

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed June 16, 1999, 12:00 a.m. through July 1, 1999, 11:59 p.m.

Number 99-14
July 15, 1999

Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.state.ut.us/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Bulletin* and *Digest* are printed and distributed semi-monthly by Legislative Printing. Annual subscription rates (24 issues) are \$160 for the *Bulletin* and \$35 for the *Digest*. Inquiries concerning subscription, billing, or changes of address should be addressed to:

LEGISLATIVE PRINTING
PO BOX 140107
SALT LAKE CITY, UT 84114-0107
(801) 538-1103
FAX (801) 538-1728

ISSN 0882-4738

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SPECIAL NOTICES

EXECUTIVE ORDER

In accordance with Section 63-9-67 of the Utah Code, as enacted in H.B. 119, Quality Growth Act of 1999 (1999 General Session), I, Michael O. Leavitt, governor of the state of Utah, establish a State Building Energy Efficiency Program. The scope, purpose, administration, and operation of the program shall be as follows:

(1) As authorized in Utah Code Title 11, Chapter 38, Quality Growth Act, as amended, the program shall apply to each state agency, including each executive, legislative, and judicial branch department, agency, board, commission, or division, however denominated, and each state educational institution.

(2) The purposes of the program are to:

(a) achieve significant energy savings through the implementation of a comprehensive and coordinated energy efficiency plan, whose initial goal shall be to reduce energy costs by a cumulative total of \$20,000,000 by 2010;

(b) provide, through this savings, a source of funding for the LeRay McAllister Critical Land Conservation Fund created under Section 11-38-301, as amended; and

(c) provide energy management services, technical energy assistance, and financial coordination necessary to obtain energy cost reductions and increased efficiency in state facilities.

(3) The program shall be administered by a state energy manager appointed by the governor. Subject to applicable law, the state energy manager shall:

(a) by June 30 of each year, develop an energy efficiency plan that includes:

(i) a statement of energy performance goals for the coming year;

(ii) a prioritized list of suggested energy efficiency improvements for state buildings and facilities;

(iii) strategies to streamline and accelerate the evaluation, approval, and implementation of energy efficiency projects;

(iv) strategies to modify operations and maintenance of state buildings and facilities to reduce energy consumption;

(v) strategies to finance energy projects;

(vi) a suggested list of new buildings that can be designed and commissioned to achieve greater energy efficiency and energy cost savings;

(vii) strategies to procure lowest cost energy for state agencies; and

(viii) strategies to establish and maintain an Energy Information Management System to track energy use, demand, and costs for state facilities;

(b) amend the energy efficiency plan as necessary to achieve its purposes or the purposes of the State Building Energy Efficiency Program;

(c) coordinate and evaluate the implementation of the energy efficiency plan or any other energy efficiency measure undertaken by a state agency;

(d) prepare an annual report for the governor, which may be prepared as part of, or in conjunction with, the report required by Section 63-9-67, as amended, on the progress achieved by the program and the outlook for the future, including projections for anticipated energy savings to be obtained during the subsequent year based on rational estimating methodologies;

(e) approve or disapprove each energy savings agreement entered into by a state agency;

(f) appear before the Public Service Commission with respect to the state's interest in energy tariffs, allocations, and related matters;

(g) provide or coordinate energy management services, technical energy assistance, and financial coordination as necessary to enhance energy savings; and

(h) perform other duties as required by law, including the duties required by Section 63-9-67, as amended.

(4) Each energy savings agreement entered into by a state agency is subject to approval by the state energy manager.

(5) A state agency shall develop procedures in cooperation with the state energy manager to implement the purposes of this order if the agency has a centralized role in:

(a) the design, construction, or management of a state facility;

(b) funding an energy efficiency project; or

(c) energy related procurement.

(6) All state agencies shall, in accordance with law:

(a) participate in the State Building Energy Efficiency Program;

(b) coordinate with and assist the state energy manager to develop and implement the annual plan;

(c) act to meet the state's energy efficiency objectives; and

(d) coordinate with the Governor's Office of Planning and Budget and the Division of Finance to assure that net energy savings are identified and 50% of those savings are transferred to the LeRay McAllister Critical Land Conservation Fund.

SPECIAL NOTICES

(7) The director of the Governor's Office of Planning and Budget shall coordinate state budget policy with the legislative fiscal analyst to allocate 50% of the net energy savings achieved through the State Building Energy Efficiency Program to the LeRay McAllister Critical Land Conservation Fund.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 23rd day of June, 1999.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

Attest:
OLENE WALKER
Lieutenant Governor

P R O C L A M A T I O N

WHEREAS, since the close of the 1999 General Session of the 53rd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

NOW, THEREFORE, I, MICHAEL O. LEAVITT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 53rd Legislature of the State of Utah into a Fourth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 21st day of July, 1999, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 1999 General Session of the 53rd Legislature of the State of Utah.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 6th day of July, 1999.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

DEPARTMENT OF WORKFORCE SERVICES

PUBLIC HEARING

IMPLEMENTATION OF THE 20% EXTENSION CRITERIA FOR THE FAMILY EMPLOYMENT PROGRAM

The Department of Workforce Services requests comments on the draft policy for implementation of the 20% extension criteria for the Family Employment Program. A public hearing will be held on Wednesday, July 21, 1999, from 4:00 to 6:00 p.m., at 1385 South State Street, Room 157 A and B, Salt Lake City.

For further information or an ADA accommodation, contact: Mary McConaughy at (801) 468-0244. Written comments can be sent to: Mary McConaughy, Department of Workforce Services, 1385 South State Street, Room 257, Salt Lake City, Ut 84115.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
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UTAH STATE PUBLICATIONS

List 99-12

July 7, 1999

Depository libraries: Asterisk (*) indicates limited copies- make claims to issuing agency.

This list is available on the World Wide Web at: <http://www.state.lib.ut.us/publicat/publicat.htm>

Aspinall studies: annual assessment of Colorado Pikeminnow larval production in the Colorado River, Utah 1992-1996: final report/[by] Melissa Trammell [and] Thomas E. Chart. 1999. Utah Division of Wildlife Resources, Moab Native Fishes Field Office.

N 4620.M5.7: Asp/999

oclc # 41607903

Endangered species--Utah/Endangered species--Colo/Ptychocheilus lucius--Research--Utah/Ptychocheilus lucius--Research--Colo/Wildlife conservation--Utah/Wildlife conservation--Colo/Colorado pikeminnow--Utah/Colorado pikeminnow--Colo/Colorado River (Colo.-Mexico)--Research.

BPCRHS bulletin. May 31, 1999. Utah. Bureau of Primary Care & Rural Health Systems

P 4220.P74.8: Bul/999/05

oclc # 41609196

Rural health services--Utah/Primary care (Medicine)--Utah

Calendar years 1994 through 1998 and fourth quarter of 1998 gross taxable retail sales and purchases in Utah. Supplement, gross retail sales and purchases by county and city calendar years 1994 to 1998 and calendar year 1998 by quarter/[by] Leslee Katayama. 1999. Utah State Tax Commission. Economic & Statistical Unit.

A 5340.S24.13: Gro/Cou/994-998

oclc # 41603401

Sales tax--Utah--Statistics/Retail trade--Utah--Statistics.

* **Currents: news of the Utah State Historical Society.** Vol. 49, no. 3: June, 1999. Utah State Historical Society.

H 5050.81: New/49/3

oclc # 40843274

Utah--History

* **Delineation of drinking water source protection zones for the Newcastle public-water-supply well, Iron County, Utah**/[by] Charles E. Bishop. 1999. Utah Geological Survey.

N 3300.71: Rep/243

oclc # 41608781

Drinking water--Standards--Utah--Iron County/Water quality management--Utah--Iron County/Watershed management--Utah--Iron County.

Fall cankerworm: a leaf-eating insect affecting deciduous trees 1999. Utah. Division of Forestry, Fire and State Lands.

N 3836.C36.9: Fal/999

oclc # 41604283

Canker-worms/Canker-worms--Control.

Natural resource update. December 10, 1998. Utah. Office of Energy and Resource Planning.

N 3510.R4.81: Nat/998/12

oclc # 40177265

<http://www.nr.state.ut.us/energy/pub.htm>

Natural resources--Utah--Periodicals/Conservation of natural resources--Utah--Periodicals.

Quarterly economic newsletter. Western Region. Beaver County. Third quarter, 1998. Utah. Dept. of Workforce Services.

I 3112 .B4.8: Eco/998/3

oclc # 41149197

<http://www.dws.state.ut.us/WI/Regions/western.htm>

Beaver County (Utah)--Occupations--Statistics.

Security resource. April, 1999. Utah. Division of Occupational and Professional Licensing.

I 5400.S42.81: Sec/998/04

oclc # 41604639

Police, Private--Utah--Periodicals/Security guards--Periodicals/Security systems industry--Utah--Periodicals.

Spruce beetle: a bark beetle affecting mature trees. 1999. Utah. Division of Forestry, Fire and State Lands.

N 3836.S67.9: Spr/999

oclc # 41604408

Spruce beetle/Spruce beetle--Control.

* **A summary of the ground-water resources and geohydrology of Grand County, Utah**/[by] Chris Eisinger, [and] Mike Lowe. June, 1999. Utah Geological Survey.

N 3300.71: Cir/99

oclc # 41609492

Groundwater--Utah--Grand County/Hydrogeology--Utah--Grand County.

Timeliness of the Juvenile Justice System. May 18, 1999. Utah. Legislature. Office of the Legislative Auditor General.

A 3600.R46.15: Rep/99-01

oclc # 41604472

http://www.le.state.ut.us/audit/ad_99dl.htm

Utah. Juvenile Court--Auditing/Utah. Division of Youth Corrections--Auditing/Legislative auditing--Utah.

Utah data guide: a newsletter for data users. Spring, 1999. Utah State Data Center.

H 5010.19: Dat/999/2

oclc # 11927168

http://www.governor.state.ut.us/dea/publications/Data_Guide/data_guide.html

Utah--Population--Statistics/Utah--Census.

A water-related land use summary report of the state of Utah. March, 1999. Utah. Division of Water Resources.

N 4000.L3.7: Wat/999

oclc # 41604938

Water-supply--Utah/Water resources development--Utah.

Western states' tax burdens, fiscal year 1997-98: initial state and local tax burdens for seven western states. May, 1999.

Utah State Tax Commission. Economic & Statistical Unit.

A 5340.13: Bus/997-998

oclc # ocm41599475

<http://www.tax.ex.state.ut.us/esu/BURDENS/Burdens.htm>

Tax incidence--West (U.S.)/Taxation--West (U.S.)

What is the Grand Staircase? [1999] Utah Geological Survey

N 3300.71: Pub/64

oclc # ocm41609042

Formations (Geology)/Grand Staircase-Escalante National Monument (Utah)

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 16, 1999, 12:00 a.m., and July 1, 1999, 11:59 p.m., are included in this, the July 15, 1999, issue of the *Utah State Bulletin*.

In this publication, each PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least August 16, 1999. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through November 12, 1999, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on PROPOSED RULES. *Comment may be directed to the contact person identified on the RULE ANALYSIS for each rule.*

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-17
 Aquaculture and Fish Health

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22122

FILED: 06/28/1999, 11:34

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a program for the registration and fish health monitoring of commercial aquaculture facilities and fee-fishing facilities.

SUMMARY OF THE RULE OR CHANGE: Rule changes were implemented as a result of Aquaculture Amendments H.B. 407 enacted in the 1998 general session.

(DAR Note: H.B. 407 is found at 1998 Utah Laws 302, and was effective May 4, 1998.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-37-101 and 4-37-503, and Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost to state. Facilities are charged an assessment fee and a registration fee.

❖LOCAL GOVERNMENTS: No cost to local government. Facilities are charged an assessment fee and a registration fee.

❖OTHER PERSONS: Aquaculture facilities are charged \$150 during application and annual renewal. A fee of \$125 shall be assessed to applicants who renew before December 31. A fee of \$30 is required for the fee-fishing Certificate of Registration (COR).

COMPLIANCE COSTS FOR AFFECTED PERSONS: A late fee of \$25 is charged for renewal after January 31.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact for Aquaculture facilities is the fee charged for application and annual renewal fees. The assessment fee is \$150 during application and \$125 for renewal.

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

Agriculture and Food
 Animal Industry
 350 North Redwood Road
 PO Box 146500
 Salt Lake City, UT 84114-6500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kent Hauck at the above address, by phone at (801) 538-7025, by FAX at (801) 538-7126, or by Internet E-mail at agmain.khauck@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 08/04/1999, 10:00 a.m., Agriculture and Food, 350 N Redwood Rd, SLC, UT 84116.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-17. Aquaculture and ~~Fish~~ Aquatic Animal Health.

R58-17-1. Authority and Purpose.

(A) This rule is promulgated under the authority of Section 4-37-101 (et seq.) Amendments, ~~and~~ Subsection 4-2-2(j) and 4-37-503.

(B) It is the intent of ~~[these rules]~~ this rule to establish a program for the registration and fish health monitoring of ~~[commercial]~~ aquaculture facilities, ~~and~~ fee-fishing facilities, public aquaculture facilities, public fishery resources, private fish ponds, institutional facilities, private stocking, short-term fishing events and displays. ~~[These rules]~~ This rule also addresses the importation (entry) of ~~[live fish or fish eggs]~~ aquatic animals (including fish, fish eggs, gametes) into the State of Utah and establishes ~~[the]~~ requirements for health approval of ~~[fish or fish egg]~~ aquatic animals and their sources. The program is based on the monitoring of facility operations and ~~[fish]~~ aquatic animal movements to ~~[effectively]~~ prevent the exposure to and spread of ~~[those]~~ pathogens or diseases which ~~[could]~~ adversely affect both cultured and wild ~~[fish]~~ aquatic animal stocks.

(C) ~~[Any person]~~ Persons engaged in ~~[commercial aquaculture or fee fishing]~~ any of the aquatic animal operations listed in R58-17-1(B) must ~~[also]~~ comply with the ~~[applicable]~~ rules concerning site selection and species control ~~[as set forth in]~~ under Department of Agriculture and Food 4-37-201(3) and 4-37-301(3) and Department of Natural Resources~~[- Division of Wildlife Resources]~~ rules~~[-]~~ R657-3 and R657-16.

(D) This rule is part of a statewide aquaculture disease control effort that includes procedures and policies adopted by the Fish Health Policy Board.

R58-17-2. Definitions.

~~[(A) Terms such as "aquaculture", "fee-fishing facility", and "aquatic animal" are defined in Section 4-37-103:~~

~~—(B)]~~ (A) The following terms are defined for the purpose of this rule:

(1) "Aquaculture" means the controlled cultivation of aquatic animals. In this rule, the word "aquaculture" refers to commercial aquaculture.

(2)(a) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, fish processing plant or other structure used for aquaculture. "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility, as defined in this rule.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain into different drainages, are considered separate aquaculture facilities regardless of ownership.

(3)(a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.

(b) "Aquatic animal" includes a gamete of any species listed in definitions under Section (3)(a).

(4) "Brokers and dealers" are individuals or companies that are in the business of buying, selling, exchanging or transferring live aquatic animals without being actively involved in the culture, rearing or growth of the animals. This includes a person or company who rears aquatic animals, but also buys and sells additional aquatic animals without rearing them pursuant to R58-17-14(D).

(5) "Certificate of Registration (COR)" means an official document which registers [an aquaculture facility or fee-fishing facility] facilities with the Department of Agriculture and Food, hereafter designated as the "Department" or which registers facilities and events with the Division of Wildlife Resources, hereafter designated as the "Division" pursuant to R58-17-4. The purpose of the document is to establish the legal description of the facility, the species of [fish raised] aquatic animals reared and to grant the authority to engage in the described activity.

(6) "Egg only sources" refers to a separate category of salmonid fish health approval that allows for the purchase of "fish eggs only" from a facility pursuant to R58-17-15(B)(5) and (D)(1). This category makes the distinction between those pathogens that are vertically transmitted (from parent to offspring through the egg, i.e., Renibacterium salmoninarum (BKD), IHNV, IPNV, OMV, VHSV) and those horizontally transmitted (from one fish to another by contact or association, i.e., Aeromonas salmonicida, Asian tapeworm, Ceratomyxa shasta, PKX, Myxobolus cerebralis (whirling disease), and Yersinia ruckeri).

(7) "Emergency prohibited pathogen" is a pathogen that causes high morbidity and high mortality, is exotic to Utah, and requires immediate action. This type of pathogen generally cannot be treated and is controlled through avoidance, eradication, and disinfection (see R58-17-20).

(8) "Emergency Response Procedures" are procedures approved by the Fish Health Policy Board to be activated any time an emergency prohibited or prohibited pathogen is reported pursuant to R58-17-9 and R58-17-15(D)(6).

(9) "Emergency response team" means teams as approved by the Fish Health Policy Board responsible for developing and executing action plans to respond to and report findings of emergency prohibited or prohibited pathogens pursuant to R58-17-10(C).

(10) "Entry Permit" means an official document issued by the Department [of Agriculture and Food] which grants permission to the permit holder to import [live fish or fish gametes] aquatic animals into Utah. An entry permit is issued for a 30 day period and stipulates which species, size or age, weight and source of [fish] aquatic animals are to be imported.

(11) "Fee fishing facility" means a body of water used for holding or rearing aquatic animals for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

(12) "Fish health approved/approval" means a system of procedures and processes which allows an assessment of the disease history of a facility or population of [fish] aquatic animals and which grants a [reasonable] statistical assurance that [the] neither "emergency prohibited" nor "prohibited" pathogens are [not] present. [The basis and procedures for fish health approval are

given in Subsection R58-17-15(B) and (C).] Fish Health Approval status is granted to COR holders (R58-17-8(B)(3)) in Utah and to aquatic animal sources outside of Utah, all of which have satisfactorily completed health approval assessment requirements pursuant to R58-17-15, have been assigned a health approval number, and placed on the fish health approval list (R58-17-13(C)). Fish health approval is necessary before buying, selling or brokering aquatic animals within Utah or importing aquatic animals into Utah.

(13) "Fish Health Policy Board" means the board created pursuant to Amendment 4-37-503.

(14) "Fish processing plant" means a facility used for receiving whole dead, eviscerated fresh or frozen fish for processing.

(15) "Import/importation" means to bring live [fish or their gametes] aquatic animals, by any means into the State of Utah from any location outside the state and to subsequently possess and use them for any purpose.

