonus points are not transferable.

(9) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(10)(a) Bonus points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain electronic copies of applications from 1996 to the current drawings for the purpose of researching bonus point records.

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

(d) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may void or otherwise eliminate any bonus point obtained by fraud, deceit, misrepresentation, or in violation of law.

#### **R657-62-20. Antlerless Species.**

(1) Permit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain an antlerless permit.

(b) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in rule R657-5.

(c) A person may apply in the drawing for and draw the following permits, except as provided in Subsection (d):

- (i) antlerless deer;
- (ii) antlerless elk;
- (iii) doe pronghorn; ~~and~~
- (iv) antlerless moose, if available;
- (v) ewe Rocky Mountain bighorn sheep, if available; and
- (vi) ewe desert bighorn sheep, if available.

(d)(i) Any person who has obtained a buck pronghorn permit ~~or a~~, bull moose permit, ram Rocky Mountain bighorn sheep permit, or a ram desert bighorn sheep permit may not apply in the same year for a doe pronghorn permit ~~or~~, antlerless moose permit, ewe Rocky Mountain bighorn sheep permit, or a ewe desert bighorn sheep permit, respectively, except for permits remaining after the drawing as provided in R657-62-15.

(ii) A resident may apply for an antlerless moose, ewe Rocky Mountain bighorn sheep, or ewe desert bighorn sheep in the antlerless drawing, but may not apply for more than one of those permits in a given year.

(iii) A nonresident may apply for all antlerless species in a given year.

(e) Applicants may select up to five hunt choices when applying for antlerless deer, antlerless elk and antlerless pronghorn.

(f) Applicants may select up to two hunt choices when applying for antlerless moose.

(g) Applicants may select up to two hunt choices when applying for ewe bighorn sheep permits.

(h) Hunt unit choices must be listed in order of preference.

~~(h)~~ (i) A person may not submit more than one application in the antlerless drawing per species. (2) Youth applications.

(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31.

(b) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

(c) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in this Subsection, will automatically be considered in the youth drawing based upon their birth date.

(3) Drawing Order

(a) Permits are drawn in the order listed in the guidebook of the Wildlife Board for taking big game.

(b) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

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

(4) Group Applications

(a) Up to four hunters can apply together for antlerless deer, antlerless elk and doe pronghorn

(b) Group applications are not accepted for antlerless moose or ewe bighorn sheep permits.

(c) Youth hunters who wish to participate in the youth drawing must not apply as a group.

(5) Waiting Periods

(a) Antlerless moose waiting period.

(i) Any person who draws or obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process, may not apply for or receive an antlerless moose permit thereafter for a period of five seasons.

(ii) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

(b) Ewe bighorn sheep waiting period.

(i) Any person who draws or obtains a ewe bighorn sheep permit through the antlerless drawing process may not apply for or receive a permit for the same species of ewe bighorn sheep for a period of five seasons.

**KEY: wildlife, permits**

**Date of Enactment or Last Substantive Amendment:** ~~March 13, 2017~~ **2018**

**Notice of Continuation:** April 14, 2014

**Authorizing, and Implemented or Interpreted Law:** 23-14-18; 23-14-19

## Natural Resources, Wildlife Resources R657-67 Utah Hunter Mentoring Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42372

FILED: 12/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule creates a hunting mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take protected wildlife, including all big game general season permits, big game limited entry permits, once-in-a-lifetime permits, all antlerless big game permits, bear, and cougar.

**SUMMARY OF THE RULE OR CHANGE:** This rule revision expands the mentoring opportunities to include more than big game species, cougar, bear, and turkey are now included. This amendment also removes the restriction that the Qualifying Minor must be the child, stepchild, grandchild, or legal ward of the Hunting Mentor, instead the Qualifying Minor does not need to be related. Additionally, this rule amendment will allow for up to four qualifying youth to be listed on the Certificate of Registration per Hunting Mentor.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-14-1 and Section 23-14-18 and Section 23-14-19 and Section 23-14-3 and Section 23-19-1

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division of Wildlife Resources (DWR) has determined that these amendments do not create a cost impact to the state budget or DWR's budget.

◆ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This rule does not create any direct cost or savings to small businesses because they are not directly affected by the rule. Nor are small businesses indirectly impacted because this rule does not create a situation requiring services from them.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule has the potential to create a cost savings to those participating in the program. Under these proposed rule amendments, the Certificate of Registration fee will be \$10 and can include up to 4 youth hunters. Previously, the program would have allowed for only 1 youth hunter at a time with a \$10 fee to change the hunter. Approximately 800 individuals participate in the Mentoring program each year. There is no additional fees (aside from the cost of the Certificate of Registration) associated with this program, therefore, DWR has determined that these amendments could create a minimal cost impact to Utah residents wishing to participate in the program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that these rule revisions have the potential to create a minimal cost impact to individuals who participate in the program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that these rule amendments will not result in a fiscal impact to 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 Office 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 01/31/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018**

**AUTHORIZED BY: Mike Fowlks, Deputy Director**

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

#### **R657-67. Utah Hunter Mentoring Program.**

#### **R657-67-1. Purpose and Authority.**

Under the authority of Utah Code Annotated Sections 23-14-1, 23-14-3, 23-14-18, 23-14-19, and 23-19-1, this rule creates a hunting mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take ~~[big game, including all big game general season permits, big game limited entry permits, once-in-a-lifetime permits, and all antlerless big game permits]~~protected wildlife.



**R657-67-2. Definitions.**

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

(2) "Hunting Mentor" means a Resident or Nonresident individual possessing a valid permit issued by the Division to take ~~[a big game animal]~~ protected wildlife in Utah and who is 21 years of age or older ~~[when the big game animal is taken]~~ at the time of application for the Mentor Program.

(3) "Qualifying Minor" means a Utah Resident who is under 18 ~~[when engaged in a hunting related activity, and]~~ at the time of application for the Mentor Program and who is otherwise eligible to lawfully hunt.

~~[(i) is the child, stepchild, grandchild, or legal ward of the Hunting Mentor; or~~

~~(ii) is suffering from a life threatening medical condition.]~~

(4) "Wildlife document" means a ~~[big game]~~ permit to hunt protected wildlife or Division-issued authorization to share such a ~~[big game]~~ permit.

**R657-67-3. Requirements for Sharing Permits.**

(1) A Hunting Mentor may lawfully share a permit with a Qualifying Minor, and a Qualifying Minor may lawfully take ~~[big game]~~ protected wildlife authorized by the Hunting Mentor's permit, if the following conditions are satisfied:

~~(a) The Qualifying Minor is at least 12 years of age when hunting;~~

~~(b) The Qualifying Minor has successfully completed a Hunter's Education Program recognized by the Division and possesses a Utah Hunter's Education number;~~

~~(e)b) The Hunting Mentor receives prior written approval by the Division authorizing the sharing of the permit;~~

~~(d)c) The Hunting Mentor receives no form of compensation or remuneration for sharing the permit with the Qualifying Minor;~~

~~(e)d) The Hunting Mentor accompanies the Qualifying Minor while hunting at a distance where the Hunting Mentor can communicate in person with the Qualifying Minor by voice or hand signals;~~

~~(f)e) The Hunting Mentor provides advice, assistance, and mentoring on sportsman ethics, techniques, and safety to the Qualifying Minor; and~~

~~(g)f) Both the Hunting Mentor and the Qualifying Minor otherwise comply with all laws, rules, and regulations governing the taking of [big game]protected wildlife as authorized by the permit.~~

(2) A Qualifying Minor does not need to possess a valid hunting or combination license to participate in the mentor program.

(3) A Hunting Mentor may name up to four individuals to mentor under a single permit.

~~(4)a) A Qualifying Minor may [not simultaneously possess a permit for an antlered big game animal and share a permit for an antlered big game animal of the same]only share one permit for each species[-] and sex of protected wildlife per hunt year.~~

~~(4) A Qualifying Minor may not simultaneously share the permits of two or more Hunting Mentors if those permits are for the same antlered big game species.b) A bobcat permit may only be shared under the Mentor Program if permit quotas are capped under the Bobcat Management Plan.~~

~~[(5) A Hunting Mentor may only share their permit with one Qualifying Minor at a time.](c) A Qualifying Minor may not share a swan or sandhill crane permit possessed by a Hunting Mentor.~~

~~(5)a) A Qualifying Minor may simultaneously possess a permit and share a permit for the same species and sex of protected wildlife.~~

~~(b) A Qualifying Minor simultaneously possessing a permit and an authorization to share a permit for the same species and sex of protected wildlife may harvest under both wildlife documents.~~

**R657-67-4. Administrative Process for Sharing Permits.**

(1) The Hunting Mentor shall submit a complete application for participation in the ~~[mentor program]~~ Mentor Program and receive the Division's written authorization prior to sharing a permit.

(2) A complete application for the mentor program includes the following:

(a) A handling fee as established by the Utah Legislature;

(b) The Permit Number that is to be shared;

(c) A physically identifying description of the Qualifying ~~[Minor]~~ Minors;

(d) ~~[The]~~ Each Qualifying Minor's hunter education number;

(e) Written~~[certification(s) of the following:~~

~~(i) That the Qualifying Minor is the child, stepchild, grandchild, or legal ward of the Hunting Mentor; or~~

~~(ii) That the Qualifying Minor has a life threatening medical condition; and the Hunting Mentor must also certify that they have received written] authorization from the Qualifying Minor's parent or legal guardian approving their participation in the hunting activity; and~~

(f) any wildlife document(s) that must be surrendered in order to qualify for the Hunter Mentoring Program.

(3) If a Qualifying Minor must surrender a wildlife document in order to qualify for the Mentor Program, that surrender must be done prior to or at the time of their application to the Utah Hunter Mentoring Program as described in R657-67-6.

(4) If a Hunting Mentor wishes to change the Qualifying Minor with whom they share their permit, they must:

(a) Surrender the authorization issued to the Qualifying Minor by the Division;

(b) Reapply with the Division to have a new Qualifying Minor participate in the mentor program in the same manner as described in this Section.

**R657-67-5. Sharing the Permit in the Field.**

(1) While in the field, the ~~[Hunting Mentor must possess the following:~~

~~(a) All written certifications submitted to the Division for the]Qualifying Minor[s participation in the mentor program;~~

~~(b) If the Hunting Mentor is not the Qualifying Minor's parent or legal guardian, the Hunting Mentor must also certify that they have received written authorization from the Qualifying Minor's parent or legal guardian approving their participation in the hunting activity; and~~

~~(c) The authorization issued by the Division allowing the Qualifying Minor must possess the Division-issued authorization to share in the use of the Hunting Mentor's permit[.].~~

~~(2) [Both the]A Hunting Mentor may only mentor one Qualifying Minor in the field at a time.~~

~~(3) Only one Qualifying Minor and the Hunting Mentor may carry a legal weapon in the field[ if they have satisfied the requirements to participate in the Mentoring Program].~~

~~(3)4) [Big game]Protected wildlife taken by a Qualifying Minor shall be tagged with the Hunting Mentor's permit in the same manner as if the Hunting Mentor was the individual taking the animal.~~

~~(4) Only one big game animal may be taken under a shared permit[5]. Take limitations and bag limits apply based upon the permit issued, and the issuance of written authorization to share the permit does not confer additional rights to take [big game]protected wildlife.~~

#### **R657-67-6. Variances, Surrenders, Refunds, Special Accommodations, and Administrative Details.**

(1) The surrender of a wildlife document shall generally be in accordance with R657-42-4.

(2) Notwithstanding R657-42-4, a Qualifying Minor may surrender a wildlife document in their possession as part of their application to participate in the Hunter Mentoring Program, consistent with the following:

(a) the timeframe for a Qualifying Minor to surrender a permit is defined in this Section;

(b) A Qualifying Minor may surrender a wildlife document obtained as part of a group application and have their bonus points or preference points reinstated and waiting period waived without requiring all group members to also surrender their permits; and

(c) A Qualifying Minor who wishes to surrender a wildlife document after the opening day of that hunt may only do so if:

(i) they did not hunt under the authorization of that wildlife document; and

(ii) their legal guardian submits a signed affidavit certifying that the Qualifying Minor did not hunt under that wildlife document.

(4) All variances, refunds, and accommodations for people with disabilities shall be based on the type of permit that is shared and the individual using the wildlife document.

(5) All bonus points, reference points, and waiting periods shall be assessed to the Hunting Mentor.

#### **KEY: wildlife, game laws, hunter education**

**Date of Enactment or Last Substantive Amendment:** ~~July 8, 2014~~2018

**Authorizing, and Implemented or Interpreted Law:** 23-14-1; 23-14-3; 23-14-18; 23-14-19; 23-19-1.

## Natural Resources, Wildlife Resources

### **R657-70**

### Taking Utah Prairie Dogs

## **NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 42378

FILED: 12/11/2017

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah prairie dog is listed as "threatened" under the Endangered Species Act, and its management has been the subject of ongoing litigation in the case of People for the Ethical Treatment of Property Owners v. U.S. Fish and Wildlife Service, et al. and Friends of Animals (Case No. 2:13-cv-00278). In November 2014, Judge Dee Benson issued a decision declaring that the species could not be listed under the Endangered Species Act on non-federal lands, and as such the State of Utah held management authority in those circumstances. This prompted the development of a specific rule for the management of Utah prairie dogs (Rule R657-70) and modification of the Division of Wildlife Resources' (DWR) nongame rule (Rule R657-19). The 10th Circuit Court of Appeals recently overturned the District Court's decision, returning full management authority to the federal government. As some provisions of Rule R657-70 may violate terms of the Endangered Species Act, repealing this rule is necessary. (EDITOR'S NOTE: A corresponding 120-day (emergency) rule filing for Rule R657-70 that is effective as of 12/14/2017, and a corresponding 120-day (emergency) rule filing for Rule R657-19 that is effective as of 12/14/2017 is under Filing No. 42382 in this issue, January 1, 2018, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The rule is being repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-13-3 and Section 23-14-18 and Section 23-14-19

#### **ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The repeal of this rule is necessary to align state rules to a recent court decision and applicable federal laws. DWR has determined that this repeal will not create any cost or savings to the state budget or DWR's budget, and all changes in the workload can be carried out within their existing budget.

◆ **LOCAL GOVERNMENTS:** The repeal of this rule is necessary to align state rules to a recent court decision and applicable federal laws. While the repeal of this rule alone does not create any direct costs to local governments, it is anticipated that the transition to federal management authority mandated by the District Court's decision may increase costs and burdens on local governments.

◆ **SMALL BUSINESSES:** The repeal of this rule is necessary to align state rules to a recent court decision and applicable federal rules. While the repeal of this rule alone does not create any direct costs to small businesses, it is anticipated that the transition to federal management authority necessitating the repeal of this rule may increase costs and

burdens on local governments, small businesses, and citizens affected by Utah prairie dogs.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The repeal of this rule is necessary to align state rules to a recent court decision and applicable federal rules. While the repeal of this rule alone does not create any direct costs to other persons, it is anticipated that the transition to federal management authority necessitating the repeal of this rule may increase costs and burdens on local governments and citizens affected by Utah prairie dogs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that the repeal of this rule will not create costs or savings to individuals in Utah participating in the Prairie Dog program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed repeal will not result in a fiscal impact to 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 Office 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

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THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

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

**[R657-70. Taking Utah Prairie Dogs.**

**R657-70-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-1, 23-14-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking Utah prairie dogs.

(2) A person capturing any live Utah prairie dog for a personal, scientific, educational, or commercial use must comply with rule R657-3, Collection, Importation, Transportation and Possession of Animals.

**R657-70-2. Definitions.**

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

(2) Additional terms used in this rule are defined as follows:

(a) "Agriculture land" means any mapped, non-federal property that is used or has been used in the previous five (5) years for production of a cultivated crop or irrigated pasture that is harvested or grazed.

(b) "Certificate of registration" means a document issued by the division authorizing a person or entity to take a Utah prairie dog.