(16) "Institutional aquaculture" means aquaculture engaged in by any institution of higher learning, school, or other educational program.

(17) "Ornamental fish" means any species of [fish] aquatic animals that are [raised] reared or marketed for their beauty or exotic characteristics, rather than for consumptive or recreational use. Tropical fish, goldfish and koi are included in the category of ornamental fish. This does not include those species of [fish] aquatic animals listed as prohibited or controlled in Department of Natural Resources rule R657-3. Ornamental fish are not regulated under [this] rules R58-17 or R657-3[;]. [Department of Natural Resources, Division of Wildlife Resources rule.] If the Department or Division determines that an introduction of ornamental fish poses a disease risk for aquatic animals, then all appropriate requirements under this rule apply.

(18)(a) "Private fish pond" means a body of water where privately owned aquatic animals are propagated or kept.

(b) "Private fish pond" does not include any aquaculture facility or fee fishing facility.

(19) "Procedures for the Timely Reporting of Pathogens" means procedures approved by the Fish Health Policy Board for the timely reporting of emergency prohibited, prohibited, or reportable pathogens from any source in Utah or from any out-of-state health approved source pursuant to R58-17-9 and R58-17-15(D)(5).

(20) "Prohibited pathogen" is a pathogen that can cause high morbidity or high mortality, may be endemic to Utah, and requires action in a reasonable time frame. A prohibited pathogen is generally very difficult or impossible to treat and is controlled through avoidance, eradication, and disinfection (see R58-17-20).

(21)(a) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division, the U.S. Fish and Wildlife Service, or an institution of higher education.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain into different drainages, are considered separate public aquaculture facilities.

(22) "Public fishery resource" means aquatic animals produced in public aquaculture facilities and wild and free ranging populations of aquatic animals in the surface waters of the state.

(23) "Quarantine" means the restriction of movement of live aquatic animals regardless of age and of all equipment and hauling

trucks into or from an area designated by the Commissioner of Agriculture or State Veterinarian pursuant to R58-17-10 and Agricultural code 4-31-16 and 17.

(24) "Reportable pathogen" is a pathogen that generally is not a problem if good management practices are followed. It is possible to prevent or treat a reportable pathogen. Reportable pathogens are not prohibited in Utah but may be prohibited in some other states or countries. These pathogens are of concern because of their possible effect on commerce in aquatic animals (see R58-17-20).

(25) "Source" means the rearing or holding environment of an aquatic animal.

(26) "Unregulated pathogen" is a pathogen that is not regulated in Utah. Unregulated pathogens include all pathogens not classified as either emergency prohibited, prohibited, or reportable. Reporting of these pathogens to the Fish Health Policy Board is not required (see R58-17-20).

R58-17-3. Penalties.

Any violation of or failure to comply with any provision of ~~[these rules]~~this rule or R657-16 or any specific requirement contained in a certificate of registration or entry permit issued pursuant to ~~[these rules]~~this rule or R657-16 may be grounds for issuance of citations, levying of fines, revocation of the certificate of registration or denial of future certificates of registration pursuant to Subsections 4-2-2(1)(f) and 4-2-15(1), as determined by the Commissioner of Agriculture and Food and pursuant to Sections 23-19-9 and 23-13-11, as determined by the Director of the Division of Wildlife Resources.

R58-17-4. Certificate of Registration (COR) Required.

(A) Activities requiring a COR:

(1) A ~~[certificate of registration]~~ [COR], issued by the Department ~~[of Agriculture and Food]~~, is required before a person may engage in the following activities within the State of Utah:

- (a) Operate an ~~an~~ aquaculture facility.
- (b) Operate a fee-fishing facility.
- (c) Operate a fish processing plant.

(2) A COR, issued by the Division, is required for operation of the following activities within the State of Utah:

- (a) public aquaculture facilities;
- (b) private fish ponds (pursuant to R657-16-10);
- (c) institutional aquaculture facilities (pursuant to R657-16-13);
- (d) short term fishing events (pursuant to R657-16-11);
- (e) private stocking (pursuant to R657-16-12);
- (f) displays (pursuant to R657-16-14).

~~(2)~~(3) One of the above CORs must be in place prior to the issuance of an entry permit for importing live ~~[fish]~~ aquatic animals into Utah.

(B) No refunds may be given. Sales of ~~[certificates of registration]~~ CORs are final.

R58-17-5. Species Allowed.

(A) Pursuant to Department of Natural Resources rule R657-3, only those species approved by the Wildlife Board and listed on the COR may be used in conjunction with the activity listed on the COR.

(B) Pursuant to 4-37-105(1), 4-37-201(3)(B) and 4-37-301(3)(B) ~~[F]~~the Department ~~[of Agriculture and Food and]~~shall

coordinate with the Division ~~[of Wildlife Resources shall]~~to determine which species the holder of a COR may propagate, possess, transport or sell.

(C) The Department will insure that the species described on CORs and entry permits issued by the Department are those approved by the Division.

R58-17-6. Qualifying Waters.

(A) An ~~an~~ aquaculture facility, ~~or~~ fee-fishing facility or private fish pond may not be developed on natural lakes, natural flowing streams, or reservoirs constructed on natural stream channels. Other water, including canals, offstream reservoirs, and excavated ponds or raceways will be considered for use as an aquaculture or fee-fishing facility.

(B) During the COR application process, ~~[F]~~the Department ~~[of Agriculture and Food]~~shall coordinate with the ~~[and]~~Division ~~[of Wildlife Resources shall]~~to determine the suitability of the proposed site pursuant to R58-17-6(A), 4-37-111, 4-37-201(3) and 4-37-301(3).

R58-17-7. Screens Required.

(A) Screens or other devices that are designed to prevent the movement of fish into or out of an aquaculture ~~facility~~, ~~or~~ fee-fishing facility, public aquaculture facility, private fish pond, institutional aquaculture facility, short term fishing event or display must be placed at the inflow and outflow. The presence of adequate screening or other devices is a precondition to issuance or renewal of CORs.

(B) As part of the COR issuance process, the Department ~~[of Agriculture and Food and]~~or the Division ~~[of Wildlife Resources]~~ shall make site visits and determine the adequacy of screening.

(C) During and following the COR application process, ~~[F]~~the Department ~~[of Agriculture and Food]~~or Division may inspect screening ~~[devices]~~or other devices in their respective areas of responsibility to assure compliance with Subsections R58-17-7(A) and (B) during reasonable hours.

(D) It is the responsibility of the COR holder to report to the Department or Division, depending on which agency issued the COR, all escapements of aquatic animals from facilities. This is to be done within 72 hours of the loss or knowledge of the loss. The report shall include facility names, date of loss, estimate of number of aquatic animals lost, names of public water the aquatic animals escaped into, remedial actions taken, and plans for future remedial action. The COR holder and/or facility operator will bear all costs for remedial actions. The Department or Division shall notify all agencies and affected parties within two working days. The Department or Division may suspend all activities at the facility, including aquatic animal imports, transfers, sales, fishing, etc., until the investigation and remedial actions are completed.

R58-17-8. Application and Renewal of Certificates of Registration (CORs).

(A) Application process.

(1) ~~[Information on the necessary steps to become a commercial aquaculture or fee-fishing operator can be obtained by]~~For application procedures pursuant to R58-17-4, contact ~~[mg]~~the Fish Health Program of the ~~[Utah]~~Department ~~[of Agriculture and Food]~~ at 350 N. Redwood Road, Box 146500, Salt Lake City, UT 84114-6500 or the Wildlife Registration Office of the Division

at 1594 West North Temple, Suite 2110, Salt Lake City, UT 84114-6301.

(2) The application form must be ~~filled out completely~~ completed and sent to the ~~above~~ appropriate address with the ~~appropriate~~ required fee. Forms that are incomplete, incorrect or not accompanied by the ~~required~~ fee may be returned.

(3) Department ~~of Agriculture and Food and~~ or Division ~~of Wildlife Resources~~ approval of the site and species will be done at the earliest possible date. ~~The Department will make~~ every effort ~~will be made~~ to process ~~the~~ applications submitted to it within two weeks pursuant to 4-37-201(3) and 4-37-301(3). Pursuant to R657-16-4, applications submitted under the jurisdiction of the Division require up to 45 days for processing, except for short-term fishing events, which require up to 10 days.

(4) Upon approval, a written COR ~~certificate with an assigned~~ and COR number will be issued. This certificate will be sent to the facility owner or operator and should be ~~maintained~~ filed for 2 years pursuant to Section 4-37-110.

(5) If the application is denied, a written explanation will be sent to the applicant.

(B) Renewal process.

(1) All CORs are valid for the calendar year issued and will remain valid until January 31 of the following year unless renewed sooner.

(2) CORs are renewed annually by submitting a completed application~~;~~ and the ~~appropriate~~ required fee ~~and the required annual reports, pursuant to Subsection R58-17-17(E);~~ to the Department ~~of Agriculture and Food~~ or Division, and by complying with all other applicable renewal criteria.

(3) Failure to renew the COR annually may result in the loss of health approval, denial of future CORs, and the removal or destruction of the live aquatic animals ~~on~~ at the facility.

(C) CORs are not transferrable.

R58-17-9. Reporting Fish Diseases.

Persons involved in aquaculture ~~or~~ and being regulated by this rule[s], having knowledge of the existence in the state of any of the diseases currently on the ~~prohibited~~ pathogen list, Subsection R58-17-15(D)(2), (3), and (4), ~~in the state~~ shall report it to the Department ~~of Agriculture and Food~~, Fish Health Program or the Division, Aquatics Section. The Department or Division will follow the Procedures for the Timely Reporting of Pathogens and the Emergency Response Procedures developed by the Fish Health Policy Board in determining reporting and response procedures. All confirmed findings of pathogens pursuant to R58-17-15(D)(2), (3), and (4), determined from such incidents or from inspections or diagnostic work initiated by the Department or the Division, will be reported to the Fish Health Policy Board.

R58-17-10. Quarantine of Aquatic Animals and Premises.

(A) If ~~the Commissioner of Agriculture and Food or State Veterinarian has reasonable~~ evidence exists that the aquatic animals of any facility are infected with or have been exposed to ~~any of the~~ pathogens pursuant to R58-17-15(D)(2) and (3), ~~on the prohibited pathogen list~~ then a quarantine may be imposed by the Commissioner of Agriculture or the State Veterinarian. This action may be reviewed by the Fish Health Policy Board for recommendations to the Department. ~~A quarantine restricts the~~

movement of live fish or eggs regardless of age, as well as all equipment and hauling trucks.

~~(B) Any person under quarantine who delivers fish for other facilities may, with written permission from the Department of Agriculture and Food, use their hauling trucks if the operator either houses the truck off the quarantined facility, or disinfects the truck according to Department of Agriculture and Foods recommendations each time it leaves the quarantined facility.~~

~~(C) Lifting of the quarantine requires two negative tests, six months apart, of all lots of fish to verify the absence of the pathogen. In addition, the Department of Agriculture and Food may require disinfection of the facilities and equipment in accordance with current medical knowledge of the organism.~~

~~(1) Lifting of the quarantine imposed on a facility infected with or exposed to emergency or prohibited pathogens requires a minimum of two negative tests, six months apart, of all lots of fish to verify the absence of the pathogen. In addition, the Department may require disinfection of the facilities and equipment in accordance with current medical knowledge of the organism, American Fisheries Society Blue Book procedures, and guidelines set forth by the Emergency Response Team. If the Department has reasonable evidence that the contagion is still present pursuant to R58-17-11, then quarantine, closure, or other measures be enacted.~~

~~(B) A quarantine may be imposed by the Commissioner of Agriculture or the State Veterinarian where aquatic animals are possessed, transported or transferred in violation of this rule, wildlife rules, or statute and consequently pose a possible disease threat; or where a quarantine is reasonably necessary to protect aquatic animals within the state. This action may be reviewed by the Fish Health Policy Board for recommendations to the Department. (1) Quarantines imposed on facilities for rule or statute violations or for purposes of protecting aquatic animals may be lifted once sufficient evidence is presented to the State Veterinarian's satisfaction that infection is not present at the facility. In addition, the Department may require disinfection of the facilities and equipment in accordance with current medical knowledge of the organism, American Fisheries Society Blue Book procedures, and guidelines set forth by the Emergency Response Team. If the Department has reasonable evidence that the contagion is still present pursuant to R58-17-11, then quarantine, closure, or other measures be enacted.~~

~~(C) Any person under quarantine who delivers aquatic animals from health-approved sources for other public or private aquaculture facilities may, with written permission from the Department, use their hauling trucks if the operator either houses the truck off the quarantined facility, or disinfects the truck according to Department recommendations each time it leaves the quarantined facility.~~

R58-17-11. Handling of Aquatic Animals and Premises Confirmed to Be Infected With a ~~Prohibited~~ Listed Pathogen in R58-17-15(D).

~~(A) Where any facility or group of aquatic animals is confirmed to be infected with one or more of the~~ prohibited pathogens listed in R58-17-15(D), the Commissioner of Agriculture and Food or State Veterinarian ~~shall~~ may place a quarantine and take steps to prevent the spread of the pathogen and to eliminate it from the facility. These actions may be reviewed by the Fish Health Policy Board with recommendations to the Department. The

D[~~d~~]epartment or Division, in their respective areas of responsibility, may take one or more of the following actions as listed below, depending on which pathogen is involved and the potential effects of the pathogen on the receiving water, neighboring aquaculture facilities or the public fishery resource.

~~[(A)](1) Destruction and disposal of all infected and exposed aquatic animals.~~

~~[(B)](2) Cleaning and disinfection or disposal of all handling equipment.~~

~~[(C)](3) Testing is required of all lots of fish, which may be at the owners expense, to detect the presence or spread of the pathogen. This may include the use of sentinel fish. After two negative tests, six months apart, the quarantine shall be [released]reassessed, possibly released, and/or other measures may be imposed. Following removal of the quarantine, [and]full restocking can begin.~~

~~[(D)](4) The infected aquatic animals may be allowed to remain on the premises through the production cycle depending on the pathogen involved and its potential effects on adjacent animals. All stocks within the facility shall be tested every 6 months or sooner to determine if [spread of the disease is occurring.]the pathogen persists in infecting the aquatic animals. At the end of the production cycle, then testing shall be done at least annually. If the pathogen is not found after two consecutive annual inspections, then testing may revert to the original requirements for the facility. [This testing is at the owner's expense.] If security of the facility cannot or is not being maintained, immediate destruction of the stocks may be required.~~

R58-17-12. Statement of Variances.

Circumstances may arise which cannot be adequately addressed or resolved with ~~[these rules]this rule~~. The ~~[Commissioner of Agriculture and Food]Fish Health Policy Board~~ may grant specific variances to the rule if the following conditions are met:

(A) The variance is based on scientifically sound information and rationale.

(B) The variance will cause no threat to other aquaculture operations, state or private, or to wild fish populations.

(C) The variance is documented appropriately~~[as been agreed to by all concerned parties and the Department of Agriculture and Food].~~

~~[(D) The variance will only be granted after discussions with the Fish Health Board or the Aquaculture Advisory Council, whichever is appropriate for the specific issue.]~~

R58-17-13. Importation of ~~[Live] Aquatic Animals or Aquaculture Products Into Utah.~~

(A) An official ENTRY PERMIT is required to import live aquatic animals or their gametes into Utah from any location outside the state. This permit is in addition to the COR for operation of the facility. The entry permit can be obtained at no charge by contacting the Department~~[of Agriculture and Food]~~, Fish Health Program ~~[at (801) 538-7029 or 538-7046]~~ and providing the following information:~~[concerning the shipment:]~~

(1) Name, address, phone number and COR number of importer.

(2) Species, size and/or number of [fish]aquatic animals or eggs to be imported.

(3) Name and health approval number of sources, origin of aquatic animals/eggs, transfer history, and approximate date of shipment.

(4) For international shipments, a certificate of veterinary inspection from the source must be obtained by the importer indicating that known nuisance species are not found in the water source.

(B) Each shipment of live [fish/fish]aquatic animals/eggs must be approved individually. A copy of the entry permit will be sent to the requesting party and a copy must accompany the shipment. The permit holder shall allow one to two weeks for the ~~[d]Department~~ to verify the health approval status of the source and to [receive]verify approved species [approval]status pursuant to R58-17-5.

(C) All shipments of live aquatic animals must originate from sources that have been health approved by the Department ~~[of Agriculture and Food]~~ pursuant to R58-17-15(A)(2) and assigned a fish health approval number. A list of approved sources is maintained by the Department~~[of Agriculture and Food]~~, but cannot be published due to frequent updates. Information on approved sources may only be obtained by [calling]contacting the Department Fish Health Program~~[Department of Agriculture and Food at (801) 538-7029 or 538-7046]~~.

(D) All importations must ~~[meet species approval of the Division of Wildlife Resources]~~ be species that have been approved by the Wildlife Board and the Division pursuant to R657-3 and 4-37-105(1).

(E) To import live grass carp ~~[(Ctenopharyngodon idella)](Ctenopharyngodon idella)~~, a COR and an ENTRY PERMIT are required. In addition, the fish must also be verified as being triploid (sterile) by a source acceptable to the Department~~[of Agriculture and Food and the Division of Wildlife Resources]~~. A U. S. Fish and Wildlife Service triploid verification form must be obtained from the supplier as required in R657-16-7. [and]Both this form and the Department's statement verifying treatment or testing for the Asian tapeworm must be on file with the Department [of Agriculture and Food] prior to shipment of the fish. [A copy]Copies of [both]the entry permit, treatment and testing statement and the triploid verification forms must accompany the fish during transit. The statement verifying treatment or testing is also required for all aquatic animal species that are known or reported hosts or carriers of the Asian tapeworm.

(F) ~~[Prior to entry, t]~~The State Veterinarian may require treatment or testing of any aquatic animal species in accordance with current medical knowledge before importation.

(G) Whole dead and eviscerated fresh or frozen salmonid fish may be imported into Utah for processing at a fish processing plant without an Entry Permit. Waste products, i.e., carcasses, viscera and waste water, must be incinerated, buried with quick lime, composted, digested, or disposed of by means acceptable to the Department to deter spread of pathogens by water or animals. The Department may apply the requirements in this section to other species of aquatic animals and pathogens if future needs arise.

(H) Placement of dead fish, fish parts, or fish waste products from a fish processing plant into public waters for any reason is illegal. Proper disposal is the responsibility of the processor/broker.