(c) "Developed land" means any mapped, non-federal property that is:

(i) developed or improved for public use and where Utah prairie dogs threaten human health, safety or welfare, including parks, playgrounds, public facilities, sports fields, golf courses, school yards, churches, areas of cultural or religious significance, improved roads, transportation systems, etc.; or

(ii) within 50 feet of an occupied, residential or commercial structure, or greater distance where prairie dogs threaten human health, safety or welfare on developed curtilage, including lawns, landscaping, gardens, driveways, etc.

(d) "Developable land" means any mapped, non-federal property that does not have structures or improvements on the surface of the property, excluding utilities, on which construction of permanent structures or improvements is proposed.

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

(f) "Federal land" means all lands in the State of Utah owned by the United States government, including Forest Service, Bureau of Land Management, Bureau of Reclamation, Department of Defense, National Park Service, Bureau of Indian Affairs, National Monument, and National Recreation Area lands.

(g) "Immediate family" means a landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, and grandchild.

(h) "Landowner" means the person(s) or entity holding fee title to real property impacted by Utah prairie dogs.

(i) "Lessee" means the person(s) or entity leasing or renting under written contract real property impacted by Utah prairie dogs.

(j) "Mapped" means areas within the state identified and documented since 1972 by the division as currently or historically occupied by Utah prairie dogs, excluding mapped areas with a spring count of zero (0) animals in the current year and the preceding four (4) years.

(k) "Non-federal lands" means all lands in the State of Utah that are not owned by the United States government.

(l) "Productivity" means the segment of a population represented by young of the year; and is calculated by multiplying the spring count (animals observed) by 2 (animals underground); and multiplying that figure by 67% (percent females in the population), and multiplying that figure by 97% (percent females that breed), and multiplying that figure by 4 (average litter size).

(m) "Protected land" means federal and non-federal property that is set aside for the preservation of Utah prairie dogs and protected specifically or primarily for that purpose. Protective mechanisms can include conservation easements, fee title purchases, regulatory designations, etc.

(n) "Rangeland" means any mapped, non-federal property that is used or has been used in the previous five (5) years for grazing livestock, and is neither cultivated nor irrigated.

~~(o) "Recovery unit" means one of the three geographic areas established by the Utah Prairie Dog Recovery Team for the protection and management of Utah prairie dogs – West Desert Recovery Unit, Paunsaugunt Recovery Unit, and Awapa Plateau Recovery Unit. Maps and boundaries of these units may be obtained from the division.~~

~~(p) "Unmapped" means any area of the state on non-federal land that is not classified as mapped by the division.~~

~~(q) "Utah prairie dog" or "prairie dog" means the genus and species *Cynomys parvidens*.~~

**R657-70-3. Legal Status of Utah Prairie Dog.**

~~(1) On federal land, the Utah prairie dog is listed as threatened under the Endangered Species Act of 1973 and subject to the federal laws, authorities and jurisdictions applicable to listed species.~~

~~(a) A person may not take a prairie dog on federal land, except as authorized by the:~~

~~(i) United States Fish and Wildlife Service and the federal regulations applicable to the species; and~~

~~(ii) division pursuant to this rule.~~

~~(2) On non-federal land, the Utah prairie dog is not subject to the Endangered Species Act of 1973 and is managed by State of Utah through the division.~~

~~(a) A person may not take a prairie dog on non-federal land, except as authorized by the Wildlife Code and this rule.~~

**R657-70-4. Take of Utah Prairie Dogs on Federal Land.**

~~(1) A person may not take a Utah prairie dog on federal land:~~

~~(a) except as authorized by the U.S. Fish and Wildlife Service and federal regulation; and~~

~~(b) without obtaining a certificate of registration from the division.~~

~~(2) Notwithstanding Subsection (1)(b), a certificate of registration is not required when a person receives an incidental take permit from the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.~~

**R657-70-5. Take of Utah Prairie Dogs in Inhabited Structures on Non-federal Land.**

~~(1)(a) Notwithstanding R657-70-13, any person, with the consent of the owner or lessee, may take a Utah prairie dog on non-federal land that is within the interior of a structure inhabited or occupied by people.~~

~~(b) For purposes of this section, an inhabited or occupied structure means a building where people live, work, or visit, such as a home, apartment, hotel, commercial or public office, public building, church, store, warehouse, business, work shop, restaurant, etc.~~

~~(2) A certificate of registration or prior notice to the division is not required to take a prairie dog under this section.~~

~~(3) A person that takes a prairie dog under this section is required to submit a monthly report to the division under R657-70-15.~~

**R657-70-6. Take of Utah Prairie Dogs on Unmapped Land.**

~~(1) A person may not take a Utah prairie dog on unmapped land, except as provided in this section and R657-70-8.~~

~~(2) A landowner or lessee of unmapped land may take a prairie dog on that land without a certificate of registration, provided:~~

~~(a) the division is notified prior to take and the property where take will occur is confirmed by the division to be unmapped land;~~

~~(b) take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;~~

~~(c) take is restricted to the unmapped land owned by the landowner, or leased by the lessee; and~~

~~(d) the methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;~~

~~(3) Prairie dogs may be taken pursuant to this section year-round and without numerical limitation.~~

~~(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.~~

**R657-70-7. Take of Utah Prairie Dogs on Developed Land.**

~~(1) A person may not take a Utah prairie dog on developed land, excepted as provided in this section and R657-70-8.~~

~~(2) A landowner or lessee of developed land may take a prairie dog on that land without a certificate of registration, provided:~~

~~(a) The division is notified prior to take and the property where take will occur is confirmed by the division to be developed land;~~

~~(b) Take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;~~

~~(c) Take is restricted to the developed land owned by the landowner, or leased by the lessee; and~~

~~(d) The methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;~~

~~(3) Prairie dogs may be taken pursuant to this section year around and without numerical limitation.~~

~~(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.~~

**R657-70-8. Local Law Enforcement Take of Utah Prairie Dogs on Non-federal Land.**

~~(1)(a) Upon request of a county, the division may issue a certificate of registration to the sheriff and deputies of that county authorizing them to take Utah prairie dogs threatening public health, safety or welfare on non-federal land within the municipal boundaries of any city or town in the county.~~

~~(b) Upon request of a city or town, the division may issue a certificate of registration to the law enforcement authority of that city or town authorizing it to take Utah prairie dogs threatening public health, safety or welfare on non-federal land within the municipal boundaries of the city or town.~~

~~(2) A certificate of registration issued to a law enforcement authority under this section may permit lethal take or live trapping and relocation to a division approved release site.~~

~~(3) A county sheriff or the municipal law enforcement authority issued a certificate of registration under this section will report annually or upon request by the division, the number of prairie dogs lethally removed and the number captured and relocated, including the release site locations.~~

**R657-70-9. Range-wide Take Limit for Developable Land, Agriculture Land, and Rangeland:**

(1) Except as provided in Subsection (2), no more than 6,000 Utah prairie dogs will be authorized for range-wide take annually on developable land, agriculture land, and rangeland.

(2)(a) When the range-wide spring count of adult prairie dogs on non-federal/non-protected lands exceeds 6,000 individuals, the annual 6,000 range-wide take limit will be increased by 1/2 the number counted in excess of 6,000.

(b) When, and as long as, the three year average spring count of adult prairie dogs on protected land in a single recovery unit reaches 2,000 individuals, all certificate of registration requirements and numerical take limitations on non-federal/non-protected land in that recovery unit will be removed.

(i) All other restrictions on prairie dog take in the recovery unit will remain in place and enforceable.

(3) Prairie dog take on unmapped land, developed land, and inhabited structures does not count against the 6,000 animal annual limit.

**R657-70-10. Take of Utah Prairie Dogs on Developable Land:**

(1) A person may not take a Utah prairie dog on developable land without first obtaining a certificate of registration from the division.

(2)(a)(i) A person may obtain a certificate of registration to take prairie dogs on developable land when:

(A) a construction project is proposed for a parcel of developable land; and

(B) construction on the project is imminent.

(ii) The project proponent must notify the division prior to disturbing the surface of the ground or building a structure on developable land.

(b) Upon receiving notice of the proposed construction project, the division will survey the subject property for the presence of prairie dogs.

(i) If the property is not occupied by prairie dogs, the division will issue a written notification to the project proponent authorizing the project to proceed.

(ii) If prairie dogs are discovered on the property, the division will first attempt to trap and relocate the animals to the extent feasible and in coordination with the project proponent.

(A) Prairie dogs trapped and relocated from July 1 through October 1 are not counted against the range-wide prairie dog limit in R657-70-9.

(iii) If the project proponent declines to delay the project for trapping, or when trapping is determined complete, the division will issue a certificate of registration to the project proponent authorizing take of all prairie dogs present or remaining on the property.

(A) All take is counted against the range-wide prairie dog limit in R657-70-9.

(3) Notwithstanding the limitations in R657-70-13, take may be performed by any person authorized by the project proponent.

(4) Take is allowed only on the property proposed for the project and identified in the certificate of registration.

(5) Prairie dogs may be taken pursuant to this section year around.

**R657-70-11. Take of Utah Prairie Dogs on Agriculture Land:**

(1) A person may not take a Utah prairie dog on agriculture land without first obtaining a certificate of registration from the division, except as provided in R657-70-7.

(2) A landowner or lessee of agriculture land may apply to the division for a certificate of registration to take prairie dogs damaging their agriculture land.

(a) The application shall include the:

(i) applicant's full name, mailing address, and phone number;

(ii) applicant's status as an owner or lessee of the property;

(iii) landowner's signature, and consent when the applicant is a lessee;

(iv) name and identifying information for each individual designated by the applicant and eligible under R657-70-13 to take prairie dogs on the property; and

(v) township, range, section, 1/4 section, and parcel number of the agricultural land where the prairie dogs will be taken.

(b) An application for a certificate of registration must be submitted to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84721, or online when available.

(c) Upon receipt of an application, the division will determine the maximum number of Utah prairie dogs that may be taken on the property under a certificate of registration.

(i) The division will calculate the yearly maximum take using the following criteria:

(A) 50% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is 999 or less;

(B) 100% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is between 1,000 and 1,249;

(C) 100% of prairie dog productivity and 33% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,250 and 1,499;

(D) 100% of prairie dog productivity and 66% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,500 and 1,999; and

(E) Unlimited take is authorized without a certificate of registration when the three year average spring count on protected land in the recovery unit is 2,000 or greater.

(3)(a) After review of the application and determining the maximum take limit for the property, a certificate of registration may be issued.

(b) The certificate of registration will identify:

(i) the name of the property owner, lessee, or other person authorized to take prairie dogs on the property;

(ii) the maximum number of prairie dogs that may be taken on the property; and

(iii) a general description of the location and boundaries of the subject property.

(c) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

~~(d) A certificate of registration is not transferrable and must be signed by the holder prior to use.~~

~~(e) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.~~

~~(4) Prairie dogs allowed by the landowner or lessee to be trapped on the property and relocated by the division between July 1 and October 1 -- before lethal take -- will not count against the range-wide prairie dog limit in R657-70-9 or the property's maximum take limit identified on the certificate of registration unless the landowner or lessee is enrolled in the damage compensation program.~~

~~(5)(a) A landowner or lessee that obtains a certificate of registration to take prairie dogs on agriculture land and thereafter agrees with the division to allow trapping and relocation efforts on the property before lethally taking prairie dogs, may receive compensation for the damage caused by prairie dogs during the trapping period.~~

~~(i) Participation in the damage compensation program is voluntary on the part of the landowner or lessee and discretionary on the part of the division.~~

~~(ii) Only properties with a spring count of 50 or more prairie dogs are eligible for participation in the program.~~

~~(iii) Compensation will be based on the number of prairie dogs on the property and the associated damage estimate between May 1 and September 30.~~

~~(b)(i) A landowner or lessee must apply to participate in the damage compensation program by submitting a written application to the division that includes:~~

~~(A) the applicant's full name, mailing address, and phone number;~~

~~(B) the township, range, section, 1/4 section and parcel number of the agricultural land where the prairie dogs will be trapped;~~

~~(C) proof that the applicant is the fee title owner or lessee of the agricultural land where the prairie dogs will be trapped; and~~

~~(D) the landowner's signature, or the lessee's and landowner's signature when the applicant is the lessee.~~

~~(ii) An application to participate in the damage compensation program must be submitted:~~

~~(A) to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 8472, or online when available; and~~

~~(B) by May 15 of the year for which compensation is requested.~~

~~(iii) Applications for damage compensation will be evaluated by the division and granted based on the:~~

~~(A) availability of compensation funding;~~

~~(B) number and density of prairie dogs that the division determines are present on the property;~~

~~(C) ease and efficiency by which prairie dogs can be trapped and relocated;~~

~~(D) availability of release sites;~~

~~(E) availability of division personnel and funding to trap and relocate; and~~

~~(F) degree of expected damage during the trapping period.~~

~~(iv) Nothing herein shall be construed as guaranteeing that an application to participate in the damage compensation program will be granted or that all persons desiring to participate in the program will have the opportunity to do so.~~

~~(e) Compensation for prairie dog damage will be based on the following criteria, regardless of the crop involved:~~

~~(i) the estimated number of prairie dogs on the property where trapping will occur;~~

~~(A) the division will estimate prairie dog numbers by counting visible prairie dogs on the property in the spring, doubling that number to account for adults below ground, and multiplying the result by 2.6 to account for juvenile production.~~

~~(ii) each adult prairie dog consuming 0.75 pounds of alfalfa a day and each juvenile 0.375 pounds a day;~~

~~(iii) adult prairie dogs causing damage five months per year and juveniles four months per year;~~

~~(iv) the market price of the alfalfa at the time the contract referenced in Subsection (d) is executed; and~~

~~(v) an additional 10% for damage to farming equipment and fences.~~

~~(d) The division will enter into a written contract with successful applicants possessing eligible property and a certificate of registration to take prairie dogs on their agriculture land that:~~

~~(i) suspends lethal removal efforts by the landowner or lessee until the division completes prairie dog trapping on the property; and~~

~~(ii) identifies the monetary compensation the landowner or lessee will receive from the division for seasonal prairie dog damage anticipated to occur.~~

~~(e) All prairie dogs trapped and relocated under a compensation agreement will count against the range-wide prairie dog limit in R657-70-9 and the property's maximum take limit identified on the certificate of registration.~~

~~(f) Once trapping is completed, the division will deduct the number of trapped prairie dogs from the certificate of registration's original take limit and notify the landowner or lessee:~~

~~(i) of the adjusted take limit; and~~

~~(ii) that removing prairie dogs from the property pursuant to the terms of the adjusted certificate of registration is permitted.~~

~~(6) The division may issue a certificate of registration authorizing a landowner or lessee to take prairie dogs dispersing from the property targeted for trapping under Subsections (4) or (5) to other areas of the property or adjacent properties that do not have a preexisting colony.~~

~~(7)(a) Only those people specifically identified in R657-70-13 and on a certificate of registration to take prairie dogs on agriculture land may do so.~~

~~(b) Take is restricted to the agriculture land owned by the landowner, or leased by the lessee.~~

~~(c) Prairie dogs may be taken on agriculture land only with firearms, archery equipment, and kill traps.~~

~~(d) Prairie dogs may be taken under this section from June 1 to December 31, and in number not to exceed that identified on the certificate of registration.~~

~~(8) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.~~

**R657-70-12. Take of Utah Prairie Dogs on Rangeland.**

(1) A person may not take a Utah prairie dog on rangeland without first obtaining a certificate of registration from the division.

(2) A landowner or lessee of rangeland may apply for and obtain a certificate of registration from the division to take prairie dogs damaging rangeland under the same procedures and conditions provided in R657-70-11 for taking prairie dogs on agriculture land, except monetary compensation is not available for rangeland damage.

**R657-70-13. Individuals Authorized to Take Utah Prairie Dogs on Federal and Non-federal Lands.**

(1) Except as provided in R657-70-8 and R657-70-10(3), only the following individuals may take a Utah prairie dog when take is authorized under the provisions of this chapter:

- (a) landowner;
- (b) lessee, when authorized by the landowner to take prairie dogs on the property;
- (c) immediate family member of the landowner or lessee, when authorized by the landowner to take prairie dogs on the property;
- (d) employee of the landowner or lessee that is on a regular payroll and not hired specifically to take prairie dogs, when authorized by the landowner to take prairie dogs on the property; and

(e) designee of the landowner or lessee that possesses a certificate of registration from the division, as provided in Subsection (2).

(2)(a) A person other than a landowner, lessee, or their immediate family member, or an employee on a regular payroll not hired specifically to take prairie dogs, may apply for a certificate of registration to take prairie dogs as a designee of the landowner or lessee, provided the application includes:

- (i) the applicant's:
  - (A) full name;
  - (B) complete mailing address;
  - (C) phone number;
  - (D) date of birth;
  - (E) weight and height;
  - (F) gender; and
  - (G) color of hair and eyes;

(ii) the township, range, section, 1/4 section and parcel number of the agricultural lands where the prairie dogs will be taken;

(iii) justification for utilization of the designee;

(iv) the landowner's signature or the lessee's and landowner's signature when the applicant is the lessee's designee; and

(v) verification that the designee will not pay or receive any form of compensation for taking prairie dogs on the landowner's or lessee's property.

(b) An application for a certificate of registration must be submitted to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84721 or online when available.

(c) A maximum of two designee certificates of registration may be issued per landowner and lessee each year.

(d) Each designee application shall be considered individually based upon the information, explanation and justification provided.

(e) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(f)(i) After review of the application, a certificate of registration may be issued:

(ii) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

(iii) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(g) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

**R657-70-14. Methods of Take.**

(1)(a) A person authorized to take a Utah prairie dog under this chapter may lethally remove the animal using any means permitted by state, local, and federal law.

(b) Environmental Protection Agency regulations currently prohibit the use of toxicants and fumigants on Utah prairie dogs.

(2) Except as provided in R657-70-8 or as authorized by the division in a certificate of registration, a person may not:

- (a) capture or attempt to capture a prairie dog alive;
- (b) possess a live prairie dog; or
- (c) release a prairie dog to the wild.

**R657-70-15. Monthly Reports on Take of Utah Prairie Dogs.**

(1) The following information must be reported every 30 days to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84720, or online when available:

- (a) the name and signature of the landowner, lessee, or certificate of registration holder;
- (b) the person's certificate of registration number (where applicable);
- (c) the number of prairie dogs taken; and
- (d) the location and method of disposal of each prairie dog taken during the 30-day period.

(2) Failure to report the information required in Subsection (1), within 30 days, may result in the denial of future opportunity to take prairie dogs.

**R657-70-16. Take on Protected Land.**

(1) Notwithstanding any other provision in this chapter authorizing take of prairie dogs, a person may not take a Utah prairie dog on protected land set aside by contractual agreement or law for the protection and conservation of Utah prairie dogs.

**KEY: wildlife, game laws**

**Date of Enactment or Last Substantive Amendment: August 7, 2015**

**Authorizing, and Implemented or Interpreted Law: 23-14-1; 23-14-3; 23-14-18; 23-14-19]**

Natural Resources, Wildlife Resources  
**R657-71**  
 Removal of Wild Deer from  
 Domesticated Elk Facilities

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 42373

FILED: 12/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being proposed pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the Removal of Wild Deer from Domesticated Elk Facilities rule.

**SUMMARY OF THE RULE OR CHANGE:** This new rule sets the protocol for removing wild deer from domesticated elk facilities.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This new rule sets the process and protocol for removing wild deer from domesticated elk facilities, since this will not increase workload for the Division of Wildlife Resources (DWR). DWR determines that this new rule does not create a cost or savings 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 new rule applies directly to domesticated elk facilities this filing does not create any direct cost or savings to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This new rule will have a positive impact on operators of domesticated elk facilities. This rule provides a legal process for operators to remove wild deer from their facilities. There is not a cost associated with the Certificate of Registration, nor can the operator assess a cost to those removing the deer. DWR, in conjunction with the Department of Agriculture and Food, will work directly with the operators to ensure that they can remove the wild deer legally and protect their facilities from disease or escapement.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new rule will have a positive impact on operators of domesticated elk facilities. This rule provides a legal process for operators to remove wild deer from their facilities. There is not a cost associated with the Certificate of Registration, nor can the operator assess a cost to those removing the deer. DWR, in conjunction with the Department of Agriculture and Food, will work directly with the operators to ensure that

they can remove the wild deer legally and protect their facilities from disease or escapement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR determines that this new rule will not create additional costs for those who own and operate domesticated elk facilities in Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed new rule will not result in a fiscal impact to 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 Office 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 01/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

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

**R657-71. Removal of Wild Deer from Domesticated Elk Facilities.**

**R657-71-1. Purpose and Authority.**

Under the authority of Utah Code Annotated Sections 23-14-1, 23-14-3, 23-14-18, 23-14-19, and 23-19-1, this rule authorizes the division to issue a certificate of registration for the lethal removal of wild deer that are found within the enclosures of domesticated elk facilities.

**R657-71-2. Definitions.**

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

**R657-71-3. Application for a Certificate of Registration.**

(1) An owner or operator of a lawfully permitted domesticated elk facility that locates wild deer within the boundary of their facility must immediately notify the division.

(2) Upon confirmation by the division that there are wild deer confined within the perimeter of a domesticated elk facility, the owner or operator may apply for a certificate of registration authorizing the lethal removal of deer.

(3) As a condition of receiving a certificate of registration, the division may, in cooperation with the Department



of Agriculture, identify modifications or improvements to the domesticated elk facility that will ensure a secure perimeter and prevent future entry of wild cervids into the facility.

(4)(a) Only the owner or operator, their immediate family members, or facility employees may be authorized to lethally remove deer from a domesticated elk facility.

(b) Any individual authorized to act under a certificate of registration must:

(i) have passed a division authorized hunter education course;

(ii) be eligible to legally possess and handle a firearm; and

(iii) not be under an active suspension or revocation of their big game hunting privileges.

(c) Only weapons authorized by the division's big game rule, R657-5, may be used to lethally remove deer under the certificate of registration.

#### **R657-71-4. Terms of Certificate of Registration.**

(1) The certificate of registration shall identify:

(a) the name and contact information for the domesticated elk facility;

(b) the number of wild deer that are to be lethally removed;

(c) the names of the individuals authorized to act under the certificate of registration;

(e) the dates authorized for lethal removal;

(f) the reporting date for which the division must receive confirmation that all wild deer have been removed from the facility; and

(g) directions to the certificate of registration holder regarding carcass delivery to the division for donation and disease sampling.

(2)(a) The certificate of registration may only authorize lethal removal of wild deer within the perimeter of the facility.

(3) A certificate of registration may not authorize lethal removal of deer outside of the facility perimeter fence.

(4) No fee may be assessed by the certificate of registration holder, any individual acting under the authority of the certificate of registration, or the individual or business entity operating the facility in order exercise the privileges authorized by the certificate of registration.

(5) Neither the certificate of registration holder nor any individual acting under its authority may commercialize any wildlife or their parts that are removed from a domestic elk facility pursuant to this rule.

(6)(a) A certificate of registration may allow lethal removal of wild deer for a specified term between August 1 to December 31.

(b) Lethal removal of wild deer may not be authorized between January 1 through July 31.

#### **R657-71-5. Reporting Requirements and Disease Testing.**

(1)(a) Every wild deer and all parts lethally removed from the facility must be collected and provided to division promptly following removal.

(b) Upon locating a deer carcass not initially recovered, the owner or operator shall promptly deliver the carcass to the division, including any attached antlers.

(2) The certificate of registration holder must deliver each carcass to the division in a condition allowing for meat donation and disease sampling.

(3) The certificate of registration holder shall notify the Department of Agriculture of all lethal removal efforts, including the following:

(a) deer that are lethally removed and delivered to the division;

(b) deer that are shot but not recovered; and

(c) any deer carcass that is not initially recovered but located and subsequently delivered to the division.

#### **R657-71-6. Reservation of Division Authority.**

(1) Nothing herein shall preclude the division from unilaterally removing wild deer from domesticated elk facilities, consistent with statutory notification provisions.

(2) If the division determines that issuance of a certificate of registration for lethal removal is appropriate, the division may determine the number of deer that may be removed under a certificate of registration based upon the individual circumstances of each request, including but not limited to:

(a) the age and sex of the animals confined;

(b) threats to the wildlife resource; and

(c) potential impacts to the owner or operator.

**KEY: wildlife, game laws, big game**

**Date of Enactment or Last Substantive Amendment: 2018**

**Authorizing, and Implemented or Interpreted Law: 23-14-1; 23-14-3; 23-14-18; 23-14-19; 23-19-1**

## Transportation, Operations, Maintenance **R918-6** Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42392

FILED: 12/15/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was established in 2012 in cooperation with the Joint Highway Committee, to define which elements of standard maintenance operations are to be performed by the Utah Department of Transportation (UDOT), and which are to be performed by local governments, at locations where state roads intersect with county and municipal roads. While conducting a five-year review of this rule, UDOT Maintenance sought input regarding suggestions for changes from both the

UDOT Maintenance community (via the District Engineers) and the local government community (via the Joint Highway Committee). Comments and suggestions were received from UDOT District Engineers, but none were offered by the local government community. Comments were also offered by the Department's Technical Committee at its 07/112017 meeting. This amendment reflects those comments.

**SUMMARY OF THE RULE OR CHANGE:** The changes to be proposed include: 1) rearranging the defined terms into alphabetical order (nonsubstantive); 2) clarifying that when UDOT has the responsibility to replace a knocked down STOP or YIELD sign, UDOT has the option to replace the sign with a temporary installation rather than a permanent installation; 3) regarding bridge deck and parapet maintenance where a local road crosses over a state road, adding a requirement that the local government maintain records of preventive maintenance work performed, and submit those records to UDOT Structures Division, or risk incurring financial responsibility for subsequent structural repairs if the preventive maintenance was neglected; 4) at the request of the UDOT, clarifying that local government responsibility for STOP and YIELD sign maintenance also includes fading (loss of retroreflectivity); 5) at the request of UDOT, adding a subsection in Section R918-6-2 to describe the process of bridge inspections, including distributing bridge inspection reports to the entity responsible for maintenance; and 6) making technical edits to reduce word count and correcting grammatical errors.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-1-201 and Section 72-1-208 and Section 72-3-102 and Section 72-3-103 and Section 72-3-104 and Section 72-3-109 and Section 72-6-105

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** UDOT anticipates that this amendment may lead to aggregate savings to the state's budget. The purpose of the amendment is to clarify when local governments are responsible for covering costs of performing preventative maintenance and making repairs to roads that are under the jurisdiction of the local governments pursuant to the requirements of the Transportation Code. Should local governments do more to comply with their responsibilities for maintaining and repairing roads under their jurisdiction as a result of these amendments, the result will be savings to the state's budget. However, such savings are speculative and impossible to quantify accurately at this time.

◆ **LOCAL GOVERNMENTS:** UDOT anticipates that these amendments may lead to additional aggregate costs to local governments. The purpose of the amendment is to clarify when local governments are responsible for covering costs of performing preventative maintenance and making repairs to roads that are under the jurisdiction of the local governments pursuant to the requirements of the Transportation Code. Should local governments do more to comply with their

responsibilities for maintaining and repairing roads under their jurisdiction as a result of these amendments, the result will be additional costs to the budgets of the local governments. However, such costs are speculative and impossible to quantify accurately.

◆ **SMALL BUSINESSES:** UDOT does not anticipate that these amendments will lead to any aggregate costs or savings to small business. The changes these amendments make are all intergovernmental and should not result in a fiscal impact on businesses, large or small.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** UDOT does not anticipate that these amendments will lead to any aggregate costs or savings to other persons other than small businesses, businesses, or local government entities. The changes these amendments make are all intergovernmental and should not result in a fiscal impact on any private persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** UDOT anticipates that state and local governments are the only entities that will be impacted by these amendments, and governments are generally not considered to be persons. Therefore, UDOT does not anticipate that there will be any persons affected by this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These amendments should not have a fiscal impact on businesses.

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

TRANSPORTATION  
OPERATIONS, MAINTENANCE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2018**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2018**

**AUTHORIZED BY: Carlos Braceras, Executive Director**

**R918. Transportation, Operations, Maintenance.****R918-6. Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads.****R918-6-1. Authority.**

Section 72-1-201 assigns to the Utah Department of Transportation general responsibility for the maintenance of the state transportation system, and directs the department to make policy and rules governing the same, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Sections 72-3-102, 72-3-103, and 72-3-104 assign maintenance responsibility for Class A Roads (state roads), Class B Roads (county roads), and Class C Roads (city streets), to the state, counties, and municipalities, respectively. Section 72-1-208 directs the department to cooperate with counties and municipalities in the maintenance of highways and allows the department to provide maintenance services to them under terms mutually agreed upon. Section 72-3-109 delineates the division of responsibilities for state highways within cities and towns. Section 72-6-105 provides that the department may enter into written agreements with counties and municipalities for the maintenance of any highway.

**R918-6-2. Purpose and Background.**

(1) The purpose of this rule is to assign maintenance responsibility between the department and the local government entity for roadway and roadside features at the intersection of state and local roads, including grade-separated interchanges, overcrossings, undercrossings, and at-grade intersections.

(2) In general, the department is responsible for the maintenance of all state roads, including roadside features associated with those roads, except as otherwise delineated in state law. Likewise, county and municipal governments are responsible for roads under their jurisdiction.

(3) In the case of bridges, the department is responsible for the maintenance of bridges on the state highway system, and county and municipal governments are responsible for maintenance of bridges on their respective road systems. UDOT is responsible for, and carries out, inspections on all highway bridges located on public roads, both on the state highway system and on the local road system, on a schedule that results in an inspection for each bridge every two years. Prior to a scheduled inspection, local government will be notified and invited to attend the inspection. Subsequent to each inspection, UDOT supplies a bridge inspection summary to the entity responsible for maintenance of the bridge (UDOT maintenance shed in the case of bridges on the state highway system, or the local government in the case of bridges on the local road system), which describes recommended preventive and rehabilitative bridge maintenance actions, and which, in the case of bridges carrying a local road over a state highway, indicates which maintenance and preventive actions are the responsibility of the local government. The responsible jurisdiction is then expected to perform the actions recommended in the bridge inspection summary, in order to keep the bridge in a state of good repair.

(4) Where state roads intersect with roads under local jurisdiction, either at grade or at a grade separation, confusion sometimes arises regarding the maintenance responsibility for specific features at those locations. This rule is intended to clarify which jurisdiction has responsibility for which elements at those locations,

and to address the large majority of such situations. Sometimes, however, unusual circumstances or geometry may render a logical division of responsibilities difficult. In those cases, formal agreements between the parties involved are appropriate and encouraged. The language in this rule was developed to encourage consistency regarding maintenance responsibilities between the department and local government. It is recognized the traveling public may benefit in some cases from deviations from the guidelines set forth in this rule to meet the capabilities and skills available individually at the department's maintenance sheds and/or local road departments. In such cases, Region Directors of the department and local officials should together evaluate the guidelines and deviate from them as necessary and as mutually agreed upon, to meet the needs of a specific situation. Open and frequent communication supported by a written agreement is strongly encouraged.