(I) All transport vehicles, carrying aquatic animals imported into Utah or transported through Utah pursuant to R58-17-14(C), must have proper documentation. The lack of proper

documentation and/or the findings of an inspection may result in entry denial, fines, or other Department actions. All inspection costs will be born by the importer.

R58-17-14. Buying, Selling, and Transporting Aquatic Animals.

(A) Buying aquatic animals:

Live aquatic animals, except ornamental fish, may be purchased or acquired only by persons who have a valid COR to possess such animals. This applies to separate facilities owned by the same individual. Live aquatic animals must be purchased only from sources that either are located in-state and have a valid COR for commercial aquaculture or are located outside of Utah. In both cases, the sources must also be on the current [F]fish [H]health [A]approval [E]list.

(B) Selling aquatic animals:

Live aquatic animals, except ornamental fish, may be sold only by a person or entity located in-state who possesses a valid COR for [~~commercial~~] aquaculture or by a person located outside of Utah. Current listing for each species on the [F]fish [H]health [A]approval [E]list is also required. [~~A commercial~~] Within Utah, an aquaculture facility operator may only sell or transfer live aquatic animals to a person or entity [~~within Utah who~~], which has been issued a valid COR to possess such animals.

(C) Transporting aquatic animals:

(1) Any person possessing a valid COR [~~for commercial aquaculture or fee fishing~~] may transport the live aquatic animals specified on the COR to their facility or approved site.

(2) All transfers or shipments of live aquatic animals within Utah, except ornamental fish, must be accompanied by documentation of the source and destination, including:

(a) Name, address, phone number, COR number[;] and COR expiration date, fish health approval number and expiration date of source and transfer history.

(b) Species, size, number or weight being shipped.

(c) Name, address, phone number, COR number[;] and COR expiration date of the destination.

(d) Date of transaction.

(3) Live aquatic animals may be shipped through Utah without a COR, provided that [~~no~~]the animals [~~are~~]will not be sold, released or transferred, the products remain in the original container, [~~no~~]water from the out-of-state source is not exchanged or released, and the shipment is in Utah no longer than 72 hours. Proof of legal ownership, origin of aquatic animals and destination must accompany the shipment.

(4) Any person who hauls fish may transport a species other than those listed on their COR provided the source facility and destination both have a valid COR to possess that species.

(5) No person may move or cause to be moved aquatic animals from a facility known to be exposed to or infected with any of the diseases currently on the pathogen list. R58-17-15(D)(2) through (4), without first reporting it to the appropriate regulating agency pursuant to R58-17-9 and receiving written authorization to move the aquatic animals.

(D) Brokers and Dealers:

~~(1) Brokers and Dealers are individuals or companies that are in the business of buying, selling, exchanging or transferring live aquatic animals without being actively involved in the culture, raising or growth of the animals. This includes a person or~~

~~company who raises fish, but also buys and sells additional fish without raising them.~~

~~—(2)(1) Brokers and Dealers must follow the same requirements that other producers do with respect to importation, fish health approval of their facility and their source facilities and assuring that live sales are only made to those with valid CORs.~~

~~[(3)] (2) To gain fish health approval, brokers and dealers must obtain health approval for all their source facilities.~~

R58-17-15. [Fish]Aquatic Animal Health Approval.

(A) Live aquatic animals, except ornamental fish, may be acquired, purchased, sold or transferred only from sources which have been granted health approval by the Department [~~of Agriculture and Food~~] and assigned a fish health approval number. This applies to separate facilities owned by the same individual and to both in-state and out-of-state facilities.

(1) Within Utah, the Department shall be responsible for granting health approval and assigning an aquatic animal health approval number to aquaculture facilities, fee-fishing facilities and any out-of-state sources pursuant to 4-37-501(1). The Division shall be responsible for granting health approval and assigning an aquatic animal health approval number to public aquaculture facilities within the state, private fish ponds within the state, and wild populations of aquatic animals in waters of the state pursuant to 4-37-501(1).

(2) The Department is responsible for granting health approval for the importation into or transportation through Utah of aquatic animals.

(3) The Fish Health Policy Board may review health approval actions of the Department and/or the Division.

(B) Basis for Health Approval:

(1) Health approval for salmonid species is based on the statistical attribute sampling of fish from each lot on the facility in accordance with current American Fisheries Society Blue Book procedures. This shall require minimum sampling at the 95% confidence level, assuming a 5% carrier incidence for the prohibited pathogens, [~~in accordance with Subsection~~]pursuant to [~~R58-17-14(D)]R58-17-15(D)(2) and (3). Health approval is applied to the entire facility, not individual lots of fish.~~

(2) All lots of fish [~~on the facility~~] shall be sampled. Approval will be withheld if a [~~prohibited~~] pathogen listed under R58-17-15(D)(2) or (3) is detected in any of the lots.

(3) For brood facilities, lethal sampling [~~will not~~]may be [~~conducted~~]required on the brood fish [~~as long as~~]if the following conditions are not met:

(a) Progeny are available [~~on~~]at the facility for lethal sampling.

(b) A statistically valid sample [~~lot~~] of ovarian fluids from ripe females [~~are~~]is tested.

(4) Collection, transportation and laboratory testing of the samples will follow standard procedures specified by the Department [~~of Agriculture and Food~~], the Division and the Fish Health Policy Board. Inspections will be conducted under the direction of an individual who has received certification by the [AFS]American Fisheries Society as a fish health inspector.

(5) EGG ONLY sources - [~~The Fish Health Board~~] has established a separate category of salmonid fish health approval which allows for the purchase of "fish eggs only" from a facility. This category makes the distinction between those diseases that are

vertically transmitted (from parent to offspring through the egg) and those horizontally transmitted (from one fish to another by contact or association).] A facility which [~~may not be able to~~] cannot gain full fish health approval because of a horizontally transmitted pathogen, [~~would be able to~~] may be approved to sell eggs provided they are free of the listed vertically transmitted pathogens pursuant to R58-17-15(D)(1) and [~~the eggs~~] are properly disinfected using approved methods prior to shipment. Eggs may be required to be from incubation units isolated from hatchery and open water supplies and to be from fish-free water sources.

(6) Health approval for warm water species is based on disease history information obtained [~~by the Department of Agriculture and Food~~] from the producer, [~~as well as~~] fish pathologists or other fish health professionals [~~located~~] in the producer's state or locale. Standardized inspection protocols for warm water fish diseases have not been developed. The Department or Division will discuss the disease history of the facility [~~shall be discussed~~] with the producer, and then may contact local fish health professionals [~~are contacted~~] to identify any existing or potential disease problems. [~~Written documentation of these contacts are made by the Fish Health Specialist and kept on file.~~] Approved facilities are placed on the fish health approval list.

(7) Under no circumstances shall health approval be granted to a facility using emergency prohibited or prohibited pathogen contaminated water as a source.

(C) Approval Procedures:

[~~(1) To receive fish health approval, inspection reports or other evidence of the disease status of an aquaculture facility must be submitted to the Fish Health Specialist of the Department of Agriculture and Food.~~

— (a) For salmonid species, inspection reports for the previous two years are required:

— (b) For warm water species, information concerning the disease history of the facility is examined pursuant to Subsection R58-17-15(B)(6):

— (2) All lots of fish on the facility as well as any outside sources of these fish must be inspected annually according to Subsection R58-17-15(B)(4):

— (3) Two inspections, at least six months apart, free of the prohibited pathogens are required to meet initial approval. The fish must have been on the facility at least four months prior to the first inspection:

— (4) Annual inspections are then required to maintain fish health approval. A two month grace period is granted at the end of the annual time period to allow for laboratory testing of samples and reporting of test results. If all fish are removed from a facility for a period of three months or more, fish health approval will be cancelled. Any subsequent fish health approval will be granted only after the facility has completed the process for initial approval as outlined in Subsection R58-17-15(C)(3):

— (5) Inspections are conducted to detect the presence of the pathogens. Overt disease need not be evident to disqualify a facility. To qualify for fish health approval, evidence must be available that the prohibited pathogens listed in Subsection R58-17-15(D) are not present.

— (6) Once the requirements have been met, the facility is added to the fish health approval list and assigned a fish health approval number for the current year. Fish health approval of each facility is reviewed every year for continuance on the list.

— (7) Public aquaculture facilities and wild broodstocks are included on the fish health approval list. The Division of Wildlife Resources, Fisheries Experiment Station will report the results of their annual health inspections to the Department of Agriculture and Food for this purpose. (1) Applicable to warm and cold water aquatic animals.

(a) To receive initial fish health approval, inspection reports or other evidence of the disease status of an aquaculture facility or public aquaculture facility must be submitted to the appropriate agency. For warm water aquatic animal approval, the "Application for Warm Water Species Fish Health Approval" form must be submitted for initial approval and for renewal pursuant to R58-17-15(B)(6). Initial approval requires appropriate paperwork to include origin of aquatic animals and transfer histories. After that, the appropriate paperwork shall be required annually for renewal of fish health approval.

(b) Inspections are conducted pursuant to UCA 4-37-502 to detect the presence of any prohibited pathogens listed under R58-17-15(D)(2) and (3). Overt disease need not be evident to disqualify a facility. To qualify for initial and renewal of aquatic animal health approval, evidence must be available verifying that any prohibited pathogens listed under R58-17-15(D)(2) and (3) are not present.

(c) Once the requirements for initial approval or renewal of approval have been met, the facility shall be added to the fish health approval list of the responsible agency and assigned a fish health approval number for the current year. Fish health approval of each facility shall be reviewed annually for continuance on the lists maintained by the Department and the Division pursuant to R58-17-15(A)(1).

(d) The Department will report the confirmed results of annual inspections conducted at aquaculture facilities, fee fishing facilities, and out-of-state sources at each meeting of the Fish Health Policy Board.

(e) Public aquaculture facilities and wild brood stocks are included on the fish health approval list maintained by the Division. The Division will report the confirmed results of annual health inspections conducted at public aquaculture facilities, private ponds and wild populations of aquatic animals at each meeting of the Fish Health Policy Board.

(f) If all aquatic animals are removed from an approved facility for a period of three months or more, or if fish health approval is canceled or denied, then subsequent fish health approval will be granted only after the facility has completed the process for initial approval as outlined under R58-17-15(C).

(2) Applicable to cold water aquatic animals:

(a) For initial approval of new facilities, two inspections, at least six months apart and negative for any prohibited pathogen pursuant to R58-17-15(D)(2) and (3), are required. The aquatic animals must have been on the facility at least six months prior to the first inspection.

(b) For initial approval of existing facilities, health inspection reports for a minimum of the previous two years, and facility disease history reports for up to the previous five years and five-year disease histories for all stocks imported to the facility are required.

(c) All lots of aquatic animals on the facility as well as any outside sources of these aquatic animals must be inspected for initial approval and for renewals pursuant to R58-17-15(B)(4).

(d) After initial approval, annual inspections shall be required to renew fish health approval. A two-month grace period is granted at the completion of the annual inspection for laboratory testing of samples and reporting of test results. Health inspection reports, the facility disease history for at least the previous year, and disease histories for at least the previous year for all stocks imported to the facility shall be required before each renewal.

(D) Prohibited and reportable pathogen [E]list:

(1) Pathogens requiring some form of action are classified as either emergency prohibited, prohibited, or reportable. Those pathogens denoted by an asterisk (*) preceding the name will only be tested for if the fish or eggs originate from an area where the pathogen is found. Pathogens denoted by a double asterisk (**) after the name can only be transmitted in fish and not in the eggs, therefore permitting the special provisions for egg only sources provided in Sections R58-17-2(5) and R58-17-15(B)(5). ~~(1) Warm water fish pathogens/diseases:~~

- ~~(a) Asian tapeworm of carp/cyprinids.~~
- ~~(2) Salmonid fish pathogens/diseases:~~
 - ~~(a) Infectious hematopoietic necrosis virus (IHNV).~~
 - ~~(b) Infectious pancreatic necrosis virus (IPNV).~~
 - ~~(c) Viral hemorrhagic septicemia (VHS).~~
 - ~~(d) *Oncorhynchus masou virus (OMV).~~
 - ~~(e) Bacterial kidney disease (BKD).~~
 - ~~(f) Whirling disease.~~
 - ~~(g) *Ceratomyxa shasta.~~
 - ~~(h) *Proliferative kidney disease (PKD).~~
- ~~(3) Salmonid egg pathogens/diseases:~~
 - ~~(a) IHNV.~~
 - ~~(b) IPNV.~~
 - ~~(c) VHS.~~
 - ~~(d) *OMV.~~
 - ~~(e) BKD.~~

Those pathogens denoted by an asterisk (*) will only be tested for if the fish or eggs originate from an area where the pathogen is found.]

(2) Emergency prohibited pathogens.

- (a) Infectious hematopoietic necrosis virus (IHNV).
- (b) Infectious pancreatic necrosis virus (IPNV).
- (c) Viral hemorrhagic septicemia virus (VHSV).
- (d) *Oncorhynchus masou virus (OMV).

(3) Prohibited pathogens.

(a) Myxobolus cerebralis (pathogen that causes whirling disease)**.

(b) Renibacterium salmoninarum (pathogen that causes bacterial kidney disease (BKD)).

(c) *Ceratomyxa shasta (pathogen that causes the disease ceratomyxosis**.

(d) Bothriocephalus (Asian tapeworm and cause of the disease bothriocephalosis.

(e) *PKX (pathogen that causes proliferative kidney disease (PKD)**.

(4) Reportable pathogens.

(a) Yersinia ruckeri (pathogen that causes enteric redmouth)**.

(b) Aeromonas salmonicida (pathogen that causes furunculosis)**.

(c) Emerging fish pathogens (including but not limited to any filterable agent or agent of clinical significance as determined by the Fish Health Policy Board).

~~[(4) Severity (Action) list:~~

~~Level 1 – If any of the following pathogens or diseases are found, an immediate meeting of the Fish Health Board shall be convened and corrective action shall be recommended:~~

- ~~(a) IHNV.~~
- ~~(b) IPNV.~~
- ~~(c) VHS.~~
- ~~(d) OMV.~~
- ~~Level 2 – If any of the following pathogens or diseases are found, they will be dealt with at the next scheduled meeting of the Fish Health Board:~~
 - ~~(a) BKD.~~
 - ~~(b) Whirling disease.~~
 - ~~(c) Ceratomyxa shasta.~~
 - ~~(d) PKD.~~

] (5) The Fish Health Policy Board Procedures for the Timely Reporting of Pathogens shall be followed if any emergency prohibited, prohibited, or reportable pathogen is found. Inspection for reportable pathogens is optional, but positive findings of these pathogens must be reported to the Fish Health Policy Board. Reporting of unregulated pathogens to the Fish Health Policy Board is not required.

(6) The Fish Health Policy Board Emergency Response Procedures are activated any time a confirmed finding or unconfirmed evidence of an emergency prohibited or prohibited pathogen is reported.

R58-17-16. Inspection of Records and Facilities.

(A) The following records must be maintained for a period of ~~(two)~~ up to five years and be available for inspection during reasonable hours by ~~[a Department of Agriculture and Food]~~ the appropriate agency representative pursuant to R58-17-4 ~~[during reasonable hours].~~

(1) Records of purchases, acquisition, distribution, and production histories of live aquatic animals.

(2) ~~[Certificates of registration]~~ CORs and ~~[E]ntry [P]ermits.~~

(3) Valid identification of stocks, including origin of stocks.

(B) ~~[Department of Agriculture and Food]~~ The appropriate agency representatives may conduct pathological or physical investigations at any registered facility pursuant to R58-17-4 during reasonable hours if there is cause to believe that a disease condition exists. Any laboratory testing that is necessary as a result of this investigation will not be at the owner's expense.

R58-17-17. ~~[Commercial]~~ Aquaculture Facilities.

(A) COR required:

A ~~[certificate of registration]~~ COR is required to operate an ~~[commercial]~~ aquaculture facility. A separate ~~[certificate]~~ COR and fee ~~[is]~~ are required for each individual facility as defined under "aquaculture facility", Section 4-37-103(2)(a), regardless of ownership.

(B) Live aquatic animals may be sold:

The operator of an ~~[commercial]~~ aquaculture facility with ~~[fish]~~ aquatic animal health approval may take the aquatic animals as approved on the COR from the facility at any time and offer them

for sale. Within Utah, live ~~[fish]~~aquatic animals can only be sold to other facilities which have a valid COR for that species.

(C) Fee-fishing facility allowed:

The operator of an ~~[commercial]~~ aquaculture facility may also operate a fee-fishing facility under the terms applicable to fee-fishing facilities in Section R58-17-18, provided the fee-fishing facility is located at the site of the aquaculture facility, contains only those species authorized on the COR for the aquaculture facility, and this activity is listed on the COR for the aquaculture facility.

(D) Receipts required:

Any sale, shipment or transfer of live fish from an aquaculture facility must be accompanied by a receipt with documentation of the source and destination. A receipt book will be provided by the ~~[Dept. of Agriculture and Food]~~Department upon request. Copies of all receipts will be submitted to the Department and will serve as the annual report of sales. The receipt book is to be used for in-state sales or transfers, and will contain the following information:

- (1) Names, addresses, phone numbers, COR numbers, COR expiration dates, fish health approval numbers and expiration dates of sources[-];
- (2) Number and weight being shipped, by species[-];
- (3) Names, addresses and phone numbers of destinations[-];
- (4) COR numbers and COR expiration dates for~~[of]~~ destinations (for in-state transfers only)[-];
- (5) Dates of transactions[-];
- (6) Signature of seller.

~~[—Copies of all receipts will be submitted to the Department of Agriculture and Food and will serve as the annual report of sales.]~~

(E) Annual reports required:

Annual reports of all sales, transfers, and purchases must be submitted to the Department~~[of Agriculture and Food]~~ as part of the COR renewal process, pursuant to Subsection R58-17-8(B)(2). A report form for all purchases or transfers into a facility will be provided by the Department~~[of Agriculture and Food]~~.

(1) For all purchases, this report will contain the following information:

- (a) Names, addresses, phone numbers, COR numbers and fish health approval numbers of sources.
- (b) Number and weight by species.
- (c) Names, addresses, phone numbers, COR numbers of ~~[receiver]~~the destinations.
- (d) Dates of transactions.