**R918-6-3. Definitions.**

For the purpose of this rule, the following definitions apply[-]:

(1) "At-grade intersection" means a surface street intersection that may be signalized or unsignalized, where one or more of the intersecting streets are state routes;

(2) "Department", or "UDOT", means the Utah Department of Transportation;

(3) "Full control of access", means access to adjoining land that is designated as no access or limited access by means of the right-of-way instrument;

(4) "Grade-separated interchange" means an intersection where the state road or interstate highway and the local road are separated from each other by one or more structures, and where access between the two roads is provided by means of entrance and exit ramps;

(5) "Local road" means any road under the jurisdiction of any public entity other than UDOT. The entity may be a county, a municipality, or an agency of the federal government[-];

(6) "Overcrossing" means a grade-separated intersection where no access between the intersecting roadways is provided, and where the state road or interstate highway crosses over the local road[-];

(7) "Undercrossing" means a grade-separated intersection where no access between the intersecting roadways is provided, and where the state road or interstate highway crosses under the local road.[-]

(8) "Grade-separated interchange" means an intersection where the state road or interstate highway and the local road are separated from each other by one or more structures, and where access between the two roads is provided by means of entrance and exit ramps;

(9) "At-grade intersection" means a surface street intersection that may be signalized or unsignalized, where one or more of the intersecting streets are state routes;

(10) "Department", or "UDOT", means the Utah Department of Transportation;

(11) "Full control of access", means access to adjoining land that is designated as no access or limited access by means of the right-of-way instrument.[-]

**R918-6-4. General Maintenance Responsibilities.**

(1) Signal Systems. Maintenance responsibility for all signal systems on state roads, and components that are required for the functionality of those systems, belongs to UDOT. This includes detection and signing on the local legs of the intersection.

(2) Park Strips, Sidewalks, and Pedestrian Ramps. Maintenance responsibility for park strips and sidewalks, including that portion of pedestrian access ramps behind the curb, belongs to the local government. Replacement and upgrading as part of road improvement projects may be done by UDOT.

(3) Curb and Gutter. Maintenance responsibility for curb and gutter belongs to UDOT for state routes, and to the local government for local routes. UDOT responsibility on the local leg extends to the point of tangency of the curb radius.

(4) Snow Removal. Responsibility for snow removal from the roadway belongs to UDOT for state routes, and to the local government for local routes. UDOT is responsible for snow removal on ramps at interchanges on state routes.

(5) Pavement Maintenance. Responsibility for roadway pavement maintenance belongs to UDOT for state routes, and to the local government for local routes. This includes the pavement surface on or under bridges. For at-grade intersections, UDOT is responsible for pavement maintenance through the intersection, bounded by a line extending to the point of tangency of the edge of oil, or of the curb return if a curb exists, on the local leg. If the geometry of the approach is unusual, such as angled instead of rounded, UDOT responsibility shall extend to a point agreeable to both parties. In no case, however, shall UDOT responsibility extend beyond the right-of-way line. UDOT is responsible for pavement maintenance on ramps at interchanges on state routes.

(6) Traffic Islands. Responsibility for traffic islands belongs to UDOT for state routes, and to the local government for local routes. For at-grade intersections, UDOT is responsible for island maintenance through the intersection. Maintenance responsibility for any landscaping within traffic islands is described in R918-6-4(15).

(7) Pavement Striping and Messages. Responsibility for pavement striping and marking belongs to UDOT for state routes, and to the local government for local routes. Local jurisdiction responsibility includes stop bars and crosswalks on the local legs of unsignalized intersections. At signalized intersections, UDOT is responsible for stop bars and crosswalks on all legs, and the local government is responsible for lane lines and other markings or messages on the local legs.

(8) Highway Lighting. Responsibility for maintenance, including payment of power bills, repairs and replacement when necessary, of highway lighting is divided as follows.

(a) UDOT is responsible for:

- (i) mainline interstate, interchange, and interstate underpass lighting;
- (ii) cross street underpass lighting at interchanges with on/off ramps;
- (iii) sign lighting on state routes or along the interstate corridor;
- (iv) traffic signals on state routes or interstate corridor off ramps;
- (v) [~~un-signalized~~] unsignalized intersection lighting at on or off ramp intersecting cross street; and

(vi) signal-attached lighting at non-traditional signalized intersections, such as Diverging Diamond Interchanges (DDI), and Single Point Urban Interchanges (SPUI).

(b) Local government is responsible for:

- (i) street lighting along state routes, other than interstate;
- (ii) non-interstate cross street underpass lighting where no interchange on or off ramps occur;
- (iii) all decorative lighting requested by the municipality or county including street, bridge, and underpass lighting; and
- (iv) lighting at traditional signalized intersections along state routes.

(9) Signs. Responsibility for signs belongs to UDOT for signs facing traffic on state routes, and to the local government for signs facing traffic on local routes, with the exception that UDOT is responsible for traffic control, route marker, junction, and guide signs associated with a state route but facing traffic on a local route. For STOP and YIELD signs on the local legs of unsignalized intersections, the local government is responsible for initial installation[~~and~~], non-safety critical maintenance such as minor vandalism, graffiti, or leaning, and coordination with UDOT to identify and correct fading (loss of retroreflectivity), and UDOT is responsible for safety critical maintenance such as replacement of knock-downs. At signalized intersections, UDOT is responsible for signs mounted on the signal mast arm. UDOT will coordinate the installation of signs on local routes with the local agency prior to sign installation. The local government is responsible for street name signs, except those mounted on signal mast arms.

(10) Crash Cushions, Barrier, Etc. Responsibility for crash cushions, barrier, guardrail, and end treatments, belongs to UDOT for those elements protecting traffic on state routes, and to the local government for those protecting traffic on local routes.

(11) Sweeping. Responsibility for roadway sweeping belongs to UDOT for state routes, and to the local government for local routes. UDOT is responsible for sweeping on ramps at interchanges.

(12) Graffiti. Graffiti removal from structures is the responsibility of the entity having the best access to the graffiti. In general, that is the entity having jurisdiction of the road underneath the structure.

(13) Cattle Guards. UDOT provides cattle guards within the rural area of the State at all freeway access points to fully controlled access highways, either on the cross road or the entrance ramps, as necessary to meet the requirements of the particular location. Responsibility for maintenance of these cattle guards belongs to UDOT. Where cattle guards exist along partially controlled access state roads, either across a local road or a private road, responsibility for maintenance of the cattle guard belongs to the local jurisdiction or to the private property owner.

(14) Weed Control. In accordance with Section 72-3-109, responsibility for weed control and mowing behind the curb or beyond the shoulder at at-grade intersections, both signalized and unsignalized, belongs to the local government. On facilities with full control of access, UDOT will be responsible for weed control and mowing to a point that ensures adequate sight distance.

(15) Decorative Landscaping. Responsibility for maintenance of landscaping beyond the baseline described in UDOT Aesthetics Guidelines, including irrigation systems, belongs to the local jurisdiction.

(16) Drainage Facilities such as catch basins, culverts, etc. In general, storm drain systems and culverts will be maintained by the owner of the drainage facility, unless otherwise stipulated in a cooperative agreement. Catch basins and their connector pipes at intersections will be maintained by the entity having jurisdiction for the road.

**R918-6-5. Maintenance Responsibility at Overcrossings and at Interchanges where the State Route Crosses Over the Local Route.**

- (1) UDOT is responsible for:
  - (a) maintenance, repairs, and replacement of all structure elements, including decks, parapets, bent caps, beams, columns, footings, abutments, approach slabs, and slope protection;
  - (b) maintenance of drains on the structure;
  - (c) maintenance of retaining walls;
  - (d) fence maintenance on the structure and its approaches and ramps; and
  - (e) vegetation control, including mowing, along the state route, as demarcated by access control or Right-of-Way fencing.
- (2) The local jurisdiction is responsible for:
  - (a) maintenance of drainage under the structure;
  - (b) vegetation control, including mowing, along the local route, as demarcated by access control or Right-of-Way fencing; and
  - (c) maintenance of decorative landscaping beyond the UDOT Aesthetics Guideline baseline, as described in R918-6-4(15).
- (3) If the local entity proposes a pavement treatment that would decrease vertical or horizontal clearance under the structure to less than the current standard, or that would potentially compromise the integrity of substructure elements, such work shall be done in consultation with UDOT.

**R918-6-6. Maintenance Responsibility at Undercrossings and at Interchanges where the State Route Crosses Under the Local Route.**

- (1) UDOT is responsible for:
  - (a) ~~major structure maintenance~~ Providing a bridge inspection summary for all structures to the local entity, indicating which recommended actions are the responsibility of the local entity;
  - (b) ~~major structure rehabilitation~~, including repair or replacement of parapets, bent caps, beams, columns, footings, abutments, approach slabs, and slope protection;
  - (~~b~~c) deck ~~maintenance~~ rehabilitation where necessary to preserve the structural integrity of the bridge such as where the rebar is exposed;
  - (~~e~~d) structural replacement of bridge joints;

- (e) maintenance of retaining walls;
- (~~d~~f) maintenance of drainage under the structure;
- (~~e~~g) vegetation control, including mowing, along the state route, as demarcated by access control or Right-of-Way fencing; and
- (~~f~~h) fence maintenance under the structure.
- (2) The local jurisdiction is responsible for:
  - (a) ~~minor deck and parapet maintenance which includes maintenance of the wearing surface down to the first mat of reinforcing steel, and of any bituminous surfacing above that.~~ routine maintenance and preventive maintenance actions indicated in the bridge inspection summary to be the responsibility of the local entity. This maintenance [should]normally includes [preventive sealing as well as repair of spalls and delaminations]deck overlay/seal treatments, deck pothole patching, parapet surface repair and sealing, bridge joint cleaning and sealing, and drain cleaning and maintenance. If UDOT performs a deck rehabilitation project involving pothole patching [-waterproofing membrane and asphalt overlay]and an overlay system, [the responsibility to maintain the asphalt wearing surface would also default to]the local owner is responsible to maintain the overlay upon completion of the initial installation. If the local entity proposes a deck treatment that would add static load to the structure, such work shall be done in consultation with UDOT;
  - (b) ~~maintenance of drains on the structure~~ submitting records to UDOT Structures Division of deck and parapet maintenance work performed by the local jurisdiction according to the recommendations in the bridge inspection summary. If the local jurisdiction does not perform the preventive maintenance work, and rehabilitation work becomes necessary, the local jurisdiction and UDOT will meet to negotiate how the cost of the rehabilitation work to be performed will be shared;
  - (c) fence maintenance on the structure and its approaches;
  - (d) vegetation control, including mowing, along the local route, as demarcated by access control or Right-of-Way fencing; and
  - (e) maintenance of decorative landscaping beyond the UDOT Aesthetics Guideline baseline, as described in R918-6-4(15).

**KEY: maintenance, intersections, interchanges, structures**  
**Date of Enactment or Last Substantive Amendment: [~~August 20, 2012~~2018**  
**Notice of Continuation: July 19, 2017**  
**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-1-208; 72-3-102; 72-3-103; 72-3-104; 72-3-109; 72-6-105.**

**End of the Notices of Proposed Rules Section**



## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

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### Natural Resources, Wildlife Resources **R657-19**

#### Taking Nongame Mammals

##### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 42382

FILED: 12/14/2017

##### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this emergency rule is to regulate the taking of Nongame mammals.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule make it consistent with new guidelines issued by the federal Fish and Wildlife Service in regards to the management of Utah Prairie Dogs. (EDITOR'S NOTE: A corresponding proposed amendment of Rule R657-19 is under Filing No. 42377; and the 120-day (emergency) rule filing for Rule R657-70 that is effective as of 12/14/2017 is under Filing No. 42383 in this issue, January 1, 2018, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 16 U.S.C. 1531 et seq. and 50 CFR 17.40(g)

and Section 23-13-3 and Section 23-14-18 and Section 23-14-19

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

**JUSTIFICATION:** The Utah prairie dog is listed as "threatened" under the Endangered Species Act, and its management has been the subject of ongoing litigation in the case of People for the Ethical Treatment of Property Owners v. U.S. Fish and Wildlife Service, et al. and Friends of Animals (Case No. 2:13-cv-00278). In November 2014, Judge Dee Benson issued a decision declaring that the species could not be listed under the Endangered Species Act on non-federal lands, and as such the state of Utah held management authority in those circumstances. This prompted the development of a specific rule for management of the Utah prairie dog (Rule R657-70) and modification of the Division of Wildlife Resources' (DWR) nongame rule (Rule R657-19). The 10th Circuit Court of Appeals recently overturned the District Court's decision, returning full management authority to the federal government. As some provisions of Rule R657-70 may violate terms of the Endangered Species Act, repealing that rule is necessary. Rule R657-19 will largely be restored to the format it was in prior to the issuance of the District Court's decision, with two substantive changes: one in Subsection R657-19-7(5) and one in Subsection R657-19-7(6). These changes are necessary to be consistent with the

federal rules regulating the take of Utah prairie dogs. The first specifies the dates of allowable take for Utah prairie dogs, and the second specifies the totals for range-wide take of Utah prairie dogs. The remaining differences between this version of Rule R657-19 and its format prior to the issuance of the District Court's decision are nonsubstantive, i.e. changes in zip codes, but are necessary to ensure proper administration of the rule and associated permits.

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. DWR has determined that these amendments will not create any cost or savings to the state budget or DWR's budget, and all changes in the workload can be carried out within their existing budget.

◆ **LOCAL GOVERNMENTS:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. While these amendments alone do not create any direct costs to local governments, it is anticipated that the transition to federal management authority mandated by the District Court's decision may increase costs and burdens on local governments.

◆ **SMALL BUSINESSES:** These amendments are necessary to align state rules to a recent court decision and applicable federal laws. While these amendments alone do not create any direct costs to small businesses, it is anticipated that the transition to federal management authority necessitating these amendments may increase costs and burdens on small businesses and citizens affected by Utah prairie dogs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments are necessary to align state rules to a recent court decision and applicable federal laws. While the amendments alone do not create any direct costs to other persons, it is anticipated that the transition to federal management authority necessitating these amendments may increase costs and burdens on other persons and citizens affected by Utah prairie dogs.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The federal management authority has oversight and costs for federal compliance is unknown at this time.

**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 Office 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

EFFECTIVE: 12/14/2017

AUTHORIZED BY: Mike Fowlks, Deputy Director

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

**R657-19. Taking Nongame Mammals.**

**R657-19-1. Purpose and Authority.**

(1) Under authority of Sections 23-13-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking and possessing nongame mammals.

(2) A person capturing any live nongame mammal for a personal, scientific, educational, or commercial use must comply with R657-3 Collection, Importation, Transportation and Subsequent Possession of Zoological Animals.

**R657-19-2. Definitions.**

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

(2) In addition:

(a) "Immediate family" means the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.

(b) "Nongame mammal" means:

(i) any species of bats;

(ii) any species of mice, rats, or voles of the families Heteromyidae, Cricetidae, or Zapodidae;

(iii) opossum of the family Didelphidae;

(iv) pikas of the family Ochotonidae;

(v) porcupine of the family Erethizontidae;

(vi) shrews of the family Soricidae; and

(vii) squirrels, prairie dogs, and marmots of the family Sciuridae[~~excluding Utah prairie dogs, *Cynomys parvidens*].~~

**R657-19-3. General Provisions.**

(1) A person may not purchase or sell any nongame mammal or its parts.

(2)(a) The live capture of any nongame mammals is prohibited under this rule.

(b) The live capture of nongame mammals species may be allowed as authorized under Rule R657-3.

(3) Section 23-20-8 does not apply to the taking of nongame mammal species covered under this rule.

**R657-19-4. Nongame Mammal Species - Certificate of Registration Required.**

(1) A certificate of registration is required to take any of the following species of nongame mammals:

(a) bats of any species; and

(b) pika - *Ochotona princeps*.

(2) A certificate of registration is required to take any shrew - Soricidae, all species.



(3) A certificate of registration is required to take a Utah prairie dog, *Cynomys parvidens*, as provided in Sections R657-19-6, R657-19-7, R657-19-8 and R657-19-9.

(4) A certificate of registration is required to take any of the following species of nongame mammals in Washington County:

- (a) cactus mouse - *Peromyscus eremicus*;
- (b) kangaroo rats - *Dipodomys*, all species;
- (c) Southern grasshopper mouse - *Onychomys torridus*;

and

(d) Virgin River montane vole - *Microtus montanus rivularis*, which occurs along stream-side riparian corridors of the Virgin River.

(5) A certificate of registration is required to take any of the following species of nongame mammals in San Juan and Grand counties:

- (a) Abert squirrel - *Sciurus aberti*;
- (b) Northern rock mouse - *Peromyscus nasutus*; and
- (c) spotted ground squirrel - *Spermophilus spilosoma*.