(2) For all sales or transfers, copies of the receipt book transactions~~[-as mentioned above in]~~pursuant to Subsection R58-17-17(D), will be submitted to the Department~~[of Agriculture and Food]~~.

(3) The records and reports must be submitted to the ~~[Dept. of Agriculture and Food]~~Department ~~[no later than]~~by January ~~[30]~~31 each year and must be received before a COR will be renewed.

(F) Fees assessed:

A COR for an~~[commercial]~~ aquaculture facility ~~[is]~~shall be assessed a fee of \$150.00 during application and ~~[yearly]~~annually for renewal, pursuant to Section 4-37-301. A fee of \$125.00 shall be assessed to applicants who renew before December 31. The deadline for COR renewal is January 31. After this date, a \$25.00 late fee shall be assessed. If the COR renewal application is not received by February 28, the COR will be no longer valid and regulatory action shall be initiated pursuant to R58-17-8(B)(3).

R58-17-18. Fee-Fishing Facilities.

(A) COR required:

A ~~[certificate of registration]~~COR is required to operate a fee-fishing facility. A separate COR is necessary for separate fee-fishing facilities as defined under "aquaculture facility", Section 4-37-103(2)(a), regardless of ownership.

(B) Live sales or transfers prohibited:

The operator of a fee-fishing facility may not sell, donate, or otherwise transfer live aquatic animals, except that the approved species may be transferred into the facility from an approved source.

(C) Fishing licenses not required:

A fishing license is not required to take aquatic animals from a fee-fishing facility.

(D) Receipts required:

To transport dead aquatic animals away from a fee-fishing facility, the operator must provide a receipt to the customer which contains the following information[-]:

(1) Name, address, COR number, COR expiration date and phone number of ~~[seller]~~fee-fishing facility.

(2) Date caught.

(3) Species and number of fish.

(E) Annual report required:

The operator of a fee-fishing facility must submit to the Department~~[of Agriculture and Food]~~ an annual report of all live ~~[fish]~~aquatic animals purchased or acquired during the year. A report form for all purchases or transfers into a facility will be provided by the Department~~[of Agriculture and Food]~~. This report must contain the following information[-]:

(1) Names, addresses, phone numbers, ~~[COR number and]~~ fish health approval numbers of all sources and/or COR numbers and COR expiration dates.

(2) Number and weight by species.

(3) Dates of sales or transfers.

(4) Names, addresses, phone numbers, ~~[and]~~ COR numbers and COR expiration dates of ~~[receiver]~~the destinations.

(F) Fees assessed:

A fee of \$30.00 ~~[is]~~shall be required with the application for the fee-fishing COR~~[-and is]~~. This fee shall be required annually with the reports for COR renewal, pursuant to Section 4-37-301. A fee of \$25.00 shall be assessed to applicants who renew before December 31. The deadline for COR renewal is January 31. After this date, a \$25.00 late fee shall be assessed. If the COR renewal application is not received by February 28, the COR will be no longer valid and regulatory action shall be initiated pursuant to R58-17-8(B)(3).

R58-17-19. Public Aquaculture, Private Fish Ponds, Institutional Aquaculture Facilities, Short Term Fishing Events, Private Stocking and Displays.

Details on the COR and regulatory requirements pursuant to R58-17-4(2) for operating public aquaculture, private fish ponds, institutional aquaculture facilities, short term fishing events, private stocking and displays are found in the code for Natural Resources, Wildlife Resources, at Rule R657-16 of the Utah Administrative Code.

R58-17-20. Classification of Pathogens.

TABLE

Classification	Criteria	Control Methods	Included
			Pathogens (and diseases they cause)
Emergency	High morbidity	Cannot be treated	IHNV
	High mortality	Avoidance, eradication and disinfection	IPNV
	Exotic to Utah		VHSV
	Immediate action required		OMV
Prohibited	Can cause high morbidity or high mortality	Very difficult or impossible to treat	Myxobolus Cerebralis (whirling disease)
	May be endemic to Utah	Avoidance, eradication and disinfection	Renibacterium Salmoninarum (BKD)
	Action required in reasonable time frame		Ceratomyxa shasta PKX organism (PKD)
			Bothrio- cephalus acheilognathi (Asian tapeworm)
Reportable	Management diseases	Possible to prevent or treat	Yersinia ruckeri (Enteric redmouth)
	Not prohibited in Utah		
	Prohibited in some other states or countries		Aeromonas Salmonicida (furun- culosis)
	Economic importance		Emerging fish Pathogens (including but not limited to
	Inspection is optional		any filterable agent or
	Positive findings must be reported to the Fish Health Policy Board		agent of clinical significance as determined by the Fish Health Policy Board
Unregulated	Not regulated in Utah		
	Includes all pathogens not listed above		

Reporting to the Fish
Health Policy Board
not required

KEY: aquaculture
~~March 18, 1996~~ 1999

4-2-2
4-37



Agriculture and Food, Animal Industry
R58-20
Domesticated Elk Hunting Parks

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 22123
FILED: 06/28/1999, 11:34
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a program for the registration of elk hunting parks.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the requirements for operating elk hunting parks.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-102

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** No cost to state. There is an application fee established by the legislature for park owners.
 - ❖ **LOCAL GOVERNMENTS:** No cost to local government. There is an application fee to park owners.
 - ❖ **OTHER PERSONS:** License to hunt fee will be established by park owners.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** If there is a violation committed, the owner could be brought before the Department Administrative Law Court and put on probation or fined up to \$5,000 per violation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact for park owners to register elk hunting parks has been established by the 1999 legislature in S.B. 45.

(DAR Note: S.B. 45 is found at 1999 Utah Laws 378, and was effective May 3, 1999.)

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

Agriculture and Food
Animal Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Terry Menlove at the above address, by phone at (801) 538-7166, by FAX at (801) 538-7126, or by Internet E-mail at agmain.tmenlove.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 08/03/1999, 10:00 a.m., Agriculture and Food, 350 N Redwood Rd, Salt Lake City, UT 84116.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.**R58-20. Domesticated Elk Hunting Parks.****R58-20-1. Authority and Purpose.**

In accordance with the Domesticated Elk Act, and the provisions of Section 4-39-106, Utah Code, this rule specifies:

- (i) procedures for obtaining domesticated elk facility licenses,
- (ii) requirements for operating those facilities,
- (iii) standards for disposal/removal of animals within those facilities, and
- (iv) health standards and requirements in such facilities.

R58-20-2. Definitions.

In addition to terms used in Section 4-39-102:

- (1) "Elk farm" means a place where domestic elk are raised, bred and sold within the practice of normal or typical ranching operations.
- (2) "Hunting Park" means a place where domestic elk are harvested through normal or typical hunting methods.
- (3) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.
- (4) "Domestic elk" means any elk which have been born inside of, and has spent its entire life in captivity.
- (5) "Isolation Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk or livestock.
- (6) "Secure Enclosure" means a perimeter fence or barrier that is constructed in accordance with Section 4-39-201 and will prevent domestic elk from escaping into the wild or the ingress of native big game wildlife into the facility.

R58-20-3. Application and Licensing Process.

- (1) Pursuant to Section 4-39-203, Utah Code, each facility that is involved in the hunting of domestic elk must first fill out and complete a separate elk hunting park application which shall be submitted to the Division for approval.
- (2) In addition to the application, a general plot plan should be submitted showing the location of the proposed farm in conjunction with roads, town, etc. in the immediate area.
- (3) A facility number shall be assigned to an elk hunting park at the time a completed application is received at the Department of Agriculture and Food building.
- (4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any

facility. This inspection shall be made by an approved Department of Agriculture and Food employee and division of Wildlife Resource employee. It shall be the responsibility of the applicant to request this inspection at least 72 hours in advance.

(5) Upon receipt of an application, inspection and approval of the facility, completion of the facility approval form, and receipt of the license fee, a license will be issued.

(6) All licenses for hunting parks expire on July 1 in the year following the year of issuance.

(7) Elk may enter into the facility only after a license is issued by the Department and received by the applicant.

R58-20-4. License Renewal.

(1) All laws found in Section 4-39-205 and rules found in R58-18-4 pursuant to the renewal of elk farms are applicable to elk hunting parks.

R58-20-5. Facilities.

(1) Fencing requirements established by Section 4-39-201 of the Utah Code are applicable to both domestic elk farms and hunting parks.

(2) A hunting park for domesticated elk may be no smaller than 300 acres, with sufficient trees, rocks, hills and natural habitat, etc. to provide cover for the animals. Hunting park owners intending to operate facilities larger than 5,000 acres must obtain prior written approval of the Elk Advisory Board, following studies, reviews or assessments, etc., which the Board may deem necessary to undertake, in order to make an informed decision.

(3) There shall be notices posted on the outside fence and spaced a minimum of every 300 yards, to notify the public that the land area is a private hunting park.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

(5) To be licensed, the park must include a handling and isolation facility which can be accessed and operated with reasonable ease for identification and disease control purposes. An exception to this rule may be granted in cases where there is a licensed farm owned by the same individual within 10 miles of the park which can be accessed in a reasonably short period of time.

R58-20-6. Records.

(1) All laws and rules set forth in Sections 4-39-206 and R58-18-6 apply to hunting parks.

R58-20-7. Genetic Purity.

(1) All laws and rules found in Sections 4-39-301 and R58-18-7 pursuant to genetic purity are applicable to hunting parks.

R58-20-8. Acquisition of Elk.

(1) All laws and rules found in Sections 4-39-302, 4-39-303, and R58-18-8 pursuant to importation or acquisition of domestic elk are applicable to hunting parks.

R58-20-9. Identification.

(1) All laws and regulations provided in Sections 4-39-304 and R58-18-9 governing individual animal identification are applicable in hunting parks.

R58-20-10. Inspections.

(1) All hunting park facilities must be inspected yearly within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the department for such inspection, giving the department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within a reasonable timely period before a license renewal can be issued.

(3) All live domestic elk must be brand inspected prior to entering or leaving the park.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed hunting park before being released into an area inhabited by other elk.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of live elk into or out of the hunting park including those which move from facility to facility within Utah.

(6) A Domestic Elk Harvest Permit must be filled out by the park owner at the time of harvest. One copy of the permit shall be sent to the UDAF office, one copy shall go to the hunter and one copy shall be kept on file at the facility. Validated tags must be attached to the carcass and the antlers prior to leaving the park and remain affixed during transportation to residence, meat processor, taxidermist, etc.

(7) Pursuant to Section 4-39-207, agricultural inspectors may, at any reasonable time during regular business hours, have free and unimpeded access to inspect all facilities, animals and records where domestic elk are kept.

R58-20-11. Health Rules.

(1) All laws and rules found in Sections 4-39-107 and R58-18-11 pursuant to animal health are applicable to hunting parks.

R58-20-12. Meat.

(1) The selling of domestic elk meat obtained from a licensed hunting park will not be allowed and:

(a) Must be consumed by either the hunter or park owner or their immediate family members, regular employees or guests, or the meat shall be:

(b) Donated as a charitable food item in compliance with Section 4-34-2 of the Utah Agriculture Code.

R58-20-13. Liability.

(1) All laws found in Section 4-39-401 concerning the escape of domesticated elk are applicable to hunting parks.

(2) A hunting park owner must demonstrate every reasonable effort to remove all wild big game animals prior to enclosing the park. If wild big game animals are found within the park after it has been licensed, the owner shall notify DWR within 48 hours, and DWR shall either remove or destroy the animal at their expense.

(3) No person(s) may hunt domestic elk in an approved park without first being issued written permission to do so from the owner. The approval document shall be in the hunter's possession during hunting times. Hunting hours will be from 1/2 hour before sunrise to 1/2 hour after sunset.

(4) In issuing a hunting-park license, or in requiring an owner's permission, the state (shall assume no liability and shall be held blameless) is not liable for (an) any accident, mishap or injury that occurs on or adjacent to or in connection with a hunting park.

KEY: inspections**1999****4-39-106**

Commerce, Occupational and
Professional Licensing
R156-26
Certified Public Accountant Licensing
Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22166

FILED: 07/01/1999, 16:01

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Utah Board of Accountancy have reviewed existing rules and identified some changes that needed to be made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-26-102 added a definition for "incidental to regular practice." There has been a substantial need to clarify the term "incidental to regular practice" in Title 58, Chapter 26, for what is allowed to be performed in Utah by Certified Public Accountants (CPAs) licensed in other states without obtaining a license in Utah. This addition clarifies that advertising which may cross state lines is clearly allowed. The out-of-state CPA is required to become licensed in Utah only if the CPA establishes a relationship with Utah clients. This also clarifies that if a client is based in another state, the CPA can come into Utah for incidental work such as to verify the Utah branch office operations of an out-of-Utah client without obtaining a Utah license. The addition further clarifies that if a CPA/client relationship was started while both the CPA and client were located outside of Utah, they may continue that relationship if the client moves to Utah, without the need of the CPA becoming licensed in Utah. In Section R156-26-201, changes were made to clarify that each college or university in Utah having an accredited accounting program is to have a representative on the Education Advisory Committee, which is a peer advisory committee to the Utah Board of Accountancy. In Subsection 156-26-302a(1), made technical corrections to make the rule more clear. In Subsections R156-26-302a(3), R156-26-302b(3), and R156-26-302d, added a provision that adds another alternate means to have foreign education, experience, and examinations evaluated. It allows Utah to accept foreign applicants based upon a review by the National Association of State Boards of Accountancy (NASBA) of their education. This is a national program established by NASBA which provides a central source to evaluate foreign education. This program is designed to allow one review that could qualify for multiple states. In Section R156-26-303a, added that certain

persons involved in the quality review program may have access to financial statements but no other persons. In Section R156-26-303b, deleted paragraph (5) entitled "Appeal." It was determined that an appeal from a registry is not appropriate. An independent organization qualified as a Continuing Professional Education (CPE) registry should be able to have standards that are higher than the minimum CPE requirements as outlined in the rules. This does not affect their obligation to assure the programs they approve meet minimum standards. In Section R156-26-307 changes were made with respect to the reinstatement of licenses and required CPE hours. It was determined that the existing reinstatement requirements are too harsh for applicants who may have inadvertently failed to pay their fees. This proposed change waives the 80 hours of CPE required for reinstatement if the person applies for reinstatement within six months. Also grammatical changes were made to make the requirements clearer. In Section R156-26-501, updated the date of the "Code of Professional Conduct" of the American Institute of Certified Public Accountants (AICPA).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-26-1, and Subsections 58-1-106(1) and 58-1-202(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct dated June 1, 1993. Adds AICPA Code of Professional Conduct, as adopted January 12, 1998, as amended January 14, 1992, and October 28, 1997.

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There may be some minimal savings to the Division as a result of easier requirements affecting certified public accountants.

❖LOCAL GOVERNMENTS: Rules do not affect local governments; therefore, no costs or savings.

❖OTHER PERSONS: For certified public accountants, the cost of reinstatement of licensure is reduced by not being required to complete as many hours of CPE. The proposed changes should save approximately 100 affected licensees per year any where from \$100 - \$500 each due to the changes being proposed for reinstatement of licensure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no increase in compliance costs as a result of any of the proposed changes. For certified public accountants, there may be potential savings as a result of changes being made with respect to reinstatement of licensure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments to the rules are intended to clarify certain ambiguous terms in the licensing statute and to make clear that a non-resident CPA is only required to become licensed in Utah if he establishes a new professional relationship with a Utah client. The proposed changes also serve to lessen the onerous continuing education requirements currently in place for reinstatement of a license which might have inadvertently lapsed for delinquent payment of fees. The proposed rules also provide for an additional acceptable

resource for the evaluation of a foreign education. The changes should result in no impact upon the state budget or upon local governments, and will have no effect on the general public. The changes regarding reinstatement should save the approximately 100 licensees affected per year from \$100 - \$500 each from the removal of the provisions requiring continuing education even for a short, inadvertent lapse of licensure due to failure to timely pay a license renewal fee--Douglas C. Borba

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

Commerce
Occupational and Professional Licensing
Fourth Floor, Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City UT 84114-6741, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at (801) 530-6720, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dsJones@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 07/28/1999, 1:00 p.m., 160 East 300 South, Conference Room 428 (Fourth Floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing, R156-26. Certified Public Accountant Licensing Act Rules. R156-26-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 26, as defined or used in these rules:

(1) "Act" means Title 58, Chapter 26, the Certified Public Accountant Licensing Act.

(2) "Administering organization" means an organization approved by the Division of Occupational and Professional Licensing and the Utah Board of Accountancy which will administer quality reviews in the Quality Review Program.

(3) "AICPA" means American Institute of Certified Public Accountants.

(4) "Committees" as used in these rules means the Education Advisory Committee, the Quality Review Oversight Committee (QROC), the Technical Standards Advisory Committee, and the Continuing Education Advisory Committee created in Section R156-26-201.

(5) "Conditioned" means that a person has taken the entire AICPA uniform examination and in one sitting has passed two or more subjects or both sections of any subjects having more than one section, and received a score of at least 50% in each subject not passed.

(6) "Firm" means an individual, a proprietorship, a partnership, a professional corporation or any other organization engaged in the practice of public accounting as set forth under Subsection 58-26-2(8) of the Certified Public Accountant Licensing Act.

(7) "Incidental to regular practice" as defined in Subsection 58-26-2(9) is further defined to mean:

(a) An individual or a firm licensed as a certified public accountant or equivalent designation in any other state, district, or territory of the United States or any foreign country may perform services in this state for a client whose principal office or residence is located outside of this state as long as the services are incidental to primary services being performed outside of this state for that client.

(b) An individual or firm licensed in another jurisdiction, as incidental to their practice in such other jurisdiction, may advertise in this state that their services are available by any means including, but not limited to television, radio, newspaper, magazine or Internet advertising provided such representations are not false, misleading or deceptive; and provided that such individual or firm does not establish a CPA/Client relationship to perform services requiring a CPA license or CPA firm registration with any individual, business or other legal entity having its principal office or residence in this state without first obtaining a CPA license and CPA firm registration in this state.

(c) Incidental to regular practice in another jurisdiction includes a licensed CPA or equivalent designation continuing a CPA/Client relationship with an individual which originated while the client's residence was located outside of this state but thereafter the client moved their residence to this state.

[7]8) "Institution acceptable to the board" means an educational institution which meets the requirements set forth in R156-26-302a.

[8]9) "Qualified continuing professional education (CPE)" as used in these rules means continuing education that meets the standards set forth in Section R156-26-303b.

[9]10) "Qualifying Examination" means the AICPA Uniform CPA Examination, the Utah law and rules examination and the AICPA Self Study Examination known as the "Professional Ethics for CPAs" or an equivalent ethics examination administered by another state licensing board.

[10]11) "Standard setting bodies" means the Financial Accounting Standards Board, the Government Accounting Standards Board, the American Institute of Certified Public Accountants, the Securities and Exchange Commission, and the Federal Accounting Standards Advisory Board and other generally recognized standard setting bodies.

[11]12) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 26, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-26-501.

[12]13) "Year of review" means the calendar year during which a quality review is to be conducted.

[13]14) "Year under review" means the lesser of the twelve-month period or the period the firm has been in existence that will be reviewed by the reviewers.

R156-26-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created in accordance with Subsection 58-1-203(6), the Education Advisory Committee to the Utah Board of Accountancy consisting of ~~[not more than seven]~~one full-time faculty, ~~a majority of which are licensed CPAs~~ from each college or university in Utah which has an accredited program as set forth in Section R156-26-302a, a majority of which committee are to be licensed CPAs~~[the colleges and universities in Utah]~~.

(a) The Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the Education Advisory Committee shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:

(i) reviewing an applicant's transcript of credits to determine satisfactory completion of the education requirements prior to approving the applicant to take the qualifying examination and advising the board as to the acceptability of an educational institution.

(c) The committee shall consider the following when advising the board of the acceptability of the educational institution:

(i) the institution's accreditation, the acceptability by other state licensing boards, faculty qualifications and other educational resources.

(2) There is created in accordance with Subsection 58-1-203(6), the Quality Review Oversight Committee (QROC) to the Utah Board of Accountancy consisting of not more than seven licensed CPAs who represent a cross section of Utah firms.

(a) The committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the QROC shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:

(i) monitoring of the administering organization to provide reasonable assurance that quality reviews are being conducted and reported on in accordance with the quality review minimum standards;

(ii) reviewing the policies and procedures of administering organization applicants as to their conformity with the quality review minimum standards; and

(iii) reporting to the board on conclusions reached and making recommendations, including the continued approval of the administering organization, as a result of performing the functions described in R156-26-201(2)(b)(i) and (ii). Reports submitted to the board will not contain information concerning specific firms or reviewers;

(iv) consulting with the division regarding appropriate handling of individual licensees and firms which have unresolved matters resulting from the quality review process or have not complied with or have disregarded the quality review requirement; and

(v) other related duties and responsibilities as may be assigned by the board.

(c) The oversight procedures to be performed by the QROC in monitoring of the administering organizations may consist of the following:

(i) where the administering organization is the AICPA Quality Review Program or other approved administering organizations other than the SEC Practice Section (SECPS) and the Private Companies Practice Section (PCPS), the QROC may perform the following functions:

(A) visit each administering organization annually.

(B) during the visits, the QROC shall:

(I) meet with the organization's quality review QROC during the QROC's consideration of quality review documents;

(II) review the organization's procedures for administering the quality review program;

(III) review, on the basis of a random selection, a number of on-site and off-site reviews administered by the organization to include, at a minimum, a review of the report on the quality review, the letter of comments, if any, the firm's response to the matters discussed in the letter of comments, the administering organization's acceptance letter outlining any additional corrective or monitoring procedures, and the working papers on the selected reviews. The purpose of the review by the QROC is to determine whether the reviews are being conducted and reported on in accordance with the quality review minimum standards; and

(IV) expand the review of quality review documents if significant deficiencies, problems, or inconsistencies are encountered during the review of the above-described documentation.

(C) based on the foregoing procedures, make an annual recommendation to the board as to the continued use of the administering organization;

(D) obtain reports and any documentation that are available from the oversight committees that perform the same procedures as described in R156-26-201(2)(c)(i)(B)(I),(II), (III) and (IV).

(ii) for reviews administered by the PCPS, review the annual statistics obtained from PCPS and perform other procedures as considered appropriate. Based on the results of its review, the committee shall make an annual recommendation to the board as to the qualifications of PCPS as an approved administering organization.

(iii) where the administering organization is the SECPS, the QROC shall review the published annual report of the Public Oversight Board and conclude whether the procedures carried out by the Public Oversight Board and the disclosures contained in the annual report are indicative of an acceptable level of oversight. Based on the results of its review, the QROC shall make an annual recommendation to the board as to the qualification of SECPS as an approved administering organization.

(d) With respect to proposals made by a prospective administering organization, the QROC shall perform the following procedures:

(i) review the policies as drafted by the prospective administering organization to determine whether they will provide reasonable assurance of conforming with the minimum standards for quality reviews;

(ii) review the procedures as proposed by the prospective administering organization to determine whether they will ensure the following:

(A) reviewers assigned are appropriately qualified to perform the review for the specific firm;

(B) reviewers are provided with appropriate materials, such as checklists;

(C) the prospective administering organization will consult with the reviewers on problems arising during the quality review and that specified occurrences requiring consultation are outlined;

(D) the prospective administering organization will review the results of the quality review; and

(E) the prospective administering organization has provided for an independent report acceptance body that meets the standards for quality review; the report acceptance body shall consider and accept the results of the review; the report acceptance body shall also require corrective actions of firms with significant deficiencies noted in the review process.

(iii) make recommendations to the board as to the acceptance of proposals to serve as an administering organization.

(3) There is created in accordance with Subsection 58-1-203(6), the Continuing Education Advisory Committee to the Utah Board of Accountancy consisting of not more than seven licensed CPAs.

(a) The Continuing Education Advisory Committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the Continuing Education Advisory Committee shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:

(i) recommending CPE guidelines and standards;

(ii) evaluating compliance of CPE programs; and

(iii) performing random audits to determine compliance with the CPE requirements and the standards for CPE programs.

(4) There is created in accordance with Subsection 58-1-203(6), the Technical Standards Advisory Committee to the Utah Board of Accountancy consisting of not more than seven licensed CPAs.

(a) The Technical Standards Advisory Committee shall be appointed and serve in accordance with Section R156-1-204.

(b) The duties and responsibilities of the Technical Standards Advisory Committee shall include assisting the division in collaboration with the board in their duties, functions, and responsibilities defined in Section 58-1-202 as follows:

(i) reviewing documents, reports, financial statements, and recommending whether or not those records conform to the standards of the profession;

(ii) reviewing complaints and recommending whether certain acts, practices or omissions violate the ethical standards of the profession;

(iii) providing technical assistance to the division; and

(iv) serving as expert witnesses at administrative hearings.

R156-26-302a. Qualifications for Licensure - Education Requirements.

The education requirements for licensure in Subsection 58-26-4(1)(d)(ii) are defined, clarified, or established as follows:

(1) An applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours (225 quarter hours) as follows:

(a) a graduate or undergraduate program within an institution whose business or accounting education program is accredited by the American Assembly of Collegiate Schools of Business (AACSB), or the Association of Collegiate Business Schools and Programs (ACBSP), from which the applicant received one of the following:

- (i) a graduate degree in accounting;
- (ii) a graduate degree in business including not less than:

(A) 24 semester hours (36 quarter hours) in upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and ~~manager~~management accounting; or

(B) 15 semester hours (23 quarter hours) graduate level accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting; or

(C) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work; or

(iii) a baccalaureate degree in business or accounting and 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree which includes not less than:

(A) 16 semester hours (24 quarter hours) in upper division accounting courses, which when combined with the accounting courses listed in Subsection (B) below, have at least one course with a minimum of two semester hours (three quarter hours) each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(B) eight semester hours (12 quarter hours) in graduate level accounting courses, which when combined with the accounting courses listed in Subsection (A) above, have at least one course each covering the subjects of financial accounting, auditing, taxation, and management accounting;

(C) 12 semester hours (18 quarter hours) in upper division non-accounting business courses;

(D) 12 semester hours (18 quarter hours) in graduate level ~~[non-accounting]~~business or accounting courses; and

(E) 10 semester hours (15 quarter hours) of either graduate or upper division accounting or business courses.

(b) a graduate or undergraduate program from an institution accredited by the Northwest Association of Schools and Colleges, Commission on Colleges, or the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, or an equivalent accrediting institution from which the applicant received a baccalaureate or graduate degree with not less than:

(i) 30 semester hours (45 quarter hours) in business or related courses providing a minimum of two semester hours (three quarter hours) in each of the following subjects:

- (A) business law;
- (B) computers;
- (C) economics;
- (D) ethics;
- (E) finance;
- (F) statistics and quantitative methods;
- (G) written and oral communications; and
- (H) business administration such as marketing, production, management, policy or organizational behavior;

(ii) 24 semester hours (36 quarter hours) in upper division accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:

- (A) auditing;
- (B) finance;
- (C) managerial or cost;
- (D) systems; and
- (E) taxes; and

(iii) 30 semester hours (45 quarter hours) beyond the requirements for a baccalaureate degree of additional business related course work including not less than:

(A) eight semester hours (12 quarter hours) in graduate accounting courses;

(B) 12 semester hours (18 quarter hours) in graduate accounting or graduate business courses; and

(C) 10 semester hours (15 quarter hours) of additional business related hours shall be taken in upper division undergraduate or graduate level courses.

(2) The division in collaboration with the board or the education subcommittee of the board may make a written finding for cause that a particular accredited institution or program is not acceptable.

(3) The Division in collaboration with the board or the education subcommittee of the board may accept education of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

R156-26-302b. Qualifications for Licensure - Experience Requirements.

In accordance with Subsections 58-1-203(7) and 58-1-301(3), the experience requirements for licensure in Subsection 58-26-4(1)(e) are defined, clarified, or established as follows:

(1) "Qualifying experience" as defined in Subsection 58-26-2(15) and as required as a condition for licensure in Subsection 58-26-4(1)(e) shall be completed in a public accounting firm or an organization providing equivalent experience as determined by the division in collaboration with the board under the supervision of a licensed CPA who is an officer, shareholder, partner, proprietor or manager within that CPA firm or organization. The firm or organization shall be regularly engaged in the practice of public accountancy as defined in Subsection 58-26-2(12). Recognition shall be given to "qualifying experience" obtained only after completion of the education requirement upon which the application for licensure is based.

(2) "Accounting experience" shall be completed under the supervision of a licensed CPA and may be performed in a public accounting firm or other organization. The accounting experience shall include the performance of one or more types of services or

functions involving the use of accounting or auditing skills, one or more types of management advisory or consulting skills, or the preparation of tax returns or the furnishing of advice on tax matters.

The accounting experience shall provide the applicant the opportunity to gain an understanding of the entire accounting and reporting cycle comprising the generation and recording of transactions through the preparation and analysis of financial statements. The accounting experience does not, however, need to be derived through the maintenance of a set of accounting records or ledgers. The accounting experience may be derived either in the practice of public accountancy or not in the practice of public accountancy, through employment in private industry, education or the government sector. Prior to July 1, 1994, an applicant with a baccalaureate degree with less than 150 semester hours shall obtain 2000 hours of accounting experience before being permitted to take the qualifying examination. Accounting experience shall not be counted as satisfying the qualifying experience requirement. After July 1, 1994, an applicant with a baccalaureate degree with 150 or more semester hours may obtain accounting experience either before or after satisfying the education requirement and shall be permitted to take the qualifying examination upon completion of the educational requirements whether or not the accounting experience requirement has been completed.

(3) The Division in collaboration with the board may accept experience of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

R156-26-302d. Qualifications for Licensure - Examinations.

(1) The qualifying examinations required for licensure as provided for in Subsections 58-26-4(1)(f), 58-26-5(2), 58-26-6(1)(a), and 58-26-2(14) shall include the following examinations:

(a) the Uniform CPA Examination of the American Institute of Certified Public Accountants.

(i) A person must sit for all parts of the uniform examination upon their first and all subsequent sittings of the uniform examination unless previously conditioned upon. A person who conditioned on the uniform examination shall receive credit for the parts passed and shall have six successive examination administrations to pass the remaining parts without being required to retake the entire examination[?].

(ii) The Division in collaboration with the board may accept testing of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from the National Association of State Boards of Accountancy (NASBA) verification of compliance with the terms of an agreement for reciprocal licensure between the foreign country and the International Qualifications Appraisal Board of NASBA, which agreement provides the applicant's

examinations, education and experience is determined to be substantially equivalent to the 1994 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements.

(b) the American Institute of Certified Public Accountants Self Study Ethics Examination; and

(c) the Utah Laws and Rules Examination.

R156-26-303a. Renewal Requirements - Quality Review.

(1) General.

In accordance with Subsection 58-1-308(3)(b) and Section 58-26-7, there is created a quality review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of licensees and firms.

(a) The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program shall emphasize education and may include other remedial actions determined appropriate where a firm's work product and services do not comply with established professional standards. In the event a firm is unwilling or unable to comply with established standards, or intentionally disregards professional standards so as to warrant disciplinary action, the committee shall refer the matter to the division and shall consult with the division regarding appropriate action to protect the public interest.

(2) Scheduling of the Quality Review.

(a) A firm's initial quality review will be assigned a due date with the administering organization by July 1, 1994 unless the firm was created after July 1, 1994, in which case the firm's initial quality review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26-2(17).

(b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a quality review commensurate in scope with its practice.

(c) The administering organization will assign the year of review. A firm enrolled in a practice monitoring program which is administered by the American Institute of Certified Public Accountants (AICPA) will use the year of review assigned by the AICPA. The firm will notify the administering organization of the deadlines set by the AICPA.

(d) A quality review number will be assigned by the administering organization. The firm is required to provide this number and its registration number assigned by the division to all licensees employed by the firm. Licensees will be required to include these numbers with their application for renewal of a license to practice public accounting.

(3) Selection of a Quality Reviewer.

A firm scheduled for quality review shall engage a reviewer qualified to conduct the quality review.

(4) Qualifications of a Quality Reviewer.

(a) Quality reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:

(i) acceptance as a peer reviewer or quality reviewer by the AICPA; or

(ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer or quality reviewer.

(b) Quality reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.

(c) The administering organization will approve reviewers for those reviews not administered by the AICPA.

(5) Conduct of Quality Review. Quality review shall be conducted as follows:

(a) Minimum Standards: The "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective April 13, 1995 as amended, are hereby incorporated by reference and adopted as the minimum standards for quality reviews of all firms. A copy of this document can be obtained at the Division of Occupational and Professional Licensing. This section shall not require any firm or licensee to become a member of AICPA or any administering organization.

(b) On-Site Review: In the case of a firm which performs one or more audits of historical financial statements or examinations of prospective financial statements, the quality review shall include an on-site study and evaluation of a representative selection of audit, examination, review and compilation reports, the financial statements upon which those reports were based and the associated working papers. The on-site review shall include procedures sufficient to provide the quality reviewer with a reasonable basis upon which to issue a report as required by R156-26-303a(6)(a).

(c) Off-Site Review: In the case of a firm which performs no audit or examination engagements, but does perform one or more review engagements or one or more compilation engagements, the quality review may be limited to an off-site study and evaluation of review and compilation reports and the financial statements upon which those reports were based. The off-site review need not include a study of the associated working papers, but shall include procedures sufficient to provide the quality reviewer with a reasonable basis upon which to issue a report as required by R156-26-303a(6)(b).

(6) Results of Review.

(a) In the case of a firm which performs one or more audit or examination engagements, upon completion of the quality review, the reviewer shall issue a report which, at a minimum, shall consist of a letter setting forth the scope of the quality review, including any limitations thereon; identifying the comprehensive set of standards under which the quality review was performed; stating an opinion on whether, during the year under review, the system of quality control for the accounting and auditing practice of the firm under quality review met the objectives of quality control standards generally recognized in the profession as authoritative, and whether that system of quality control was being complied with so as to provide the firm with reasonable assurance of conforming with professional standards. That letter shall also describe the reason for any modification or qualification of the report set forth in R156-26-303a(6)(d).

(b) In the case of a firm which performs no audit or examination engagements, but does perform one or more compilation engagements or one or more review engagements, upon completion of the quality review, the quality reviewer shall issue a report which, at a minimum, consists of a letter describing the limited scope of the quality review and disclaiming an opinion or any form of assurance about the firm's quality control policies and procedures for its accounting practice; identifying the comprehensive set of standards under which the quality review was

conducted; stating whether anything came to the quality reviewer's attention that caused the quality reviewer to believe that the review or compilation reports submitted for quality review did not conform with the requirements of professional standards in all material respects. If applicable, the letter or a separate letter of comments shall describe the general nature of significant departures from professional standards disclosed by the quality review; and, if the departures from professional standards disclosed by the quality review are sufficiently numerous or serious, the letter shall set forth the quality reviewer's conclusion that the firm did not have reasonable assurance of conforming with professional standards in the conduct of its accounting practice during the year under review.

(c) In the case of a firm which performs one or more audits or examinations, an "unqualified" report shall be a report in which the quality reviewer expresses the opinion that the system of quality control for the accounting and auditing practice of the firm met the objectives of quality control standards generally recognized in the profession and was being complied with during the year under review so as to provide the firm with reasonable assurance of conforming with professional standards.

(d) In the case of a firm which performs one or more audits or examinations, any report which sets forth an opinion other than an unqualified opinion, or which qualifies, limits or changes that opinion shall be a "modified report".

(e) In the case of a firm which performs no audit or examination engagements, but does perform one or more review engagements or one or more compilation engagements, an "unqualified" report shall be a report which states that nothing came to the quality reviewer's attention that caused the quality reviewer to believe that the review or compilation reports submitted for review did not conform with the requirements of professional standards in all material respects.

(f) In the case of a firm which performs no audit or examination engagements, but does perform one or more review engagements or one or more compilation engagements, any report which sets forth a statement other than an unqualified report, or which limits, qualifies or changes that statement shall be a "modified report".

(g) The quality reviewer shall also issue to the firm under review, if appropriate, a letter of comments suggesting areas where improvement can be made.

(h) The reviewer shall issue a report to the firm within 30 days after completion of the review.

(i) The firm shall file the final report and letter of comments, if applicable, issued by the quality reviewer and the firm's response to the letter of comments with the responsible administering organization within 30 days after the receipt of the reports.

(7) Procedures in Case of a Modified Report.