(6) The division may deny a certificate of registration to any applicant, if:

- (a) the applicant has violated any provision of:
  - (i) Title 23 of the Utah Code;
  - (ii) Title R657 of the Utah Administrative Code;
  - (iii) a certificate of registration;
  - (iv) an order of the Wildlife Board; or
  - (v) any other law that bears a reasonable relationship to the applicant's ability to safely and responsibly perform the activities that would be authorized by the certificate of registration;
- (b) the applicant misrepresents or fails to disclose material information required in connection with the application;
- (c) taking the nongame mammal as proposed in the application violates any federal, state or local law;
- (d) the application is incomplete or fails to meet the issuance criteria set forth in this rule; or
- (e) the division determines the activities sought in the application may significantly damage or are not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

**R657-19-5. Nongame Mammal Species - Certificate of Registration Not Required.**

(1) All nongame mammal species not listed in Section R657-19-4 as requiring a certificate of registration, may be taken:

- (a) without a certificate of registration;
- (b) year-round, 24-hours-a-day; and
- (c) without bag or possession limits.

(2) A certificate of registration is not required to take any of the following species of nongame mammals, however, the taking is subject to the provisions provided under Section R657-19-10:

- (a) White-tailed prairie dog, *Cynomys leucurus*; and
- (b) Gunnison prairie dog, *Cynomys gunnisoni*.

**R657-19-6. Utah Prairie Dog Provisions.**

(1)(a) A person may not take a Utah Prairie dog, *Cynomys parvidens*, without first obtaining a certificate of registration from the division.

(b) A certificate of registration for taking Utah prairie dogs may be issued as provided in Subsection (i) or Subsection (ii), or Subsection (iii), if the taking will not further endanger the existence of the species:

(i) in cases where Utah Prairie dogs are causing damage to agricultural lands as provided in the rules of the U.S. Fish and Wildlife Service; or

(ii) as provided in a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service under an approved Habitat Conservation Plan; or

(iii) as provided under a valid Incidental Take permit issued by the U.S. Fish and Wildlife Service allowing take of Utah prairie dogs on specified private lands as part of an approved conservation agreement enacted between the U.S. Fish and Wildlife Service and the owner of those private lands.

(c) A person may apply for a certificate of registration at the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721.

(d) A landowner, lessee, or their immediate family member, or an employee on a regular payroll and not hired specifically to take Utah prairie dogs, may apply for a certificate of registration.

(e)(i) A person, other than those listed in Subsection (d), may apply for a certificate of registration to take Utah prairie dogs as a designee of the landowner or lessee provided the application includes:

(A) an explanation of the need for the certificate of registration to be issued;

(B) justification for utilization of the designee; and

(C) the landowner or lessee's signature.

(ii) A maximum of two designee certificates of registration may be issued per landowner or lessee.

(iii) Each designee application shall be considered individually based upon the explanation and justification provided.

(f) An application for a certificate of registration must include:

(i) full name;

(ii) complete mailing address;

(iii) phone number;

(iv) date of birth;

(v) weight and height;

(vi) gender;

(vii) color of hair and eyes;

(viii) social security number;

(ix) driver's license number, if issued;

(x) proof of hunter education certification if the applicant was born after December 31, 1965; and

(xi) the township, range, section and 1/4 section of the agricultural lands where the prairie dogs will be taken.

(g) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(h) After review of the application, a certificate of registration may be issued.

(i) A maximum of four certificates of registration may be issued to any landowner or lessee, including those issued to the landowner or lessee's designees.

(j) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom the certificate of registration is issued.

(k) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(l) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(2)(a) A person may take Utah prairie dogs with a firearm during daylight hours or by trapping as specified on the certificate of registration.

(b) A person may not use any chemical toxicant to take Utah prairie dogs.

(c) In addition to the requirements of this rule, any person taking Utah prairie dogs must comply with state laws, and local ordinances and laws.

(d) A person at least 14 years of age and under 16 years of age who takes Utah Prairie dogs must be accompanied by an adult with a valid certificate of registration to take Utah Prairie dogs on the same property.

**R657-19-7. Areas Open to Taking Utah Prairie Dogs -- Dates Open --Limits on Number of Utah Prairie Dogs Taken.**

(1) A person who obtains a valid certificate of registration may take Utah prairie dogs only on private lands within the following counties:

- (a) Beaver;
- (b) Garfield;
- (c) Iron;
- (d) Kane;
- (e) Millard;
- (f) Piute;
- (g) Sanpete;
- (h) Sevier;
- (i) Washington; and
- (j) Wayne.

(2) Taking of a Utah prairie dog on any land or by any method, other than as provided in the valid certificate of registration, including any public land, is a violation of state and federal law.

(3) Any person, who is specifically named on a valid certificate of registration, may remove Utah prairie dogs, as provided in the certificate of registration.

(4) The taking of any Utah prairie dog outside the areas provided in this section is prohibited, except by division employees while acting in the performance of their assigned duties.

(5) The taking of Utah prairie dogs is limited to the dates designated on the certificate of registration. All dates are confined to June 15 through December 31, except as provided in Subsection R657-19-6(1)(b)(iii).

(6)(a) A person may take only the total number of Utah prairie dogs designated in the certificate of registration, except as provided in Subsection R657-19-6(1)(b)(iii).

(b) The total annual range-wide take of Utah prairie dogs and the total annual take of Utah Prairie dogs on agricultural lands is governed by federal law.

(c) If the division determines that taking Utah prairie dogs has an adverse effect on conservation of the species, taking shall be further restricted or prohibited.

**R657-19-8. Monthly Reports of Take of Utah Prairie Dogs.**

(1) The following information must be reported to the division's southern regional office, 1470 North Airport Road, Suite 1, Cedar City, Utah 84721, every 30 days:

(a) the name and signature of the certificate of registration holder;

(b) the person's certificate of registration number;

(c) the number of Utah prairie dogs taken; and

(d) the location, method of take, and method of disposal of each Utah prairie dog taken during the 30-day period.

(2) Failure to report the information required in Subsection (1), within 30 days, may result in the denial of future applications for a certificate of registration to take Utah prairie dogs.

**R657-19-9. Unlawful Possession of Utah Prairie Dogs.**

A person may not possess a Utah prairie dog or its parts, without first obtaining a valid certificate of registration and a federal permit.

**R657-19-10. White-tailed and Gunnison Prairie Dogs.**

(1)(a) A license or certificate of registration is not required to take either white-tailed or Gunnison prairie dogs.

(b) There are no bag limits for white-tailed or Gunnison prairie dogs for which there is an open season.

(2)(a) White-tailed prairie dogs, *Cynomys leucurus*, may be taken in the following counties from January 1 through March 31, and June 16 through December 31:

- (i) Carbon County;
- (ii) Daggett County;
- (iii) Duchesne County;
- (iv) Emery County;
- (v) Morgan;
- (vi) Rich;
- (vii) Summit County;
- (viii) Uintah County, except in the closed area as provided in Subsection (2)(b)(i);
- (ix) Weber; and
- (x) all areas west and north of the Colorado River in Grand and San Juan counties.

(b) White-tailed prairie dogs, *Cynomys leucurus*, may not be taken in the following closed area in order to protect the reintroduced population of black-footed ferrets, *Mustela nigripes*:

(i) Boundary begins at the Utah/Colorado state line and Uintah County Road 403, also known as Stanton Road, northeast of Bonanza; southwest along this road to SR 45 at Bonanza; north along this highway to Uintah County Road 328, also known as Old Bonanza Highway; north along this road to Raven Ridge, just south of US 40; southeast along Raven Ridge to the Utah/Colorado state line; south along this state line to point of beginning.

(3) The taking of White-tailed prairie dogs, *Cynomys leucurus*, is prohibited from April 1 through June 15, except as provided in Subsection (5).

(4)(a) The taking of Gunnison prairie dogs, *Cynomys gunnisoni*, is prohibited in all areas south and east of the Colorado River, and north of the Navajo Nation in Grand and San Juan counties from April 1 through June 15.

(b) Gunnison prairie dogs may be taken in the area provided in Subsection (4)(a) from June 16 through March 31.

(5) Gunnison prairie dogs and White-tailed prairie dogs causing agricultural damage or creating a nuisance on private land may be taken at any time, including during the closed season from April 1 through June 15.

**R657-19-[7-]11. Violation.**

(1) Any violation of this rule is a Class C misdemeanor as provided in Section 23-13-11(2).

(2) In addition to this rule any animal designated as a threatened or endangered species is governed by the Endangered Species Act and the unlawful taking of these species may also be a violation of federal law and rules promulgated thereunder.

(3) Pursuant to Section 23-19-9, the division may suspend a certificate of registration issued under this rule.

**KEY: wildlife, game laws**

**Date of Enactment or Last Substantive Amendment: December 14, 2017**

**Notice of Continuation: August 5, 2013**

**Authorizing, and Implemented or Interpreted Law: 23-13-3; 23-14-18; 23-14-19**

## Natural Resources, Wildlife Resources R657-70 Taking Utah Prairie Dogs

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 42383

FILED: 12/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** As some provisions of Rule R657-70 may violate terms of the Endangered Species Act, repealing this rule is necessary.

**SUMMARY OF THE RULE OR CHANGE:** The rule is being repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 16 U.S.C. 1531 et seq. and 50 CFR 17.40(g) and Section 23-13-3 and Section 23-14-18 and Section 23-14-19

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

**JUSTIFICATION:** The Utah prairie dog is listed as "threatened" under the Endangered Species Act, and its management has been the subject of ongoing litigation in the case of *People for the Ethical Treatment of Property Owners v. U.S. Fish and Wildlife Service, et al. and Friends of Animals* (Case No. 2:13-cv-00278). In November 2014, Judge Dee Benson issued a decision declaring that the species could not be listed under the Endangered Species Act on non-federal lands, and as such the state of Utah held management authority in those circumstances. This prompted the development of a specific rule for management of the Utah prairie dog (Rule R657-70) and modification of the Division of Wildlife Resource's (DWR) nongame rule (Rule R657-19). The 10th Circuit Court of Appeals recently overturned the District Court's decision, returning full management authority to the federal government. As some provisions of Rule R657-70 may violate terms of the Endangered Species Act, repealing this rule is necessary. Rule R657-19 will largely be restored to the format it was in prior to the issuance of the District Court's decision, with two substantive changes: one in Subsection R657-19-7(5) and one in Subsection R657-19-7(6). These changes are necessary to be consistent with the federal rules regulating the take of Utah prairie dogs. The first specifies the dates of allowable take for Utah prairie dogs, and the second specifies the totals for range-wide take of Utah prairie dogs. (EDITOR'S NOTE: A corresponding proposed repeal of Rule R657-70 is under Filing No. 42378; and the 120-day (emergency) rule filing for Rule R657-19 that is effective as of 12/14/2017 is under Filing No. 42382 in this issue, January 1, 2018, of the Bulletin.)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This repeal is necessary to align state rules to a recent court decision and applicable federal laws. DWR has determined that this repeal will not create any cost or savings to the state budget or DWR's budget, and all changes in the workload can be carried out within their existing budget.

♦ **LOCAL GOVERNMENTS:** This repeal is necessary to align state rules to a recent court decision and applicable federal laws. While this rule repeal alone does not create any direct costs to local governments, it is anticipated that the transition to federal management authority mandated by the District Court's decision may increase costs and burdens on local governments.

♦ **SMALL BUSINESSES:** This repeal is necessary to align state rules to a recent court decision and applicable federal laws. While this repeal alone does not create any direct costs to small businesses, it is anticipated that the transition to federal management authority necessitating this repeal may increase costs and burdens on small businesses and citizens affected by Utah prairie dogs.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This repeal is necessary to align state rules to a recent court decision and applicable federal laws. While this repeal alone does not create any direct costs to other persons, it is anticipated that the transition to federal management authority necessitating this repeal may increase costs and

burdens on other persons and citizens affected by Utah prairie dogs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that this rule repeal will not create costs or savings to individuals in Utah participating in the Prairie Dog program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this rule repeal will not result in a fiscal impact to 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 Office 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

EFFECTIVE: 12/14/2017

AUTHORIZED BY: Mike Fowlks, Deputy Director

### R657. Natural Resources, Wildlife Resources.

#### [R657-70. Taking Utah Prairie Dogs.

##### R657-70-1. Purpose and Authority.

(1) Under authority of Sections 23-14-1, 23-14-3, 23-14-18 and 23-14-19, this rule provides the standards and requirements for taking Utah prairie dogs.

(2) A person capturing any live Utah prairie dog for a personal, scientific, educational, or commercial use must comply with rule R657-3, Collection, Importation, Transportation and Possession of Animals.

##### R657-70-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.  
(2) Additional terms used in this rule are defined as follows:

(a) "Agriculture land" means any mapped, non-federal property that is used or has been used in the previous five (5) years for production of a cultivated crop or irrigated pasture that is harvested or grazed.

(b) "Certificate of registration" means a document issued by the division authorizing a person or entity to take a Utah prairie dog.

(c) "Developed land" means any mapped, non-federal property that is:

(i) developed or improved for public use and where Utah prairie dogs threaten human health, safety or welfare, including parks, playgrounds, public facilities, sports fields, golf courses, school yards, churches, areas of cultural or religious significance, improved roads, transportation systems, etc.; or

(ii) within 50 feet of an occupied, residential or commercial structure, or greater distance where prairie dogs threaten human health, safety or welfare on developed curtilage, including lawns, landscaping, gardens, driveways, etc.

(d) "Developable land" means any mapped, non-federal property that does not have structures or improvements on the surface of the property, excluding utilities, on which construction of permanent structures or improvements is proposed.

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

(f) "Federal land" means all lands in the State of Utah owned by the United States government, including Forest Service, Bureau of Land Management, Bureau of Reclamation, Department of Defense, National Park Service, Bureau of Indian Affairs, National Monument, and National Recreation Area lands.

(g) "Immediate family" means a landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, and grandchild.

(h) "Landowner" means the person(s) or entity holding fee title to real property impacted by Utah prairie dogs.

(i) "Lessee" means the person(s) or entity leasing or renting under written contract real property impacted by Utah prairie dogs.

(j) "Mapped" means areas within the state identified and documented since 1972 by the division as currently or historically occupied by Utah prairie dogs, excluding mapped areas with a spring count of zero (0) animals in the current year and the preceding four (4) years.

(k) "Non-federal lands" means all lands in the State of Utah that are not owned by the United States government.

(l) "Productivity" means the segment of a population represented by young of the year, and is calculated by multiplying the spring count (animals observed) by 2 (animals underground), and multiplying that figure by 67% (percent females in the population), and multiplying that figure by 97% (percent females that breed), and multiplying that figure by 4 (average litter size).

(m) "Protected land" means federal and non-federal property that is set aside for the preservation of Utah prairie dogs and protected specifically or primarily for that purpose. Protective mechanisms can include conservation easements, fee title purchases, regulatory designations, etc.

(n) "Rangeland" means any mapped, non-federal property that is used or has been used in the previous five (5) years for grazing livestock, and is neither cultivated nor irrigated.

(o) "Recovery unit" means one of the three geographic areas established by the Utah Prairie Dog Recovery Team for the protection and management of Utah prairie dogs—West Desert Recovery Unit, Paunsaugunt Recovery Unit, and Awapa Plateau Recovery Unit. Maps and boundaries of these units may be obtained from the division.

(p) "Unmapped" means any area of the state on non-federal land that is not classified as mapped by the division.

(q) "Utah prairie dog" or "prairie dog" means the genus and species *Cynomys parvidens*.

##### R657-70-3. Legal Status of Utah Prairie Dog.

(1) On federal land, the Utah prairie dog is listed as threatened under the Endangered Species Act of 1973 and subject to

the federal laws, authorities and jurisdictions applicable to listed species:

(a) A person may not take a prairie dog on federal land, except as authorized by the:

(i) United States Fish and Wildlife Service and the federal regulations applicable to the species; and

(ii) division pursuant to this rule.

(2) On non-federal land, the Utah prairie dog is not subject to the Endangered Species Act of 1973 and is managed by State of Utah through the division.

(a) A person may not take a prairie dog on non-federal land, except as authorized by the Wildlife Code and this rule.

**R657-70-4. Take of Utah Prairie Dogs on Federal Land.**

(1) A person may not take a Utah prairie dog on federal land:

(a) except as authorized by the U.S. Fish and Wildlife Service and federal regulation; and

(b) without obtaining a certificate of registration from the division.

(2) Notwithstanding Subsection (1)(b), a certificate of registration is not required when a person receives an incidental take permit from the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.

**R657-70-5. Take of Utah Prairie Dogs in Inhabited Structures on Non-federal Land.**

(1)(a) Notwithstanding R657-70-13, any person, with the consent of the owner or lessee, may take a Utah prairie dog on non-federal land that is within the interior of a structure inhabited or occupied by people.

(b) For purposes of this section, an inhabited or occupied structure means a building where people live, work, or visit, such as a home, apartment, hotel, commercial or public office, public building, church, store, warehouse, business, work shop, restaurant, etc.

(2) A certificate of registration or prior notice to the division is not required to take a prairie dog under this section.

(3) A person that takes a prairie dog under this section is required to submit a monthly report to the division under R657-70-15.

**R657-70-6. Take of Utah Prairie Dogs on Unmapped Land.**

(1) A person may not take a Utah prairie dog on unmapped land, except as provided in this section and R657-70-8.

(2) A landowner or lessee of unmapped land may take a prairie dog on that land without a certificate of registration, provided:

(a) the division is notified prior to take and the property where take will occur is confirmed by the division to be unmapped land;

(b) take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;

(c) take is restricted to the unmapped land owned by the landowner, or leased by the lessee; and

(d) the methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;

(3) Prairie dogs may be taken pursuant to this section year-round and without numerical limitation.

(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.

**R657-70-7. Take of Utah Prairie Dogs on Developed Land.**

(1) A person may not take a Utah prairie dog on developed land, excepted as provided in this section and R657-70-8.

(2) A landowner or lessee of developed land may take a prairie dog on that land without a certificate of registration, provided:

(a) The division is notified prior to take and the property where take will occur is confirmed by the division to be developed land;

(b) Take is performed exclusively by the individuals and under the conditions set forth in R657-70-13;

(c) Take is restricted to the developed land owned by the landowner, or leased by the lessee; and

(d) The methods utilized to take prairie dogs are consistent with the limitations in R657-70-14;

(3) Prairie dogs may be taken pursuant to this section year around and without numerical limitation.

(4) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.

**R657-70-8. Local Law Enforcement Take of Utah Prairie Dogs on Non-federal Land.**

(1)(a) Upon request of a county, the division may issue a certificate of registration to the sheriff and deputies of that county authorizing them to take Utah prairie dogs threatening public health, safety or welfare on non-federal land within the municipal boundaries of any city or town in the county.

(b) Upon request of a city or town, the division may issue a certificate of registration to the law enforcement authority of that city or town authorizing it to take Utah prairie dogs threatening public health, safety or welfare on non-federal land within the municipal boundaries of the city or town.

(2) A certificate of registration issued to a law enforcement authority under this section may permit lethal take or live trapping and relocation to a division approved release site.

(3) A county sheriff or the municipal law enforcement authority issued a certificate of registration under this section will report annually or upon request by the division, the number of prairie dogs lethally removed and the number captured and relocated, including the release site locations.

**R657-70-9. Range-wide Take Limit for Developable Land, Agriculture Land, and Rangeland.**

(1) Except as provided in Subsection (2), no more than 6,000 Utah prairie dogs will be authorized for range-wide take annually on developable land, agriculture land, and rangeland.

(2)(a) When the range-wide spring count of adult prairie dogs on non-federal/non-protected lands exceeds 6,000 individuals, the annual 6,000 range-wide take limit will be increased by 1/2 the number counted in excess of 6,000.

(b) When, and as long as, the three year average spring count of adult prairie dogs on protected land in a single recovery unit reaches 2,000 individuals, all certificate of registration

requirements and numerical take limitations on non-federal/non-protected land in that recovery unit will be removed.

(i) All other restrictions on prairie dog take in the recovery unit will remain in place and enforceable.

(3) Prairie dog take on unmapped land, developed land, and inhabited structures does not count against the 6,000 animal annual limit.

**R657-70-10. Take of Utah Prairie Dogs on Developable Land.**

(1) A person may not take a Utah prairie dog on developable land without first obtaining a certificate of registration from the division.

(2)(a)(i) A person may obtain a certificate of registration to take prairie dogs on developable land when:

(A) a construction project is proposed for a parcel of developable land; and

(B) construction on the project is imminent.

(ii) The project proponent must notify the division prior to disturbing the surface of the ground or building a structure on developable land.

(b) Upon receiving notice of the proposed construction project, the division will survey the subject property for the presence of prairie dogs.

(i) If the property is not occupied by prairie dogs, the division will issue a written notification to the project proponent authorizing the project to proceed.

(ii) If prairie dogs are discovered on the property, the division will first attempt to trap and relocate the animals to the extent feasible and in coordination with the project proponent.

(A) Prairie dogs trapped and relocated from July 1 through October 1 are not counted against the range-wide prairie dog limit in R657-70-9.

(iii) If the project proponent declines to delay the project for trapping, or when trapping is determined complete, the division will issue a certificate of registration to the project proponent authorizing take of all prairie dogs present or remaining on the property.

(A) All take is counted against the range-wide prairie dog limit in R657-70-9.

(3) Notwithstanding the limitations in R657-70-13, take may be performed by any person authorized by the project proponent.

(4) Take is allowed only on the property proposed for the project and identified in the certificate of registration.

(5) Prairie dogs may be taken pursuant to this section year around.

**R657-70-11. Take of Utah Prairie Dogs on Agriculture Land.**

(1) A person may not take a Utah prairie dog on agriculture land without first obtaining a certificate of registration from the division, except as provided in R657-70-7.

(2) A landowner or lessee of agriculture land may apply to the division for a certificate of registration to take prairie dogs damaging their agriculture land.

(a) The application shall include the:

(i) applicant's full name, mailing address, and phone number;

(ii) applicant's status as an owner or lessee of the property;

(iii) landowner's signature, and consent when the applicant is a lessee;

(iv) name and identifying information for each individual designated by the applicant and eligible under R657-70-13 to take prairie dogs on the property; and

(v) township, range, section, 1/4 section, and parcel number of the agricultural land where the prairie dogs will be taken.

(b) An application for a certificate of registration must be submitted to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84721, or online when available.

(c) Upon receipt of an application, the division will determine the maximum number of Utah prairie dogs that may be taken on the property under a certificate of registration.

(i) The division will calculate the yearly maximum take using the following criteria:

(A) 50% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is 999 or less;

(B) 100% of prairie dog productivity on the property may be authorized for take when the three year average spring count on protected land in the recovery unit is between 1,000 and 1,249;

(C) 100% of prairie dog productivity and 33% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,250 and 1,499;

(D) 100% of prairie dog productivity and 66% of spring count on the property may be authorized for take when three year average spring count on protected land in the recovery unit is between 1,500 and 1,999; and

(E) Unlimited take is authorized without a certificate of registration when the three year average spring count on protected land in the recovery unit is 2,000 or greater.

(3)(a) After review of the application and determining the maximum take limit for the property, a certificate of registration may be issued.

(b) The certificate of registration will identify:

(i) the name of the property owner, lessee, or other person authorized to take prairie dogs on the property;

(ii) the maximum number of prairie dogs that may be taken on the property; and

(iii) a general description of the location and boundaries of the subject property.

(c) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

(d) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(e) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

(4) Prairie dogs allowed by the landowner or lessee to be trapped on the property and relocated by the division between July 1 and October 1 before lethal take will not count against the range-wide prairie dog limit in R657-70-9 or the property's maximum take limit identified on the certificate of registration unless the landowner or lessee is enrolled in the damage compensation program.

~~(5)(a) A landowner or lessee that obtains a certificate of registration to take prairie dogs on agriculture land and thereafter agrees with the division to allow trapping and relocation efforts on the property before lethally taking prairie dogs, may receive compensation for the damage caused by prairie dogs during the trapping period.~~

~~(i) Participation in the damage compensation program is voluntary on the part of the landowner or lessee and discretionary on the part of the division.~~

~~(ii) Only properties with a spring count of 50 or more prairie dogs are eligible for participation in the program.~~

~~(iii) Compensation will be based on the number of prairie dogs on the property and the associated damage estimate between May 1 and September 30.~~

~~(b)(i) A landowner or lessee must apply to participate in the damage compensation program by submitting a written application to the division that includes:~~

~~(A) the applicant's full name, mailing address; and phone number;~~

~~(B) the township, range, section, 1/4 section and parcel number of the agricultural land where the prairie dogs will be trapped;~~

~~(C) proof that the applicant is the fee title owner or lessee of the agricultural land where the prairie dogs will be trapped; and~~

~~(D) the landowner's signature, or the lessee's and landowner's signature when the applicant is the lessee.~~

~~(ii) An application to participate in the damage compensation program must be submitted:~~

~~(A) to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 8472, or online when available; and~~

~~(B) by May 15 of the year for which compensation is requested.~~

~~(iii) Applications for damage compensation will be evaluated by the division and granted based on the:~~

~~(A) availability of compensation funding;~~

~~(B) number and density of prairie dogs that the division determines are present on the property;~~

~~(C) ease and efficiency by which prairie dogs can be trapped and relocated;~~

~~(D) availability of release sites;~~

~~(E) availability of division personnel and funding to trap and relocate; and~~

~~(F) degree of expected damage during the trapping period.~~

~~(iv) Nothing herein shall be construed as guaranteeing that an application to participate in the damage compensation program will be granted or that all persons desiring to participate in the program will have the opportunity to do so.~~

~~(c) Compensation for prairie dog damage will be based on the following criteria, regardless of the crop involved:~~

~~(i) the estimated number of prairie dogs on the property where trapping will occur;~~

~~(A) the division will estimate prairie dog numbers by counting visible prairie dogs on the property in the spring, doubling that number to account for adults below ground, and multiplying the result by 2.6 to account for juvenile production.~~

~~(ii) each adult prairie dog consuming 0.75 pounds of alfalfa a day and each juvenile 0.375 pounds a day;~~

~~(iii) adult prairie dogs causing damage five months per year and juveniles four months per year;~~

~~(iv) the market price of the alfalfa at the time the contract referenced in Subsection (d) is executed; and~~

~~(v) an additional 10% for damage to farming equipment and fences.~~

~~(d) The division will enter into a written contract with successful applicants possessing eligible property and a certificate of registration to take prairie dogs on their agriculture land that:~~

~~(i) suspends lethal removal efforts by the landowner or lessee until the division completes prairie dog trapping on the property; and~~

~~(ii) identifies the monetary compensation the landowner or lessee will receive from the division for seasonal prairie dog damage anticipated to occur.~~

~~(e) All prairie dogs trapped and relocated under a compensation agreement will count against the range-wide prairie dog limit in R657-70-9 and the property's maximum take limit identified on the certificate of registration.~~

~~(f) Once trapping is completed, the division will deduct the number of trapped prairie dogs from the certificate of registration's original take limit and notify the landowner or lessee:~~

~~(i) of the adjusted take limit; and~~

~~(ii) that removing prairie dogs from the property pursuant to the terms of the adjusted certificate of registration is permitted.~~

~~(6) The division may issue a certificate of registration authorizing a landowner or lessee to take prairie dogs dispersing from the property targeted for trapping under Subsections (4) or (5) to other areas of the property or adjacent properties that do not have a preexisting colony.~~

~~(7)(a) Only those people specifically identified in R657-70-13 and on a certificate of registration to take prairie dogs on agriculture land may do so.~~

~~(b) Take is restricted to the agriculture land owned by the landowner, or leased by the lessee.~~

~~(c) Prairie dogs may be taken on agriculture land only with firearms, archery equipment, and kill traps.~~

~~(d) Prairie dogs may be taken under this section from June 1 to December 31, and in number not to exceed that identified on the certificate of registration.~~

~~(8) A person that takes a prairie dog under this section shall submit a monthly report to the division, as provided in R657-70-15.~~

**R657-70-12. Take of Utah Prairie Dogs on Rangeland.**

~~(1) A person may not take a Utah prairie dog on rangeland without first obtaining a certificate of registration from the division.~~

~~(2) A landowner or lessee of rangeland may apply for and obtain a certificate of registration from the division to take prairie dogs damaging rangeland under the same procedures and conditions provided in R657-70-11 for taking prairie dogs on agriculture land; except monetary compensation is not available for rangeland damage.~~

**R657-70-13. Individuals Authorized to Take Utah Prairie Dogs on Federal and Non-federal Lands:**

(1) Except as provided in R657-70-8 and R657-70-10(3), only the following individuals may take a Utah prairie dog when take is authorized under the provisions of this chapter:

- (a) landowner;
- (b) lessee, when authorized by the landowner to take prairie dogs on the property;
- (c) immediate family member of the landowner or lessee, when authorized by the landowner to take prairie dogs on the property;
- (d) employee of the landowner or lessee that is on a regular payroll and not hired specifically to take prairie dogs, when authorized by the landowner to take prairie dogs on the property; and
- (e) designee of the landowner or lessee that possesses a certificate of registration from the division, as provided in Subsection (2).

(2)(a) A person other than a landowner, lessee, or their immediate family member, or an employee on a regular payroll not hired specifically to take prairie dogs, may apply for a certificate of registration to take prairie dogs as a designee of the landowner or lessee, provided the application includes:

- (i) the applicant's:
  - (A) full name;
  - (B) complete mailing address;
  - (C) phone number;
  - (D) date of birth;
  - (E) weight and height;
  - (F) gender; and
  - (G) color of hair and eyes;
- (ii) the township, range, section, 1/4 section and parcel number of the agricultural lands where the prairie dogs will be taken;
- (iii) justification for utilization of the designee;
- (iv) the landowner's signature or the lessee's and landowner's signature when the applicant is the lessee's designee; and
- (v) verification that the designee will not pay or receive any form of compensation for taking prairie dogs on the landowner's or lessee's property.

(b) An application for a certificate of registration must be submitted to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84721 or online when available.

(c) A maximum of two designee certificates of registration may be issued per landowner and lessee each year.

(d) Each designee application shall be considered individually based upon the information, explanation and justification provided.

(e) An applicant must be at least 14 years of age at the time of application and must abide by the provisions for children being accompanied by adults while hunting with a weapon pursuant to Section 23-20-20.

(f)(i) After review of the application, a certificate of registration may be issued:

(ii) A certificate of registration shall be issued on an individual basis and shall be valid only for the person to whom it is issued.

(iii) A certificate of registration is not transferrable and must be signed by the holder prior to use.

(g) If the application and permitting process is accomplished by U.S. Mail, the certificate of registration shall only become valid after a copy of the signed certificate of registration is received by the division's southern regional office.

**R657-70-14. Methods of Take.**

(1)(a) A person authorized to take a Utah prairie dog under this chapter may lethally remove the animal using any means permitted by state, local, and federal law.

(b) Environmental Protection Agency regulations currently prohibit the use of toxicants and fumigants on Utah prairie dogs.

(2) Except as provided in R657-70-8 or as authorized by the division in a certificate of registration, a person may not:

- (a) capture or attempt to capture a prairie dog alive;
- (b) possess a live prairie dog; or
- (c) release a prairie dog to the wild.

**R657-70-15. Monthly Reports on Take of Utah Prairie Dogs.**

(1) The following information must be reported every 30 days to the division's southern region office at 1470 North Airport Road, Suite 1, Cedar City, Utah 84720, or online when available:

- (a) the name and signature of the landowner, lessee, or certificate of registration holder;
- (b) the person's certificate of registration number (where applicable);
- (c) the number of prairie dogs taken; and
- (d) the location and method of disposal of each prairie dog taken during the 30-day period.

(2) Failure to report the information required in Subsection (1), within 30 days, may result in the denial of future opportunity to take prairie dogs.