(a) If the report issued as a result of a quality review is "unqualified", the administering organization shall take no further action, provided that the quality review was conducted in accordance with these rules. Modified reports identifying practice behavior which is below accepted standards but which may be corrected by a change in practice methodologies or education shall be monitored by the administering organization. The administering organization shall assure that the firm demonstrates that changes in practice methodologies or additional education suggested by the quality reviewer or deemed necessary by the administering organization have been completed. If the report is "modified", the

administering organization will refer to the QROC any unresolved matters.

(b) If the administering organization or the QROC finds that a quality review was not performed in accordance with these rules, in addition to any other action permitted by law, the administering organization or the QROC may, at its discretion, require the firm to undergo additional quality reviews at times and on terms as the administering organization or the QROC may determine. The cost of the additional reviews shall be the responsibility of the firm.

(c) To monitor situations in R156-26-303a(7)(a) and (b), the QROC may review information and documents maintained by the reviewers and the administering organization.

(d) If a firm does not comply with any remedial actions determined appropriate by the administering organization or the QROC, the administering organization or the QROC will refer the firm to the division and the board, to determine if disciplinary action is warranted.

(8) Review of Multi-State Firms.

(a) With respect to a multi-state firm, the QROC may accept a quality review based solely upon work conducted outside of this state as satisfying the requirement to undergo quality review under these rules, if:

(i) the quality review is conducted during the year scheduled or rescheduled under R156-26-303a(2);

(ii) the quality review is performed in accordance with requirements equivalent to those of this state;

(iii) the quality review:

(A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of on-site reviews, or;

(B) results in an evaluation and report on selected engagements in the case of off-site reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the quality review, the quality reviewer issues a report equivalent to that required by R156-26-303a(6).

(b) A multi-state firm not granted approval under R156-26-303a(8)(a) shall undergo a quality review pursuant to these rules which shall comply with R156-26-303a(8)(a) of the multi-state firm within this state.

(c) A multi-state firm seeking approval under R156-26-303a(8)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the quality review it proposes to undergo meets all of the requirements of R156-26-303a(5).

(d) A multi-state firm shall submit the quality review report it receives to the Utah administering organization as required by R156-26-303a(6) within 30 days of acceptance.

(9) Exemption.

(a) A firm which does not perform services as set out in R156-26-303a(5)(b) or (c) is exempt from quality review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a quality review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26-2(17).

(10) Mergers, Combinations, Dissolutions or Separations.

(a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26-303a(10)(a) or (b), the QROC may authorize a change in a firm's year of review.

(11) Extension.

(a) If the firm can demonstrate that the time established for the conduct of a quality review will create an unreasonable hardship upon the firm, the QROC may approve an extension not to exceed 180 days from the date the quality review was originally scheduled. A request for extension shall be addressed in writing by the firm to the QROC, in care of the division, with a copy to the administering organization responsible for administration of that firm's quality review. The written request for extension must be received by the QROC and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The QROC shall inform the administering organization of the approval of any extension.

(12) Retention of Documents Relating to Quality Reviews.

(a) All documentation necessary to establish that each quality review was performed in conformity with quality review standards adopted by the board, including the quality review working papers, the quality review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.

(b) The documents described in R156-26-303a(12)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization and, upon request of the QROC, shall be made available to it. In no event shall the retention period be less than 90 days.

(13) Costs and Fees for Quality Review.

(a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) All costs associated with the administration of the review process, including the administering organization and the QROC, will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.

(14) Quality Review Administered by the Division of Occupational and Professional Licensing.

(a) Any firms not participating in a quality review program administered by an administering organization approved by the QROC will be administered by the division.

(b) The division will appoint an independent acceptance body, to review and determine the results of a firm's quality review in

substantially the same manner as the minimum standards described in Subsection R156-26-303a(5)(a).

(i) The acceptance body shall consider and accept the results of the review; and require corrective actions of firms with significant deficiencies noted in the review process.

(15) Pursuant to Subsection 58-26-7(4)(c), all financial statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Quality Review Oversight Committee, the Quality Review Acceptance Body or the technical reviewer for purposes of assuring that quality reviews are performed according to professional standards.

R156-26-303b. Renewal and Reinstatement Requirements - Continuing Professional Education (CPE).

(1) Standards for programs which qualify. Qualified continuing professional education must be current and relevant to the practice of accountancy and maintain or increase the licensee's competence and shall meet the following standards:

(a) an outline of the program shall be prepared in advance and retained by the program sponsor for four years from the date of the program;

(b) the program developers and instructors shall be qualified in content and teaching methods used to develop and teach the subjects covered;

(c) the program shall clearly identify learning objectives and specify the level of knowledge participants should have in order to participate in the program;

(d) the program shall be reviewed or evaluated by a qualified person other than the developer or instructor to ensure compliance with these standards and evidence of such review shall be available upon request;

(e) the program sponsors shall have an effective means for evaluating the performance of the program including whether the standards described herein have been met;

(f) participants shall be informed in advance of objectives, prerequisites, prior education or experience levels needed, program content, nature and extent of advance preparation, teaching method to be used, recommended or approved continuing professional education hours allowed for credit, and any relevant administrative policies necessary to obtain the maximum benefit of the program and encourage participation only by individuals with appropriate education or experience;

(g) the program sponsor shall maintain a record of registration and attendance for four years from the date of the program;

(h) the number of participants and physical facilities shall be consistent with the teaching method specified;

(i) Subjects which qualify. The program and material provided to participants shall be sufficient to meet the program objectives and be current, relevant and technically accurate for the approved subjects which qualify under this section. These include:

(i) Accounting and Auditing;

(ii) Taxation;

(iii) Management Advisory Services;

(iv) Information Technology;

(v) Communication Arts;

(vi) Mathematics, Statistics, Probability and Quantitative Analysis;

(vii) Economics;

(viii) Business Law and Litigation Support;

(ix) Functional Fields of Business:

(A) Finance;

(B) Production;

(C) Marketing;

(D) Personnel Relations, Development and Management;

(E) Business Management and Organizations;

(F) Social Environment of Business;

(G) Specialized Areas of Industry such as Film Industry, Real Estate, Farming;

(j) Program Sponsorship. A program may be sponsored by one of the following, provided that all standards are met:

(i) professional development programs of recognized national and state accounting organizations;

(ii) technical sessions at meetings of recognized national and state accounting organizations and their chapters;

(iii) formal organized in-firm educational programs;

(iv) programs of other state or nationally recognized non-profit or educational organizations including colleges and universities; and

(v) any other program that complies with the standards of this section;

(k) Continuing Education Credit Hours. Qualifying continuing education programs must be at least 50 minutes in length. Continuing education credits will be determined based on the total number of minutes of formal presentations, supervised practice or supervised study time divided by 50 minutes. The resulting credit hours will be rounded down to the nearest whole number. No fractional credit hours will be granted. For example, a program that lasts from 8:00 a.m. until 12:00 noon with two 15 to 20 minute breaks would qualify for four CPE credits;

(i) Accredited University or College Credits.

(A) Each semester hour credit shall equal 15 hours toward the requirement. A quarter hour shall equal ten hours;

(B) Non-credit short courses or other individual study programs which require registration and provide evidence of satisfactory completion will qualify;

(ii) Self Study or Correspondence Courses. Formal correspondence or other individual study programs which require registration, provide evidence of satisfactory completion including test results, and are susceptible to verification of satisfaction of the Standards for Programs Which Qualify noted above will qualify. The CPA Board or CPE committee or the Approved CPE Registry will determine if number of credit hours recommended is equivalent to the hours as determined under Subsection (1)(l).

(l) Instructor CPE Credit. Instructors of programs meeting the standards under this section will be granted two hours of CPE credit for each hour of instruction time for the first class taught on a particular topic which meets the criteria of this rule, not to exceed 24 hours for any one topic. No credit is given for class subjects which have been previously taught by the instructor. The maximum credit for teaching and preparation cannot exceed 50% (or 40 hours) of the CPE requirement;

(m) Authors of published books and articles may apply to have CPE credit granted in an amount to be determined by the board upon review of the book or article. The maximum credit for books or articles cannot exceed 25% of the CPE requirement; and

(n) Programs or Activities Which Do Not Qualify. The following activities do not satisfy the standards for programs of this section and are not eligible for satisfaction of CPE requirements:

(i) personal study: personal study includes reading professional journals and publications, studying and researching matters such as tax code revisions, practicing software programs on a computer and watching video movies of a conference; and

(ii) committee meetings, dinner and luncheon meetings, firm meetings or other activities that do not meet the standards outlined in this section.

(2) Reporting Requirements. Each licensee applying for license renewal shall report, by January 31 of each even numbered year, qualified continuing professional education hours completed [by January 31 of each even numbered year] for the preceding two calendar years. Each person applying for license reinstatement shall file a report at the time of application.

(a) Such report shall be by means of one of the following:

(i) certification from an approved continuing professional education registry of the hours of qualified continuing education completed; or

(ii) a report to the Division for review and approval of continuing professional education.

(b) It is the responsibility of the applicant or licensee to demonstrate to the Division that the applicant or licensee successfully completed all CPE reported and meets the requirements of Subsection (1) or that the CPE has been approved by an approved continuing professional education registry and that reported courses maintained or increased the professional competence of the applicant or licensee.

(3) Continuing Professional Education Registry. To obtain approval as a continuing professional education registry, an organization shall:

(a) be a professional association primarily consisting of individuals licensed as certified public accountants;

(b) be organized and in good standing according to the laws of the state;

(c) enter into a written agreement with the Division under which the organization agrees to:

(i) review and approve only those programs which meet the standards set forth under Subsection (1);

(ii) publish and disseminate to their members or other CPAs on request, listings of continuing professional education programs which meet the standards and are approved for qualified continuing professional education credit;

(iii) maintain accurate records of qualified continuing professional education completed by each of its registrants and provide each of its registrants with a certificate on a timely basis to permit the registrant to file that certificate with the registrant's application to the division for renewal or reinstatement of his license as a certified public accountant. The certificate shall contain the name of the instructor, the date of the program, location of the program, title of the program, the name of the sponsor, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, and the number of CPE hours granted; and

(iv) make records of approved of qualified continuing professional education programs and records of qualified continuing professional education completed by registrants available for audit

by representatives of the division, the board or peer advisory committees of the board.

(4) Fees. A registry may charge a reasonable fee to registrants for services provided for approval of courses. Sponsors of approved courses may charge a lower fee to members of the sponsoring association for participation as a registrant than it charges to non-members of the association.[]

~~(5) Appeal. If the provider of continuing professional education applies to a registry for approval of a program and approval is denied, a provider may direct an appeal of such denial to the division. Such appeal shall be referred to the board and its peer advisory committee to review the program and will advise the board, in accordance with the provisions of Subsection 58-26-7(5)(c), whether the program does meet the standards of approval. If the program is found by the board and the division to meet the standards of approval, the registry shall be so advised and the program shall be listed as an approved program by the registry.]~~

([6]5) Other CPE requirements and failure to complete CPE requirements.

(a) Interim Licensure CPE requirements. Those individuals who become licensed or certified between renewal periods shall be required to complete CPE based upon ten hours per calendar quarter for the remaining quarters of the reporting period.

(b) Carry Forward Provision. A licensee who completes more than 80 hours of CPE during the two year reporting period may carry forward up to 40 hours to the next succeeding reporting period. Carry forward credits may not be used to satisfy the 20 hour minimum annual CPE requirement.

(c) Failure to comply with CPE requirements.

(i) Failure to meet the 80 hour requirement. An individual holding a current Utah license who fails to complete the required 80 hours of CPE by the reporting deadline will not be allowed to renew their license unless they complete and report to the division at least 30 days prior to their expiration date two times the number of CPE hours the license holder was short for the reporting period (penalty hours). The penalty hours shall not be considered to satisfy in whole or part any of the CPE hours required for subsequent renewal of the license.

(ii) Failure to meet the 20 hour minimum per year requirement. An individual who fails to complete the 20 hour minimum per calendar year requirement will not be allowed to renew their license unless they complete and report to the division at least 30 days prior to their expiration date, the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with passing scores required for initial licensure. CPE credit will not be given for completion of this requirement.

(iii) Non-Qualifying or Disqualified CPE hours. An individual who reports nonqualifying hours or who has hours disqualified by the Utah Board of Accountancy shall not be allowed to renew their license unless they complete and report to the division, within 60 days of receiving notification by the division of their shortage, the relevant requirement under R156-26-303b(6)(c)(i) or (ii).

(iv) Waiver for Medical Reasons. A licensee may request the board to waive the requirements or grant an extension for continuing professional education on the basis that the licensee was not able to complete the continuing professional education due to medical or related conditions confirmed by a qualified health care provider. Such medical confirmation shall include the beginning

and ending dates during which the medical condition would have prevented the licensee from completing the continuing professional education, the extent of the medical condition and the effect that the medical condition had upon the ability of the licensee to continue to engage in the practice of accountancy. The board in determining whether the waiver is appropriate shall consider whether or not the licensee continued to be engaged in the practice of accountancy practice on a full or part time basis during the period specified by the medical confirmation.

R156-26-307. Reinstatement of Licenses.

(1) An individual having held a Utah license which has expired for failure to renew for nonpayment of fees, or an individual applying for reinstatement from emeritus status, may be relicensed upon satisfactory completion of:

- (a) the requirements of Section 58-26-8;
- (b) submission of an application on forms supplied by the division which shall contain information as to why the person allowed their license to lapse;
- (c) ~~[a review by the board to determine what CPE programs are essential in order for the applicant to competently practice and the board may require;~~

~~— (i) a minimum of]80 hours of acceptable CPE [approved by the board—], completed within the 12 months preceding the submission of an application for reinstatement, which shall include a minimum of 16 hours in accounting or auditing or both and shall include successful completion of the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with a minimum score of at least the minimum score required for initial licensure. Successful completion of the two examinations will count as eight hours of CPE towards the 80 hour requirement. [In order to be reinstated the applicant must complete these CPE requirements within the 12 months preceding the submission of an application for reinstatement. However, this]~~

~~(i) This 80 hour requirement is [not applicable]waived if the reinstatement applicant has not been practicing within the state of Utah since the expiration of the license being reinstated, [and]the reinstatement applicant has continuously since the expiration been licensed and practicing in another state and the reinstatement applicant demonstrates that [he]the applicant has met all the CPE requirements that would have been applicable in the state of Utah during the time the license was expired in the state of Utah. [The number of hours required to reinstate the license shall not be considered to satisfy in whole or part any of the 80 hours of CPE required for subsequent renewal of the license; and~~

~~(ii) successful completion of the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with a minimum score of at least the minimum score required for initial licensure. Successful completion of the two examinations will count as eight hours of CPE toward the 80 hour requirement.]~~

~~(ii) This 80 hours requirement is waived, if the applicant failed to renew because of inadvertent failure to pay the renewal fees and the application for reinstatement is filed with the Division within six months after expiration date of the license and at time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.~~

~~(ii) This 80 hours requirement is waived, if the applicant failed to renew because of inadvertent failure to pay the renewal fees and the application for reinstatement is filed with the Division within six months after expiration date of the license and at time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.~~

(2) A licensee who reinstates their license must obtain ten hours of CPE per full calendar quarter remaining in the current CPE reporting period after reinstatement is granted.

(3) The number of hours required to reinstate the license shall be considered to satisfy in whole or part any of the 80 hours of CPE required for subsequent renewal of the license.

(4) No certificates will be issued, renewed or reinstated after July 1, 1994.

R156-26-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(~~[a]~~1) a licensee willfully failing to comply with continuing professional education or fraudulently reporting continuing professional education; or

(~~[b]~~2) commission of an act or omission that fails to conform to the accepted and recognized standards and ethics of the profession including those stated in the "Code of Professional Conduct" of the American Institute of Certified Public Accountants (AICPA) as adopted January 12, 1998, as amended, [June 1, 1993]January 14, 1992 and October 28, 1997, which is hereby incorporated by reference. A copy of this document can be obtained at the Division of Occupational and Professional Licensing.

KEY: accountants, licensing, quality review*

~~[November 1, 1995]1999~~

Notice of Continuation May 12, 1997

58-26-1

58-1-106(1)

58-1-202(1)



Fair Corporation (Utah State),
Administration
R325-1
Utah State Fair Competitive Exhibitor
Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22114

FILED: 06/24/1999, 09:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to better clarify that only the entry forms (or photo copies of the original form) issued by Fair Administration will be accepted as official entry into Utah State Fair contests. This change also outlines in more detail the process of filing a complaint about a decision by fair judges or fair administrators to the executive director, fair administrator, and/or board of directors to better comply with Section 63-46b-5 of the Administrative Procedures Act. This rule change will better clarify the Executive Director's title of the Utah State Fairpark by deleting his title as president/CEO.

SUMMARY OF THE RULE OR CHANGE: Many times we receive entry forms for Fair contests that are not the official entry forms issued by Fair Administrators. Potential exhibitors or contestants will sometimes retype the information in a different order or actually delete some of the required information. The Utah State Fair recognizes the official entry forms as contracts of the exhibitor's or contestant's acceptance of the rules and regulations pertaining to the contest they are entering. Second, sometimes there are protests and/or complaints regarding State Fair rules and the decisions of Fair judges or Fair Administrators. This rule change better clarifies the process one who desires to protest and/or complain must go through to receive a decision and/or judgement from the executive director, Fair Administrator, and/or board of directors. Thirdly, the executive director shall only be known as such, and not the president/CEO of the Fairpark.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** None--this rule change signifies that the only entry form that will be accepted from a person desiring to enter a State Fair competition is one issued by Fair Administrators. This does not involve any kind of expense to the state budget. This is only a change in the complaint filing process. Not all complaints involve a monetary amount (i.e., refund) to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or exhibitor entry fees. The clarification of the title of the executive director does not involve a monetary figure.

❖**LOCAL GOVERNMENTS:** None--this rule change signifies that the only entry form that will be accepted from a person desiring to enter a State Fair competition is one issued by Fair Administrators. This does not involve any kind of expense to the local government. This is only a change in the complaint filing process. Not all complaints involve a monetary amount (i.e., refund) to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or exhibitor entry fees. The clarification of the title of the executive director does not involve a monetary figure.