**R657-70-16. Take on Protected Land.**

(1) Notwithstanding any other provision in this chapter authorizing take of prairie dogs, a person may not take a Utah prairie dog on protected land set aside by contractual agreement or law for the protection and conservation of Utah prairie dogs.

**KEY: wildlife, game laws**

**Date of Enactment or Last Substantive Amendment: August 7, 2015**

**Authorizing, and Implemented or Interpreted Law: 23-14-1; 23-14-3; 23-14-18; 23-14-19]**

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



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Education, Administration **R277-705** Secondary School Completion and Diplomas

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

DAR FILE NO.: 42393  
FILED: 12/15/2017

### **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: Subsections 53A-1-402(1)(b) and (c) directs the Board of Education (Board) to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and Section 53A-1-401 allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state 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: Rule R277-705 continues to be necessary because it provides alternative methods for a student to earn credit and alternate methods for a school to award credit. Therefore, this rule should be continued.

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 12/15/2017

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## Environmental Quality, Administration **R305-8** Board Member Attendance Requirements

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

DAR FILE NO.: 42363  
FILED: 12/08/2017

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-1-201(1)(d) directs the Department of Environmental Quality (DEQ) to write rules about board member attendance.

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 regarding this rule over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires DEQ to create board member attendance rules. Consistent board member attendance at meetings is essential to ensuring stakeholder involvement in the administration of programs under the purview of the agency. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
ADMINISTRATION  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jenny Potter by phone at 801-536-0095, or by Internet E-mail at jmpotter@utah.gov

AUTHORIZED BY: Alan Matheson, Executive Director

EFFECTIVE: 12/08/2017

**Financial Institutions, Credit Unions  
R337-4**

**Establishment of "Credit Union Service Organizations"**

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

DAR FILE NO.: 42380  
FILED: 12/12/2017

**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 7-1-301(15) and Section 7-1-505 authorize the Commissioner with the powers, duties, and responsibilities with respect to institutions subject to the jurisdiction of the Department of Financial Institutions (Department) and direct the Commissioner to issue appropriate rules and regulations consistent with the purposes and provisions of this title governing the regulation,

supervision, and examination of those persons, institutions, or classes of institutions.

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 supporting or opposing written comments have been received by the Department concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule clarifies that the Department has jurisdiction over credit union service organizations and the activities of credit union service organizations. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
CREDIT UNIONS  
ROOM 201  
324 S STATE ST  
SALT LAKE CITY, UT 84111-2393  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 12/12/2017

**Health, Administration  
R380-42**

**Open and Public Meetings Act  
Electronic Meetings**

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

DAR FILE NO.: 42362  
FILED: 12/07/2017

**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 52-4-207 requires a state public body that holds electronic meetings to have a rule governing the use of electronic meetings. This rule establishes procedures for conducting electronic meetings by the Utah Department of Health.

**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 since the last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** Using electronic meetings allows the public to participate in meetings and keep the expense low. Therefore, this rule should be continued.

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

HEALTH  
ADMINISTRATION  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Tamara Hampton by phone at 801-538-6622, by FAX at 801-538-6306, or by Internet E-mail at [thampton@utah.gov](mailto:thampton@utah.gov)

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

**EFFECTIVE:** 12/07/2017

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## Human Services, Recovery Services **R527-39** Applicant/Recipient Cooperation

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42388  
FILED: 12/15/2017

### 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-11-104 gives ORS the authority to determine whether an applicant or recipient of cash assistance or Medicaid is cooperating in good faith as required by Section 62A-11-307.2. Section 62A-11-307.2 specifies that unless a good cause or other exception applies, the applicant/recipient must cooperate in good faith and provide the name and other identifying information of the other parent. In addition, the applicant/recipient must supply additional necessary

information and appear at interviews, hearings, and legal proceedings when it is necessary. When paternity needs to be established, the statute requires the applicant/recipient and the appropriate child to submit to genetic testing. Section 62A-11-307.2 also requires ORS to determine and redetermine, when appropriate, whether a recipient has cooperated in establishing paternity or in establishing, modifying, or enforcing a child support order. When a determination of non-cooperation is made, the statute requires ORS to provide notice to the applicant/recipient including information that the determination may be contested. This rule also describes the options available to an applicant/recipient who wishes to contest a non-cooperation determination when a good cause or other exception does not apply. Additionally, this rule explains that if an applicant/recipient disagrees with the Decision and Order that is issued, the recipient may request a reconsideration within a certain time frame, or petition the district court to review the order.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** There 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 should be continued because the statutes that require ORS to determine and redetermine whether an applicant/recipient of cash assistance or Medicaid is cooperating are still in effect. This rule provides ORS with the requirements that are necessary for the recipient/applicant to be considered cooperating. Also, this rule provides the applicant/recipient the additional option to contest a non-cooperation determination informally at the agency level rather than proceeding under the Utah Administrative Procedures Act or through the district court. In addition, this rule provides each progressive level of appeal.

**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 Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at [cacole@utah.gov](mailto:cacole@utah.gov)  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjonesrobbins@utah.gov](mailto:jhjonesrobbins@utah.gov)

**AUTHORIZED BY:** Liesa Stockdale, Director

**EFFECTIVE:** 12/15/2017

**Human Services, Recovery Services  
R527-56  
In-Kind Support**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 42389  
FILED: 12/15/2017

**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. In accordance with Section 62A-11-104, ORS is responsible for collecting child support when an application has been received for child support services, the state has provided public assistance, or a child lives out of the home in the protective custody, temporary custody, or custody or care of the state. Section 62A-11-307.2 specifies the duties of a custodial parent after support rights have been assigned to the state. The custodial parent may not prejudice the rights of ORS to establish paternity, enforce health insurance provisions, or establish and collect support. In addition, the custodial parent may not agree to change the court or administratively ordered manner or amount of payment of past, present, or future support without ORS's written consent. Under this statute, the custodial parent must immediately deliver any payment to ORS that is received from the non-custodial parent. In 1991, a court decision (Utah Dept. of Social Servs. V. Adams, 806 P.2d. 1193 {Utah CR. App. 1991}) required that ORS give credit under certain conditions for in-kind support payments made where a court order exists.

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 should be continued because the statutes 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). This rule defines in-kind payments, and establishes when and under what conditions ORS is required to give the non-custodial parent credit for in-kind support payments. It also describes the conditions for ORS to require payment of court ordered cash support, and when to take action to recover the

court ordered cash support equivalent of "in-kind support" that has been paid to the custodial parent.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov  
♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

**Human Services, Recovery Services  
R527-260  
Driver License Suspension for Failure to Pay Support**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 42384  
FILED: 12/15/2017

**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. This rule is authorized under Section 62A-11-601, which is known as the Administrative License Suspension Child Support Enforcement Act. Section 62A-11-603 authorizes ORS to suspend a non-custodial parent's (NCP) driver license if the NCP is delinquent on a child support obligation. In addition, the law provides notification requirements for this action as well as providing an informal adjudicative proceeding, which allows the NCP to contest the suspension of his/her driver license. The statute also permits the office to enter into payment agreements with the NCP to pay current child support arrears that are owed. Notification requirements to suspend or rescind an order are found in Section 62A-11-604.

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.

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 necessary as it provides information regarding ORS's ongoing responsibilities with driver license suspension. This rule provides ORS with criteria for suspending the NCP's driver license, as well as the requirements to notify the NCP by sending the Notice of Agency Action. This rule provides information for entering into repayment agreement with the NCP as well as the outcome for compliance or failure to comply with the agreement. This rule provides ORS with a requirement to have approval from the ORS/Child Support Services Supervisory Review Panel prior to suspending the NCP's driver license. In addition, this rule provides the procedures for rescission of the driver license suspension. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at [cacole@utah.gov](mailto:cacole@utah.gov)
- ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjonesrobbins@utah.gov](mailto:jhjonesrobbins@utah.gov)
- ◆ Kimia Golchin by phone at 801-741-7409, by FAX at 801-536-8540, or by Internet E-mail at [kimiagolchin@utah.gov](mailto:kimiagolchin@utah.gov)

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

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**Human Services, Recovery Services**  
**R527-301**  
**Non-IV-D Income Withholding**

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

DAR FILE NO.: 42385  
FILED: 12/15/2017

**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 Office of Recovery Services (ORS) has authority to create rules necessary for the provision of services pursuant to Section 62A-11-107. This rule is authorized by Section 62A-11-502 which authorizes immediate income withholding for child support orders issued or modified on or after 01/01/1994. Section 62A-11-502 also contains specific restrictions and regulations that the agency has implemented. Section 62A-11-504 authorizes ORS to commence income withholding when an obligor or obligee applies for IV-D services with ORS. In addition, this rule provides information on enforcement upon a payor that fails to comply with the Notice to Withhold in accordance with Section 62A-11-506.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it provides information regarding the ongoing responsibilities of ORS with regards to Non-IV-D Income Withholding. This rule defines the ORS's limits to income withholding in regards to collection of child care expenses. This rule provides information to custodial and non-custodial parents when a payor fails to comply with the Notice to Withhold. This rule provides information regarding how income withholding may be terminated. In addition, this rule provides information on how income withholding payments will be handled when the custodial parent's mailing address is unknown.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at [cacole@utah.gov](mailto:cacole@utah.gov)
- ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjonesrobbins@utah.gov](mailto:jhjonesrobbins@utah.gov)
- ◆ Kimia Golchin by phone at 801-741-7409, by FAX at 801-536-8540, or by Internet E-mail at [kimiagolchin@utah.gov](mailto:kimiagolchin@utah.gov)

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

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**Human Services, Recovery Services  
R527-302  
Income Withholding Fees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42390  
FILED: 12/15/2017

**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 should be continued because the statutes 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). This rule provides a payor of income (e.g., an employer) with the option to deduct from an employee/obligor's pay a one-time \$25 income withholding fee in one lump sum or to deduct the amount in increments over a period of time. The fee is intended to defray the administrative costs a payor of income incurs to process an income withholding.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonessrobbins@utah.gov  
♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

**Human Services, Recovery Services  
R527-305  
High-Volume, Automated Administrative  
Enforcement in Interstate Child Support  
Cases**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42386  
FILED: 12/15/2017

**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 Office of Recovery Services (ORS) has authority to create rules necessary for the provision of services pursuant to Section 62A-11-107. Subsection 466(a)(14) of the Social Security Act requires a state to use automatic data processing to search various state databases to identify the location of the non-custodial parent and his/her assets in response to a request made by another state to enforce a support order. Section 62A-11-305 specifies services that must be provided to another state when a request for high volume automated administrative enforcement is received.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it provides and establishes procedures for ORS to provide services to another state IV-D child support agency requesting high-volume automated administrative enforcement. It also states that an automated administrative enforcement request is given the same priority as a regular

interstate case that is referred to ORS by another state for collection services, establishment, modification, or registration of an order.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
- ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov
- ◆ Kimia Golchin by phone at 801-741-7409, by FAX at 801-536-8540, or by Internet E-mail at kimiagolchin@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

## Human Services, Recovery Services

### **R527-430**

## Administrative Notice of Lien-Levy Procedures

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

DAR FILE NO.: 42391  
FILED: 12/15/2017

### **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-11-304.1 authorizes ORS to implement liens and levies (attach and seize) to satisfy past-due support, subject to the obligor's right to contest the lien-levy action, and the amount claimed to be past due. The statute permits ORS to attach and seize the assets of an obligor held in financial institutions. The statute further permits ORS to attach and seize public and private retirement funds if the obligor is receiving periodic payment or has the authority to make withdrawals from the retirement account.

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 is based on Section 62A-11-304.1, which is still in effect and the lien-levy procedures described in this rule are reflected in current ORS policy and procedures. This rule establishes procedures regarding the release of funds to an unobligated spouse when the unobligated spouse is a co-owner of a financial account or joint-recipient of certain non-means tested payments and contests a lien-levy action upon any of those assets. Therefore, this rule should be continued.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
- ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov
- ◆ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

## Human Services, Recovery Services

### **R527-475**

## State Tax Refund Intercept

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

DAR FILE NO.: 42387  
FILED: 12/15/2017

### **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 59-10-529 authorizes crediting tax overpayments (refunds) to any judgment or delinquent child support obligation after any income tax that may be due, and requires that ORS give notice to the taxpayer of the past-due amount and notify the taxpayer that the overpayment will be applied to reduce the individual's past-due support amount, and it provides an opportunity for the taxpayer to contest the amount of past-due support. Section 78B-12-212 provides clarification of when an installment of child support is considered past-due, and therefore, subject to expanded enforcement efforts such as those described in Section 59-10-529.

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 needs to be continued because the state laws upon which this rule is based are still in effect. The clarifications and procedures provided in this rule remain necessary for the appropriate implementation on those laws. Determination of delinquency, notice to the taxpayer, and application of the tax intercept process are essential in the collection of child support.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov  
 ♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov  
 ♦ Kimia Golchin by phone at 801-741-7409, by FAX at 801-536-8540, or by Internet E-mail at kimiagolchin@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/15/2017

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**Insurance, Administration**  
**R590-124**  
**Loss Information Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 42364  
 FILED: 12/08/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the Insurance Commissioner to adopt rules to implement the Utah Insurance Code, Title 31A. Subsection 31A-23a-402(8) authorizes the Insurance Commissioner to define unfair methods of competition. This rule requires that, upon a written request from the insured, an insurer must provide the insured with their loss information. Section R590-124-4 of this rule provides instructions as to what loss information insurers are required to release, when and how often they must release it, and in what format.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that the law provide guidelines to insurers for the maintenance and dissemination of loss information to the insured and other insurers. Otherwise, loss information would not be released by insurers. Loss information is important for insureds to determine if their efforts to reduce losses has been successful; it is important for insurers who want to provide the insured with a competitive quote for their business. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 12/08/2017



**Insurance, Administration**  
**R590-155**  
**Utah Life and Health Insurance**  
**Guaranty Association Summary**  
**Document**

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

DAR FILE NO.: 42365  
FILED: 12/08/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) authorizes the Insurance Commissioner to make rules to implement the provisions of the Utah Insurance Code, Title 31A. Section 31A-28-119 provides guidelines for the Utah Life and Health Insurance Guaranty Association (Guaranty Association) summary and disclaimer document. The purpose of this rule is to specify the form and content of the summary and disclaimer document for insurers to disclose to policy and contract holders the intent that contractual guarantees are not covered or have limited coverage by the Guaranty Association.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 31A-28-119 prohibits agents from telling prospective insureds that the policy they are buying is covered by the Guaranty Association in the event that the insurance company becomes insolvent. This assurance has been used deceptively to sell policies when the insurer was financially insolvent or unsound. Therefore, this rule should be continued.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 12/08/2017

**Insurance, Administration**  
**R590-215**  
**Permissible Arbitration Provisions for**  
**Individual and Group Health Insurance**

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

DAR FILE NO.: 42366  
FILED: 12/08/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(c) authorizes the Insurance Commissioner to write rules to implement the provisions of the Utah Insurance Code, Title 31A. The Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1 effective July1, 2002 and excluding 2560.503-1(a), requires the state to write rules to recognize arbitration as an acceptable method of alternative dispute resolution with regards to health benefit plans. This rule is required to define "permissible arbitration provisions," and to provide guidelines upon which disclosure of a contract arbitration provision is to be made. This rule fulfills that requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal law requires states to establish rules that set guidelines for the use of arbitration in the claims process. This rule provides those guidelines. Once an insured has exhausted the insurer's internal appeals process, then they have the right to arbitration. This rule defines arbitration in its several forms, as well as the process itself.

This rule ensures that the arbitration process is the same in all U.S. states, which reduces confusion and misunderstanding. Therefore, this rule should be continued.

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

INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 12/08/2017

**School And Institutional Trust Lands,  
Administration**

**R850-70**

**Sales of Forest Products From Trust  
Lands Administration Lands**

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

DAR FILE NO.: 42361  
FILED: 12/04/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-2-201(1)(a)(ii)

authorizes the director of the School and Institutional Trust Lands Administration to provide for the sale of forest products, desert products, and other vegetative material from Trust Lands Administration land. This rule establishes the guidelines for the agency to follow in the management and sale of these resources.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule since the previous five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the guidelines for the agency to follow in the management and sale of forest product resources located on trust lands. It also provides the public with the requirements for the acquisition of these resources. The sale of these products provides valuable revenue for the benefit of the respective beneficiary of the land. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 12/04/2017

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

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

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

### Commerce

#### Consumer Protection

No. 42218 (AMD): R152-34-8. Rules Relating to Fair and Ethical Practices Set Forth in Section 13-34-108  
Published: 11/01/2017  
Effective: 12/15/2017

#### Occupational and Professional Licensing

No. 42198 (AMD): R156-9a (Changed to R156-87). Uniform Athlete Agents Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42225 (AMD): R156-17b. Pharmacy Practice Act Rule  
Published: 11/01/2017  
Effective: 12/12/2017

No. 42197 (AMD): R156-24b. Physical Therapy Practice Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42219 (AMD): R156-31b. Nurse Practice Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42229 (AMD): R156-37. Utah Controlled Substances Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42220 (AMD): R156-37f. Controlled Substance Database Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42222 (AMD): R156-63a. Security Personnel Licensing Act Contract Security Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42223 (AMD): R156-63b. Security Personnel Licensing Act Armored Car Rule  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42199 (AMD): R156-67-503. Administrative Penalties  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42224 (AMD): R156-68-503. Administrative Penalties  
Published: 11/01/2017  
Effective: 12/11/2017

No. 42228 (AMD): R156-80a. Medical Language Interpreter Act Rule  
Published: 11/01/2017  
Effective: 12/11/2017

### Education

#### Administration

No. 42226 (AMD): R277-419. Pupil Accounting  
Published: 11/01/2017  
Effective: 12/08/2017

NOTICES OF RULE EFFECTIVE DATES

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Environmental Quality

Air Quality

No. 41814 (AMD): R307-101-2. Definitions  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41814 (CPR): R307-101-2. Definitions  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41809 (NEW): R307-304. Solvent Cleaning  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41809 (CPR): R307-304. Solvent Cleaning  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41824 (AMD): R307-343. Emissions Standards for  
Wood Furniture Manufacturing Operations  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41824 (CPR): R307-343. Wood Furniture Manufacturing  
Operations  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41816 (AMD): R307-344. Paper, Film, and Foil Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41816 (CPR): R307-344. Paper, Film, and Foil Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41817 (AMD): R307-345. Fabric and Vinyl Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41817 (CPR): R307-345. Fabric and Vinyl Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41818 (AMD): R307-346. Metal Furniture Surface  
Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41818 (CPR): R307-346. Metal Furniture Surface  
Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41819 (AMD): R307-347. Large Appliance Surface  
Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41819 (CPR): R307-347. Large Appliance Surface  
Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41826 (AMD): R307-348. Magnet Wire Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41826 (CPR): R307-348. Magnet Wire Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41820 (AMD): R307-349. Flat Wood Panel Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41820 (CPR): R307-349. Flat Wood Panel Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41821 (AMD): R307-350. Miscellaneous Metal Parts  
and Products Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41821 (CPR): R307-350. Miscellaneous Metal Parts and  
Products Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41825 (AMD): R307-351. Graphic Arts  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41825 (CPR): R307-351. Graphic Arts  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41822 (AMD): R307-352. Metal Container, Closure, and  
Coil Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41822 (CPR): R307-352. Metal Container, Closure, and  
Coil Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41823 (AMD): R307-353. Plastic Parts Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41823 (CPR): R307-353. Plastic Parts Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41827 (AMD): R307-354. Automotive Refinishing Coatings  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41827 (CPR): R307-354. Automotive Refinishing Coatings  
Published: 11/01/2017  
Effective: 12/06/2017

No. 41830 (AMD): R307-355. Control of Emissions from Aerospace Manufacture and Rework Facilities  
Published: 07/01/2017  
Effective: 12/06/2017

No. 41830 (CPR): R307-355. Aerospace Manufacture and Rework Facilities  
Published: 11/01/2017  
Effective: 12/06/2017

#### Water Quality

No. 42053 (AMD): R317-1-8. Penalty Criteria for Civil Settlement Negotiations  
Published: 09/15/2017  
Effective: 01/01/2018

#### Governor

Economic Development  
No. 42232 (AMD): R357-5. Motion Picture Incentive  
Published: 11/01/2017  
Effective: 12/08/2017

#### Health

Child Care Center Licensing Committee  
No. 42019 (AMD): R381-60. Hourly Child Care Centers  
Published: 09/01/2017  
Effective: 12/28/2017

No. 42020 (AMD): R381-70. Out of School Time Programs  
Published: 09/01/2017  
Effective: 12/28/2017

No. 42021 (AMD): R381-100. Child Care Centers  
Published: 09/01/2017  
Effective: 12/28/2017

Health Care Financing, Coverage and Reimbursement Policy  
No. 42178 (AMD): R414-2A. Inpatient Hospital Services  
Published: 10/15/2017  
Effective: 12/12/2017

No. 42184 (NEW): R414-515. Long Term Acute Care  
Published: 10/15/2017  
Effective: 12/12/2017

Center for Health Data, Health Care Statistics  
No. 42209 (AMD): R428-1. Health Data Plan and Incorporated Documents  
Published: 11/01/2017  
Effective: 12/12/2017

No. 42208 (AMD): R428-2. Health Data Authority Standards for Health Data  
Published: 11/01/2017  
Effective: 12/13/2017

Family Health and Preparedness, Child Care Licensing  
No. 42022 (AMD): R430-50. Residential Certificate Child Care  
Published: 09/01/2017  
Effective: 12/28/2017

No. 42023 (AMD): R430-90. Licensed Family Child Care  
Published: 09/01/2017  
Effective: 12/28/2017

#### Human Services

Child and Family Services  
No. 42207 (AMD): R512-308. Out-of-Home Services, Guardianship Services and Placements  
Published: 11/01/2017  
Effective: 12/08/2017

Substance Abuse and Mental Health  
No. 42206 (NEW): R523-16. Certification of Essential Treatment Examiners and Case Managers  
Published: 11/01/2017  
Effective: 12/11/2017

#### Insurance

Administration  
No. 42211 (AMD): R590-151. Records Access Rule  
Published: 11/01/2017  
Effective: 12/08/2017

No. 42210 (AMD): R590-164. Uniform Health Billing Rule  
Published: 11/01/2017  
Effective: 12/08/2017

No. 42215 (AMD): R590-225. Submission of Property and Casualty Rate and Form Filings  
Published: 11/01/2017  
Effective: 12/08/2017

No. 42212 (REP): R590-256. Health Benefit Plan Internet Portal Solvency Rating  
Published: 11/01/2017  
Effective: 12/08/2017

Judicial Performance Evaluation Commission

Administration

No. 42186 (AMD): R597-3. Judicial Performance  
Evaluations

Published: 11/01/2017

Effective: 12/08/2017

**End of the Notices of Rule Effective Dates Section**

**2017 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2017 through December 15, 2017. 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 the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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R17-5	Definitions of Rules in Title R17	42271	5YR	10/27/2017	2017-22/101
R17-6	Records Storage and Disposal at the State Records Center	42272	5YR	10/27/2017	2017-22/101
R17-7	Archival Records Care and Access at the State Archives	42270	5YR	10/27/2017	2017-22/102
R17-8	Application of Microfilm Standards	42273	5YR	10/27/2017	2017-22/102
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R21-1	Transfer of Collection Responsibility of State Agencies	41374	NSC	04/10/2017	Not Printed
R21-1	Transfer of Collection Responsibility of State Agencies	41743	5YR	06/07/2017	2017-13/229
R21-2	Office of State Debt Collection Administrative Procedures	41376	5YR	03/17/2017	2017-8/59
R21-3	Debt Collection Through Administrative Offset	41377	5YR	03/17/2017	2017-8/59
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R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	2017-4/57
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R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	41578	AMD	07/12/2017	2017-11/6
R23-3-4	Authorization of Programs	41666	NSC	07/19/2017	Not Printed
R23-4	Suspension/Debarment	42065	5YR	09/07/2017	2017-19/115
R23-5	Contingency Funds	42066	5YR	09/07/2017	2017-19/115
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	42067	5YR	09/07/2017	2017-19/116
R23-9	Cooperation with Local Government Planning	42068	5YR	09/07/2017	2017-19/116
R23-10	Naming of State Buildings	42069	5YR	09/07/2017	2017-19/117
R23-10	Naming of State Buildings	42084	NSC	09/20/2017	Not Printed
R23-12	Building Code Appeals Process	42064	5YR	09/07/2017	2017-19/118
R23-12	Building Code Appeals Process	42105	NSC	09/29/2017	Not Printed
R23-14	Management of Roofs on State Buildings	42070	5YR	09/07/2017	2017-19/118
R23-19	Facility Use Rules	41267	5YR	02/01/2017	2017-4/57
R23-20	Free Speech Activities	41268	5YR	02/01/2017	2017-4/58



R23-21	Division of Facilities Construction and Management Lease Procedures	42071	5YR	09/07/2017	2017-19/119
R23-24	Capital Projects Utilizing Non-appropriated Funds	42072	5YR	09/07/2017	2017-19/119
R23-24	Capital Projects Utilizing Non-appropriated Funds	42083	NSC	09/29/2017	Not Printed
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
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R25-5	Payment of Per Diem to Boards	41796	NSC	06/29/2017	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-7	Travel-Related Reimbursements for State Employees	41147	AMD	03/10/2017	2017-3/2
R25-7	Travel-Related Reimbursements for State Employees	41797	EMR	07/01/2017	2017-13/221
R25-7	Travel-Related Reimbursements for State Employees	41798	AMD	08/07/2017	2017-13/8
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	41327	5YR	02/21/2017	2017-6/29
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R27-7	Safety and Loss Prevention of State Vehicles	42158	NSC	10/04/2017	Not Printed
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R33-5	Other Standard Procurement Processes	41665	NSC	06/26/2017	Not Printed
R33-6	Bidding	41539	AMD	06/21/2017	2017-10/15
R33-7	Request for Proposals	41540	AMD	06/21/2017	2017-10/18
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R33-8-102	Adding Additional Funds to a Contract	41023	AMD	02/02/2017	2016-24/4
R33-9	Cancellations, Rejections, and Debarment	41545	AMD	06/21/2017	2017-10/31
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R33-12	Terms and Conditions, Contracts, Change Orders and Costs	41547	AMD	06/21/2017	2017-10/37
R33-13	General Construction Provisions	41548	AMD	06/21/2017	2017-10/43
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R33-16	Protests	41550	AMD	06/21/2017	2017-10/48
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R33-19-101	Encouraged to Obtain Legal Advice From Legal Counsel	41553	AMD	06/21/2017	2017-10/55
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R33-25	Executive Branch Insurance Procurement	41555	AMD	06/21/2017	2017-10/57
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R58-3	Brucellosis Vaccination Requirements	41164	5YR	01/12/2017	2017-3/80
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R58-11	Slaughter of Livestock and Poultry	41467	NSC	05/15/2017	Not Printed
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R156-5a	Podiatric Physician Licensing Act Rule	41999	AMD	10/10/2017	2017-17/2
R156-9a (Changed to R156-87)	Uniform Athlete Agents Act Rule	42198	AMD	12/11/2017	2017-21/14
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	41198	5YR	01/19/2017	2017-4/59
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R156-16a-304	Continuing Education	41110	AMD	02/21/2017	2017-2/18
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R156-24b-102	Definitions	41474	AMD	06/08/2017	2017-9/8
R156-26a	Certified Public Accountant Licensing Act Rule	42082	AMD	11/07/2017	2017-19/6
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R156-31b-502	Unprofessional Conduct	41308	NSC	03/06/2017	Not Printed
R156-31b-703b	Scope of Nursing Practice Implementation	41113	NSC	01/18/2017	Not Printed
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R156-37f-303	Access to Opioid Prescription Information Via an Electronic Data System	41265	NSC	02/23/2017	Not Printed
R156-38b	State Construction Registry Rule	41349	AMD	05/08/2017	2017-7/4
R156-40	Recreational Therapy Practice Act Rule	41705	AMD	07/25/2017	2017-12/10
R156-42a-304	Continuing Education	41473	AMD	06/08/2017	2017-9/9
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R156-46b-202	Informal Adjudicative Proceedings	41169	AMD	03/13/2017	2017-3/8
R156-46b-202	Informal Adjudicative Proceedings	41354	NSC	04/05/2017	Not Printed
R156-47b	Massage Therapy Practice Act Rule	41436	5YR	04/04/2017	2017-9/41
R156-49	Dietitian Certification Act Rule	42342	5YR	11/27/2017	2017-24/73
R156-53	Landscape Architects Licensing Act Rule	42344	5YR	11/27/2017	2017-24/73
R156-55a	Utah Construction Trades Licensing Act Rule	41348	AMD	05/08/2017	2017-7/6
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R156-55b-102	Definitions	41261	AMD	03/27/2017	2017-4/5
R156-55b-302a	Qualifications for Licensure - Education and Experience Requirements	41917	NSC	08/01/2017	Not Printed
R156-55c	Plumber Licensing Act Rule	41298	AMD	04/10/2017	2017-5/12
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R156-55d	Burglar Alarm Licensing Rule	41199	5YR	01/19/2017	2017-4/60
R156-56	Building Inspector and Factory Built Housing Licensing Act Rule	41144	5YR	01/10/2017	2017-3/85
R156-63a	Security Personnel Licensing Act Contract Security Rule	42222	AMD	12/11/2017	2017-21/42
R156-63b	Security Personnel Licensing Act Armored Car Rule	42223	AMD	12/11/2017	2017-21/52
R156-64	Deception Detection Examiners Licensing Act Rule	41145	5YR	01/10/2017	2017-3/86
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R156-67-503	Administrative Penalties	42199	AMD	12/11/2017	2017-21/61
R156-68-304	Qualified Continuing Professional Education	41112	AMD	02/21/2017	2017-2/22
R156-68-503	Administrative Penalties	42224	AMD	12/11/2017	2017-21/67
R156-76	Professional Geologist Licensing Act Rule	41279	5YR	02/02/2017	2017-5/62
R156-76-501	Administrative Penalties - Unlawful Conduct	41346	AMD	05/08/2017	2017-7/14
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R162-2f	Real Estate Licensing and Practices Rules	40952	AMD	01/19/2017	2016-23/26
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R251-305	Visiting at Community Correctional Centers	41460	AMD	08/15/2017	2017-9/14
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R277-106	Utah Professional Practices Advisory Commission Appointment Process	41086	AMD	02/07/2017	2017-1/14
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R277-108	Annual Assurance of Compliance by Local School Boards	42087	5YR	09/13/2017	2017-19/120
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R856-7	USTAR Definition of High-Quality Job	41481	NEW	08/15/2017	2017-10/141

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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>access to information</u> Administrative Services, Archives	42271 42272 42270 42273	R17-5 R17-6 R17-7 R17-8	5YR 5YR 5YR 5YR	10/27/2017 10/27/2017 10/27/2017 10/27/2017	2017-22/101 2017-22/101 2017-22/102 2017-22/102
<u>access to records</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42409	R722-900	5YR	12/20/2017	Not Printed
<u>accident law</u> Health, Disease Control and Prevention, Laboratory Services	40868	R438-10	REP	01/11/2017	2016-21/46
<u>accidents</u> Administrative Services, Fleet Operations	41609 42158	R27-7 R27-7	AMD NSC	07/11/2017 10/04/2017	2017-11/11 Not Printed
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	42021	R381-100	AMD	12/28/2017	2017-17/82	
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	42388	R527-39	5YR	12/15/2017	Not Printed	
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	41585	R657-29	NEW	07/10/2017	2017-11/175	
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	41834	R657-14	5YR	06/15/2017	2017-13/256	
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	42346	R657-33	5YR	11/28/2017	2017-24/76	
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	41957	R657-64	5YR	07/31/2017	2017-16/132	
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	41670	R746-110-3	NSC	06/05/2017	Not Printed
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