❖**OTHER PERSONS:** None--this rule change signifies that the only entry form that will be accepted from a person desiring to enter a State Fair competition is one issued by Fair Administrators. This does not involve any kind of expense to other people. This is only a change in the complaint filing process. Not all complaints involve a monetary amount (i.e., refund) to resolve. If a monetary amount (i.e., refund) were required to resolve a complaint, it would come from Fairpark gate admission, competition, or exhibitor entry fees. The clarification of the title of the executive director does not involve a monetary figure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--only requires a potential exhibitor or contestant to use the official entry form so we know that the exhibitor or contestant is aware of the rules and regulations pertaining to the contest they are entering. Internal change in complaint handling procedures only. Does not require a monetary amount in any

way to come into compliance other than filing a written complaint with the executive director and/or board of directors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change helps to alleviate any potential problems that may arise if a person uses his own entry form and are not made aware of all the rules and regulations pertaining to the contest they are entering. In addition, this change better clarifies the process through which a person who desires to complain about a decision by a Fair Judge or administrator must go. This change would not involve a fiscal impact on other businesses.

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

Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

**R325. Fair Corporation (Utah State), Administration.
R325-1. Utah State Fair Competitive Exhibitor Rules.
R325-1-2. Entry Form and Charge.**

The exhibitor shall complete ~~an~~the entry form provided by the fair administration when entering exhibit items or animals in the fair. The exhibitor entry form may be photocopied for submission, however, the form may not be retyped or reproduced in any other manner. The exhibitor shall pay an entry charge which will be published in the exhibitor handbook. The entry form and charge must be submitted by dates published in the exhibitor handbook. The filing of a signed entry form by the exhibitor constitutes his acceptance of fair department rules and his eligibility for premium prize awards offered by the Utah State Fair Corporation.

R325-1-4. ~~[Protests]~~Adjudication of Objections.

~~[A protest against judging, exhibitor handbook rules, exhibition of displays, damage to an exhibit or a disagreement with fair personnel, shall be made in writing to the fair coordinator, stating the exact reason for the complaint. The executive director also known as President/CEO, and/or the board of directors shall consider and act on the complaint:](1) A person wishing to petition, object to, or complain about a decision by fair judge(s), the decision of a Fair administrator regarding the enforcement of~~

contest or exhibitor rules, the exhibition of displays, damage to an exhibit, or any other disagreement with fair personnel, shall submit a petition in writing to the fair coordinator or executive director, stating the exact reason for the complaint.

(2) The written complaint shall contain the following information:

(a) the petitioner's name, mailing address, daytime telephone number;

(b) a statement of the exact reason for the complaint and a description of any relief sought.

(3) The petitioner may also include a short statement of facts, reasons, and any appropriate legal authority in support of the written objection/complaint.

(4) The fair coordinator or executive director shall consider the objection/complaint and, if necessary, act within a period of 30 days of its receipt.

(5) Any person aggrieved by a decision made by the director or a Fairpark administrator, may appeal that determination within 30 days, to the Fair Board of Directors by filing a notice of appeal, which shall include the information listed above, plus an explanation of, or reasons for making an appeal.

(6) Actions taken by the board of directors to adjudicate appeals shall be informal-proceedings, and shall be conducted in accordance with Section 63-46b-5, Utah Code, of the Administrative Procedures Act.

R325-1-6. Request for New Categories.

Potential exhibitors requesting new categories or classes for inclusion in the exhibitor handbook shall submit, in writing, a request to the fair coordinator by January 1st. Final action on the request shall be taken by the executive director [~~also known as President/CEO;~~] and/or the board of directors.

KEY: fairs, rules and procedures

[April 5,]1999

9-4-1103

Notice of Continuation October 29, 1996



**Fair Corporation (Utah State),
Administration**

R325-2

**Utah State Fair Commercial Exhibitor
Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22115

FILED: 06/24/1999, 09:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change better clarifies the procedure used by Fair administrators to choose commercial exhibitors for each year's fair and the process potential exhibitors must go

through to obtain booth space. This rule change also clarifies language indicating that exhibit space lease agreements for space during the State Fair are not available for the Fairpark parking areas, vehicle entrances, or exit areas. This rule change also better clarifies the Executive Director's title of the Utah State Fairpark by deleting his title as president/CEO.

SUMMARY OF THE RULE OR CHANGE: Those commercial exhibitors desiring space for the State Fair must apply for space with Fair Administrators each year. This rule change better clarifies the process they must follow in applying for booth space and the procedures Fair Administrators use to award exhibit space to potential exhibitors.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--change only clarifies the procedures Fair Administrators use to choose commercial exhibitors and the process potential exhibitors follow to obtain commercial exhibit space. No cost to the state budget.

❖LOCAL GOVERNMENTS: None--change only clarifies the procedures Fair Administrators use to choose commercial exhibitors and the process potential exhibitors follow to obtain commercial exhibit space. No cost to the local government.

❖OTHER PERSONS: None--change only clarifies the procedures Fair Administrators use to choose commercial exhibitors and the process potential exhibitors follow to obtain commercial exhibit space.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost to the potential commercial exhibitor other than the required fees for space, entrance passes, and parking associated with commercial exhibit space.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will better clarify how Fair Administrators choose potential exhibitors for each year's fair and the procedure potential exhibitors must follow for obtaining booth space regardless of whether they are a new exhibitor or one who is renewing from a previous year.

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

Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

**R325. Fair Corporation (Utah State), Administration.
R325-2. Utah State Fair Commercial Exhibitor Rules.
R325-2-2. Selection of Exhibitors.**

(a) ~~[The executive director, also known as President/CEO, and board of directors reserve the right to contract for] Exhibit space lease agreements shall be negotiated with the Commercial Exhibits Supervisor for the use of Fairpark exhibit space on a year by year basis. Space may be awarded or declined based on a need for variety and best-use determined by the Commercial Exhibits Supervisor, executive director and/or board of directors, [regardless of the number of years an exhibitor has participated at the fair.]~~

(b) ~~The Commercial Exhibit Supervisor, executive director and/or board of directors may elect to renew exhibit space lease agreements for space to those exhibitors desiring to participate in the next succeeding year's fair. Application forms for such selected exhibitors shall be made available [Renewals to participate in the next year's fair are sent] in February [by invitation only]. [The]Such a renewal is [based]conditioned upon the previous year's exhibitor's fulfillment of the exhibit space lease agreement, [including, but not limited to, payment of rent on due date, conduct of exhibitor and his hired help. Following this process, new applications are reviewed and vacant spaces filled. The executive director may limit the number of the same type of exhibitors, whether new or renewal, in order to give fair patrons a better variety:]adherence to the rules and regulations as outlined in the Commercial Exhibitor Handbook and regardless of the number of years an exhibitor may have participated in prior Utah State Fairs.~~

(c) ~~Applications from new or prior exhibitors will be accepted after March 20. The Commercial Exhibit Supervisor, executive director and/or board of directors may limit the numbers of similar types of exhibits in order to give Fairpark patrons the most appropriate variety. Such selection decisions shall be unrelated to an exhibitor's products or services involving content of speech matters.~~

~~[(b)](d) All commercial exhibit [A]applications [are]shall be considered and accepted on a first-come, first served basis[:] by date received and then alphabetically. [with public policy exception stated in the standard contract unrelated to the content of speech and with the modification that variety may be taken into account.]~~

R325-2-4. Advertising Material, Petition Signing or Private Business [is-]Prohibited Without Lease Agreement.

(a) No individual, company or organization of any kind ~~[shall]may~~ distribute or post advertising materials, solicit signatures for petitions, pass out campaign literature or conduct business of any kind in the [f]Fairpark without a certified exhibit space lease agreement.

(b) ~~Exhibit space [E]lease agreements for space during the State Fair [are]shall not be extended to, nor be made available for the Fairpark parking areas, vehicle entrances or exit areas.~~

R325-2-5. Pictures or Videos.

Any pictures or videos taken during the Fair for publicity or for commercial gain must have the approval of the executive director [~~also known as President/CEO~~].

KEY: fairs, rules and procedures

~~[April 5,]1999~~

9-4-1103

Notice of Continuation October 29, 1996



**Fair Corporation (Utah State),
Administration
R325-3
Utah State Fair Patron Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22116

FILED: 06/24/1999, 09:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: First, this rule change better clarifies the process a patron to the Fair must go through to file a complaint. Second, it eliminates the designation of president/CEO from the title of the executive director of the Fairpark. Third, this rule change adds more items to the list of items not allowed on the Fairpark during the State Fair, while at the same time accommodating the disabled.

SUMMARY OF THE RULE OR CHANGE: First, this change will help define what a person has to do in order to file a complaint or protest against Utah State Fair rules or judgements by following the guidelines as outlined in Section R325-1-4. Second, rule change also designates the executive director of the Fairpark as the executive director only, and not as the president/CEO. Third, there was a need to add to the list of things not allowed on the Fairpark during the State Fair, i.e., skateboards, go-peds, etc., while at the same time leaving it open for possible exceptions to accommodate the disabled.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46A-3(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--clarifying the policy on how complaints are to be submitted at the Fairpark, designating the executive director as just the executive director and not president/CEO, and adding to the list of items not allowed on the Fairpark while at the same time accommodating the disabled does not involve any monetary changes to the state budget.

❖LOCAL GOVERNMENTS: None--clarifying the policy on how complaints are to be submitted at the Fairpark, designating the executive director as just the executive director and not president/CEO, and adding to the list of items not allowed on the Fairpark while at the same time accommodating the disabled does not involve any monetary changes to the local government.

❖OTHER PERSONS: None--clarifying the policy on how complaints are to be submitted at the Fairpark, designating the executive director as just the executive director and not president/CEO, and adding to the list of items not allowed on the Fairpark while at the same time accommodating the disabled does not involve any monetary changes to other persons involved.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with clarifying the policy on how complaints are to be submitted at the Fairpark, designating the executive director as just the executive director and not president/CEO, and adding to the list of items not allowed on the Fairpark while at the same time accommodating the disabled.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change may alleviate the time spent on submitting a complaint the wrong way and having to redo it. Guidelines have now been set on how the Fair Administrators will accept and handle complaints from Fair patrons, exhibitors, and/or contestants.

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

Fair Corporation (Utah State)
Administration
155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

R325. Fair Corporation (Utah State), Administration.

R325-3. Utah State Fair Patron Rules.

R325-3-1. Admission Charge.

[A~~p~~]Patrons shall pay a gate admission charge upon entrance to the [annual]Utah State Fair[-], of an amount determined annually by the board of directors. The admission charge will be posted at the entrance gates, ~~[and shall be established by the executive director and board of directors on a yearly basis.]~~ Gate refunds may be granted to patrons based on extenuating circumstances. Refunds shall not be considered unless the patron submits, in writing, a letter

to the executive director, ~~[also known as President/CEO,]stating the reason(s) for requesting the refund [and at the discretion of the executive director, also known as President/CEO, a refund may be given]in accordance with the procedures established by Section R325-1-4.~~

R325-3-5. Unauthorized Business.

The fairpark management reserves the right to remove from ~~[the-]~~ fairpark property any person or persons distributing advertising material or conducting private business of any kind who does not have an authorized Exhibit Space Lease Agreement.

R325-3-6. Handling Complaints.

A patron who feels that he has been mistreated by fairpark personnel, exhibitors, midway and food concession personnel, or others shall submit, in writing, a detailed summary of his complaint for consideration and possible action by the fairpark management and/or board of directors, in accordance with the procedures established by Section R325-1-4.

R325-3-8. Pets, Bicycles and Miscellaneous.

No pets, bicycles, motorcycles, ~~[or]~~ golf carts, skateboards, go-peds or similiar items/devices shall be allowed in the fairpark without written approval of the fairpark management. ~~[S]Needs for seeing[-]eye dogs or pets or equipment~~ required by physician prescription ~~[are the only]will be considered for possible exceptions.~~

R325-3-16. Behavior, Clothing and Actions.

Fair patrons may be removed from Fair property for the use of foul or abusive language, the wearing of offensive clothing, for offensive actions or intoxication as determined by the executive director, ~~[also known as President/CEO,]~~or his representative.

KEY: fairs, rules and procedures

~~[April 5,]1999~~

9-4-1103

Notice of Continuation October 29, 1996



Fair Corporation (Utah State),
Administration
R325-5
Interim Renters Rules (Other Than
Utah State Fair)

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22118

FILED: 06/24/1999, 09:28

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: First, this rule change is a clarification of language regarding the definition of interim event. Second, this rule change will

better clarify the executive director's title of the Utah State Fairpark by deleting his title as president/CEO. Third, rule addition is to prohibit the passing out of unauthorized advertising materials, petition signing, or the conducting of private business on the Fairpark or inside leased facilities without an authorized event rental agreement.

SUMMARY OF THE RULE OR CHANGE: First, this change will help clarify the definition of an interim event and when a contract is required between the Fairpark and a potential facility renter. Second, the executive director shall only be known as such, and not as the president/CEO of the Fairpark. Third, there are times when people try to conduct unauthorized business on the Fairpark before, during, or after an event by taking advantage of the large crowds that may attend a certain event. This may be done in the facility being rented or on the property in general. It will be up to the person or business renting the facility to decide whether or not they want to allow it inside the facility they have rented. However, if it is being done on the Fairpark grounds, it will not be allowed without an authorized event rental agreement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1103 and Subsection 63-46a-3(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--first, clarification of the definition of an interim event; second, clarification of the title of the executive director; and third, rules added to prohibit unauthorized business from taking place on the Fairpark without the permission of a facility renter or without an authorized event rental agreement do not impact the state budget.

❖LOCAL GOVERNMENTS: None--first, clarification of the definition of an interim event; second, clarification of the title of the executive director; and third, rules added to prohibit unauthorized business from taking place on the Fairpark without the permission of a facility renter or without an authorized event rental agreement do not impact the local government.

❖OTHER PERSONS: None--the rules added to prohibit unauthorized business may have a cost to an individual or business by making them pay the "going rate" for the facility they desire to rent to conduct their business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost for the affected persons would be the "going rate" they would have to pay for space on the Fairpark to conduct their business.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The two rules being added may have a fiscal impact on other businesses by forcing them to sign an authorized event rental agreement and paying the "going rate" for a facility or space to conduct their business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Fair Corporation (Utah State)
Administration

155 North 1000 West
Salt Lake City, UT 84116, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kelly West at the above address, by phone at (801) 538-8441, by FAX at (801) 538-8455, or by Internet E-mail at kellyw@fiber.net.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Kelly West, Assistant to the Director

**R325. Fair Corporation (Utah State), Administration.
R325-5. Interim Renters Rules (Other Than Utah State Fair).
R325-5-1. Written Contracts.**

Every ~~interim~~ event occurring between state fairs on Fairpark property requires a written contract, signed by both the renter/lessee (responsible party) and the executive director, ~~[also known as President/CEO,]~~ or his designee, to provide ~~[representative; providing]~~ for appropriate security, insurance, parking and food arrangements.

R325-5-15. Unauthorized Advertising Material, Petition Signing or Private Business Prohibited Inside Leased Facilities.

No individual, company or organization of any kind may distribute or post advertising materials, solicit signatures for petitions, pass out campaign literature or conduct business of any kind before, during or after an event inside an event facility, without first obtaining permission from event facility renter/lessee.

R325-5-16. Advertising Material, Petition Signing or Private Business Prohibited on Fairpark Property.

No individual, company or organization of any kind may distribute or post advertising materials, solicit signatures for petitions, pass out campaign literature or conduct business of any kind on Fairpark property between state fairs without an authorized event rental agreement.

**KEY: fairs, rules and procedures
[April 5,]1999 9-4-1103
Notice of Continuation October 29, 1996**



Human Services, Administration,
Administrative Services, Licensing
R501-7
Rules for Child Placing Agencies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22164

FILED: 07/01/1999, 09:19

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Prior to 1996, Child Placing Agency (CPA) Rules required that all CPA's follow foster care standards for foster homes. The requirement was temporarily lifted in 1997 when foster care licensing responsibility moved from the Division of Child and Family Services (DCFS) to the Department of Human Services (DHS) Office of Licensing (OL). Foster care standards, previously part of DCFS policy, became OL Rule, but were only applicable to DCFS foster homes, not proctor homes utilized by the Division of Youth Corrections, or private CPA's. During 1998, rules were developed and implemented to apply to all foster care and proctor homes (Rule R501-12), and this last step, change in Rule R501-7, requires CPA's to follow Rule R501-12. This will insure greater consistency across all in-home care for children.

SUMMARY OF THE RULE OR CHANGE: References Foster Care Rules (Rule R501-12) in Foster Care Services portion of Child Placing Agency Rules. Omits duplicative requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Cost estimates provided in the July, 1998 filing of Foster Care Rules changes (R501-12) indicated increased staff time was anticipated for increased monitoring of homes. This change creates no additional staff time, other than ensuring that CPA's provide the appropriate monitoring.

❖LOCAL GOVERNMENTS: This rule change only affects proctor parents and CPA's licensed by the state, as described above. Therefore, there is no affect on local government.

❖OTHER PERSONS: There are no other persons affected; impact on "affected persons," which would be proctor parents, are described below.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change does not impact proctor parent expenses, or state payment to them. Anticipated expenses would be associated with the changes in Rule R501-12, indicated in July, 1998. Section R501-12-4(C) increased the number of referral letters from two to three, but mailing is not required, and proctor parents are not required to cover the cost of mailing. From the July filing for Rule R501-12: "R501-12-7: The specificity added for physical environment of the home is meant to be reasonable, to clarify standards for licensors and foster parents (particularly potential foster parents), to be consistent with other residential facility standards, and to be consistent with Child Welfare national standards, and are not expected to require additional costs for foster parents. We have no current data on existing fire extinguisher grades, bedroom sizes, windows and ventilation, etc., but the committees and boards providing input into these standards felt the

requirements were reasonable for basic health and safety standards."

(**DAR Note:** The changes to Rule R501-12 were published in the July 15, 1998, issue of the *Utah State Bulletin*, and became effective as of August 17, 1998.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Proposed changes to Rule R501-12 were shared with all CPA's in 1998, and revised standards have been "field tested" with CPA's this past year. This version of Rule R501-7 has been shared with 105 "stakeholders," including all 78 licensed CPA's. No anticipated costs were identified by them, nor did they provide any negative feedback about fears of anticipated costs.

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

Human Services
Administration, Administrative Services,
Licensing
Room 303
120 North 200 West
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayle Sedgwick at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadm2.gsedgwic@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Reta D. Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-7. Rules for Child Placing Agencies.

R501-7-1. Requirements for Organizations and Administration of Child Placing Agencies.

A. Definition

Child Placing means receiving, accepting, or providing custody or care for any child under 18 years of age, temporarily or permanently in accordance with 62A-2-101.

B. Purpose

The purpose of a Child Placing Agency is to place the child permanently in a home for adoption or temporarily in a foster home placement.

C. Administration

1. In addition to the following rules, all Child Placing Agencies will comply with R501-2, Core Standards.

2. Multiple-Service Agency: When services for birth parents are provided in the same agency that provides adoption services, it is necessary to ensure that full consideration is given to the needs of birth parents, as well as to those of the child. Moreover, the

agency shall advertise to the public that it does provide services for birth parents who are not considering adoption, refer to R501-7-3.

3. Selection and Placement: A child placing agency for adoption or foster care shall not:

a. deny to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin of the person, or of a child, involved; or

b. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color or national origin of the adoptive or foster parent, or of a child, involved.

4. Legal Responsibility for Child: The agency shall be legally responsible for the well-being of the child following relinquishment of the child until the adoption is finalized, or unless the court places legal responsibility with another party. If the child cannot be adopted, the agency shall continue to be legally responsible for the child, i.e., for making referrals to the appropriate service for continuing care until the agency is discharged.

5. Legal and Other Documents: The agency shall have available and keep in a confidential file all pertinent legal and other documents as available and appropriate, including but not limited to the following:

- a. birth records,
- b. baptismal certificates,
- c. an original of the transfer of parental rights or relinquishment,
- d. decree of termination of parental rights,
- e. copies of divorce papers,
- f. death certificates of adoptive family members or birth parents,
- g. affidavits in cases where a husband is not the father of the child,
- h. statement of the birth parents to release information to mutually agreed upon individuals, or waiver of confidentiality,
- i. statements of birth and adoptive parents regarding their agreement to exchange information and the conditions, if any, pursuant to contact following placement and legal adoption, and
- j. copy of the order of adoption.

6. Minimum Qualifications of Staff: The Executive Director and other staff of the agency shall meet the standards listed below. Department of Human Services Offices staff will be required to meet the personnel and administrative standards as set by State Personnel Policy.

7. Executive Director:

a. The Board of a private agency shall select the Executive Director and delegate to the Executive Director the responsibility for administration of the agency within the general policies of the Board.

b. The Executive Director of a licensed child-placing agency shall be graduated from an accredited four-year college or university, have a master's degree in social work and shall be licensed in accordance with 58-60-204,105 and 58-60-404,405 as a clinical social worker, certified social worker, or professional counselor. In agencies where the Executive Director does not have the appropriate professional license, there shall be a staff member with the appropriate licensure designated as Social Services Director for the agency.

c. In addition, staff identified shall have had two years of full-time paid professional employment in services to children, in a

social service setting; one of which must have been in a supervisory or administrative capacity.

8. Casework Supervisor: If an agency has six or more professional staff besides the Executive Director, provisions shall be made for a certified social worker or professional counselor to supervise the additional staff. The certified social worker or professional counselor must have at least one year of full-time paid professional experience in social work. In general, the ratio shall not exceed one certified social worker or professional counselor to eight caseworkers.

9. Social Service Worker: All service workers shall be licensed to practice social work under the laws of the State of Utah.

10. Workloads: The agency shall establish full time workload standards for staff, taking into consideration average time for satisfactory completion of intake; assessment and preparation of adoptive applicants; and post placement and post legal adoptive services to the birth, adoptive parents and adoptive persons. Under no circumstance shall the workload for social work staff working with children under the age of five exceed 20 active cases; for staff working with prospective adoptive parents prior to approval of the family exceed 30 active cases; for staff working with prospective adoptive parents, following approval exceed 60 active cases; for staff working with birth parents exceed 25 active cases; and for staff working with older or special needs children exceed 15 active cases.

11. Staff Development: The agency shall provide opportunities for staff to enhance professional growth through supervision, in-service training and educational leave. The agency shall maintain current adoption literature.

12. Ethical Conduct: A child placing agency shall operate in an ethical manner, including the following:

a. Its governing body, voluntary board, staff and consultants are not favored in applying for or receiving the services of the agency.

b. It receives no payment or other considerations for the referral of any applicant or client.

c. It provides no payment or other considerations to any services provider or other organization or individual for any referral of any applicant for the agency's services.

d. It prohibits the directed referral, or steering, of its applicants, clients, and their families to any private practice in which its staff or consultants may be engaged.

e. It maintains a record of the ownership of all its properties and of all financial transactions it enters into with respect to such properties.

f. The members of the governing body of a private or public agency have no direct or indirect financial interest in the assets or leases of the agency; any member who individually or as part of business or professional firm is involved in the business transactions or current professional services of the agency shall disclose this relationship and shall not participate in any vote taken in respect to such transactions or services.

13. Case Records: The agency shall maintain a case record of each child accepted for care, of the family, and of each adoptive applicant, from the time of the application for service through the completed legal adoption and termination of the agency's service. As a minimum, the record shall contain the following information:

- a. application and reason for service,
- b. social study,

c. problems and service of the client to these services,
 d. progress report, at least quarterly, to include the following,
 1) services provided,
 2) response of the client to these services, and
 3) results,
 e. closure, a brief summary of what was accomplished and reason for closure, and
 f. dates, places and other pertinent information.
 g. Adoptive parents, adoptees, and birth parents shall be encouraged to provide updated information to be added to the file at any time prior to and following finalization proceedings. This updated information may include medical, psychological and social information.

h. Case records shall be continuous records of adjustment, interaction, relationships, physical and mental conditions, growth and development. All records and information shall be confidential.

14. Record Retention: At the completion of the adoption all records pertaining to the adoption must be retained.

15. Confidentiality of Records: All adoption records shall be treated as confidential and be retained in a locked, metal file, accessible to designated personnel only. No formation shall be shared with any person without the appropriate consent forms.

16. Location and Housing: The agency shall be located in an area convenient to the clients it expects to serve. It shall be housed in a setting that is attractive, well maintained and comfortable.

17. Office Space: The facility shall maintain offices to meet the needs of clients being served.

18. Resources: The agency shall have financial resources to support the services offered.

19. Payment of Fees: The agency may charge birth parents and adoptive parents for cost of services provided. However, under no circumstance shall the provision of services to birth parents be contingent upon the ability to pay. A signed fee schedule shall be on file indicating cost of each service. Fees may be charged according to a sliding scale, based upon ability to pay in relation to income or can be set at a uniform amount with a provision in agency policy for reducing or waiving the fee when indicated.

20. Itemization of Expenditures:

An itemization of all allowable expenditures on behalf of birth parents shall be on file. The itemization shall be signed by birth parents and adoptive applicant. If any cost appears to be greater than the ordinary or usual costs, the agency must show that the expenditure was fit and appropriate. The agency may pay reasonable costs for the following:

- a. legal services related to the adoption,
- b. medical services related to pregnancy, birth, and post-natal care for the birth mother and medical care for the child,
- c. emergency health related services for the birth mother needed to protect the health and well-being of the fetus,
- d. housing, including utilities and basic telephone service,
- e. necessary transportation, including gasoline or public transportation,
- f. purchase of food, necessary household supplies, and personal hygiene or grooming products,
- g. clothing for the birth mother, and
- h. necessary mental health services for the birth mother during the pre and post-natal period.

i. For other expenses the agency must show that the expenditure was fit and appropriate for the birth parents beyond six weeks postpartum.

21. Itemization of Fees for Adoption:

An itemization of all adoption related expenses shall be filed with the court prior to the final decree of adoption.

22. Statistics: The agency shall maintain accurate statistics on persons served, applications, and dispositions as a minimum.

23. Indian Child Welfare Act: An agency which serves Indian children must have standards and procedures which also conform to the Indian Child Welfare Act, refer to pl 95-600.

R501-7-2. Services for Foster Care Program.

An agency's foster care program must meet the following requirements:

A. Best Interests of Child: Foster family care is provided for and in behalf of the child under a plan that includes services for the child, the child's family, and supervision of, and support services for the foster family.

~~[B.]~~ Foster Care Staff: Staff who prepare home studies, make assessments, develop plans or provide counseling or related services, must be licensed to practice social work under the laws of the State of Utah.

~~[C.]~~ Permanent Plans: ~~[Staff]~~ Agency staff must work actively in coordinating services for children in DHS custody, their families, and foster families to return children to their own homes or to achieve permanent arrangements for their care. The agency must maintain written records which meet requirements of 42U.S.C.675~~[P.L. 96-2-72]~~, including a plan for the child's permanent placement within 60 days of placement.

~~[D.]~~ Intake Services: The agency must have a formal procedure for intake, including ~~[establishing]~~ a procedure to establish the permanent plan for each child in DHS custody~~[care]~~.

~~[E.]~~ Requirements for Foster Home~~[Parent Selection, or Certification]~~ Approval:

1. Licensed agencies that provide foster or proctor care shall only approve homes that comply with Foster Care Licensing Rules, R501-12. The agency shall be required to recruit, train, and supervise foster parents as defined by R501-12.~~[The following are minimum requirements:~~

~~1. Foster parents shall have the experience or the personal characteristics and temperament suited to working with children placed in their homes and providing them with care, protection, and the relationship and experiences that foster normal development.~~

~~2. Foster parents shall be trained to provide for the individual needs of the children placed in their homes.~~

~~3. Foster parents shall respect the religious and cultural practices of the child. The prospective foster parents' capacity to meet a particular child's psychological needs as they relate to the child's religious and cultural background is one of a number of factors that may be assessed in identifying that the foster care placement is in the best interests of the child. The selection and approval of foster parents will be done in compliance with the Multiethnic Placement Act of 1994, pl 103-302, referred to as MEPA.~~

~~4. Foster parents shall understand and abide by the requirements that information be kept confidential.~~

~~5. Foster parents' ideas about and methods of discipline shall take into account the child's age, intelligence, emotional make-up, and past experiences.~~

~~6. No type of corporal punishment, infliction of bodily pain or discomfort, deprivation of meals, or degrading or humiliating punishment shall ever be used under any circumstances. Deprivation of privileges may be a useful technique, but children must not be deprived of essentials, such as food, rest, etc., or visits from parents.~~

~~7. Provisions of R501-14 and R501-15 shall be met.~~

~~8. Foster parents are required to have a medical clearance, such as a reference letter from a physician, and a physical examination if this seems indicated, before children are placed with them, and as often thereafter, as necessary to ensure that they have no medical condition that impairs their ability to care for children.~~

~~9. Foster parents shall complete a minimum of six hours of training annually. The training shall orient them to the agency's policies for foster care, familiarize them with the accepted practices for, and problems expected in family foster care, and improve their parenting skills, particularly with respect to the differences they may encounter in rearing children not their own. The training may be provided by the agency or by other educational or social agencies in the community.~~

~~F. Number of Children in a Home:~~

~~1. No more than two infants shall reside in a foster home, including children of the foster parents.~~

~~2. No more than two non-ambulatory children, including infants, shall reside in a family home.~~

~~3. No more than four foster children shall be placed in any one home. The only exception to this would be the placement of siblings.~~

~~4. A foster family in which there are infants shall have no more than six children, including the children of the foster parents under 18 years old.~~

~~G. Requirements for Child Placing Agency Foster Home Approval:]~~

~~[1]2. Foster families meeting requirements shall be approved or certified by the agency. The agency must maintain written records of annual home approval. The approval process shall include a home study evaluation~~[, as outlined in R501-7-5.C.],~~ and a training plan.~~

~~[2]3. The agency must have a procedure to revoke or deny home approval.~~

~~[3]4. The agency must have a procedure for a foster parent to apply for a waiver of requirements.~~

~~[4]5. The agency must have a written agreement with the foster parents which includes the expectations and responsibilities of the agency, staff, foster parents, the services to be provided, the financial arrangements for children placed in the home, the authority foster parents can exercise on children placed in the home, actions which require staff authorization.~~

~~[H]E. Payments: The agency must have a written policy stating ~~[to]~~ the amount and schedule of payment to foster parents for cost of care and services. If the agency makes no payment,~~[no payment is made]~~ the agency shall have a written agreement stating the reasons.~~

~~[F]E. Requirements for Placement: The first consideration in placing a child in care shall be the welfare of the child. In determining where a child is placed the agency shall consider~~

proximity to the child's home, placement in the least restrictive setting possible, the ability of the parents to visit; however, the welfare of the child shall override any of these considerations.

[F]G. Foster Care Services: The foster care services provided by an agency shall include:

1. Planning, with participation of the child's biological parents, for care and services to meet the child's individual needs.

2. Planning with biological parents, and with participation of the child where feasible, for stability and permanence in the care of the child. This must include a plan for the parental visits with the child.

3. Providing services to help the child's parents reestablish parental care, maintain parental rights, or where in the best interest of the child, terminate parental rights.

4. Providing a suitable foster family home for the child and planning, with foster parents~~[in behalf of the child,]~~ for the child's supervision, education, health, recreation, and other needs and services. Placement of any child should consider the child's age, behavior, sex, the composition of the foster family, and skills of the foster parents.

5. Obtaining, coordinating, and supervising any needed medical, remedial, or other specialized services or resources~~;~~ with the ongoing participation of the foster parents~~;~~any needed medical, remedial, or other specialized services or resources.

6. Providing ongoing supervision of foster parents to ensure the quality of the care they provide.

[K]H. Termination of Supervision: Supervision of a child by a Division of DHS may only be terminated by court order, unless:~~[Only when custody is terminated by a court order can supervision of a child be terminated, unless one of the following conditions is met:]~~

1. The child has been returned to his or her own home and has remained there for a period sufficient to indicate he or she has satisfactorily adjusted to that home~~;~~herein.

2. The child has been legally adopted~~;~~;

3. The child reaches the age of 18, unless the Juvenile Court retains jurisdiction up to age 21~~; or~~;

4. ~~[Responsibility]~~The Division of DHS transfers responsibility for services~~[is transferred]~~ to another agency~~[of recognized standing].~~

R501-7-3. Services for Birth Parents.

A. To ensure that adoption is a suitable plan for the child, and that the interests of children, birth parents, and adoptive parents are protected, comprehensive services must be made available for birth parents, both married and single.

B. Comprehensive services or referral for services, for birth parents shall be provided not as part of an adoption service, but as a separate service geared to the needs of birth parents, including those who are not considering adoption.

C. Support in Planning for the Child:

1. Birth parents shall be supported in making a decision for their child, based on complete and accurate information and without undue delay, including two face-to-face counseling sessions prior to relinquishment.

2. Birth parents shall be informed of their legal rights, obligations, and responsibilities during face-to-face counseling sessions; they should also receive support in considering what their decision will mean to them and to their child.

3. A birth mother shall wait at least 24 hours after the birth of her child before she may give legal consent to the adoption of her child.

4. Birth parents shall be treated with respect, consideration, fairness, and given full recognition of personal dignity and individuality. Birth parents shall be assisted in consideration and determination of whether they want to disclose their identity, or hear about or from the child directly or indirectly in the future.

D. Agencies cannot guarantee confidentiality in any adoption, nor can the agency guarantee any arrangements for contact and exchanges of information between birth parents and adoptive parents. Birth parents and adoptive parents shall be so advised.

E. Social Services to Birth Parents After Termination or Transfer of Parental Rights: Services shall be available to birth parents after their rights and responsibilities are terminated, as well as after the adoption is finalized. The following services shall be provided to birth parents:

1. Help with the relinquishment process and immediate plans for their own lives.

2. A process where newly learned medical or genetic information that is important to the adopted child, birth parents, or adoptive family can be exchanged.

3. Providing non-identifying information on the potential adoptive family, such as age, physical characteristics, educational achievement, family constellation, profession, nationality, health, other non-identifying information, and reason for adopting.

4. Information shall be shared regarding Utah's Mutual Consent Voluntary Adoption Registry.

F. Agency Records: Birth parents shall sign documents of services received during counseling and relinquishment.

G. Determination of Religion in Which the Child is to be Reared:

1. The agency's policies regarding the consideration of religion in the selection of adoptive families shall be made clear to birth parents.

2. Children who have already established some identification with a particular religious faith of their own shall have the right to have such identification respected in any adoptive placement. Efforts shall be made to place the child within that religious faith. This information shall be documented.

3. Agencies under religious auspices may choose to establish policies and practices that are consistent with their particular religious faith.

H. Involuntary termination of Parental Rights: The agency shall have the responsibility to initiate termination of parental rights proceedings consistent with the applicable Utah statutes.

I. Relinquishment of Parental Rights for Adoption: Counseling shall be provided to the birth parents who are planning to place their child for adoption so the decision can be made as early as possible. In the case of parents who voluntarily relinquish their parental rights to an authorized child welfare agency, proper legal procedures for the termination of parental rights should be ensured.

J. Emotional Readiness to Relinquish Parental Rights: Documents indicating parental willingness to place the child for adoption shall be signed in accordance with the parents' emotional readiness to make the definitive decision, and not in accordance with the immediate needs of an adoptive family.

K. Duration of Parental Responsibility: Parental legal responsibility shall end when an authorized child welfare agency accepts the relinquishment of parental rights and the parental rights are terminated.

L. Establishment of Paternity: Legal paternity proceedings shall not be required as a condition for adoption services.

R501-7-4. Services for Children.

A. Assessment of Children: When it has been determined that adoption is the best plan for a child, an assessment shall be made within 30 days to obtain information to assist in the placement process.

1. Determine whether the child's needs can best be met in adoptive placement, and if so, what kind of adoptive family should be selected for the child.

2. The evaluation shall be used to assist prospective adoptive families to make their decision about the child and birth family.

3. Provide the child with needed information concerning the birth family when appropriate.

B. Developmental History: A developmental history of the child that is as complete as possible, shall be obtained from the birth parent. If the child has been in an out-of-home placement prior to being placed in an adoptive home, information obtained from caseworker observation, pediatrician, foster parents, and if indicated, from nurses, psychologists, and other consultants shall be included. The developmental history shall include the following:

1. birth and health history,

2. early development, particularly indications of the way the child has taken to like, i.e., locomotor development, feeding experiences, temperament, etc.,

3. the child's adaptation to previous living experiences and situations,

4. the child's experience prior to adoptive placement, particularly maternal attitudes during the pregnancy and early infancy, continuity of care and affection, foster placements, and separation experiences,

5. determination of the child's cultural and ethnic background and its impact on values and morals, and

6. language skills, including second language capabilities and other talents and interests.

C. Medical Examination: A medical examination by a qualified physician shall be conducted to determine the state of the child's health, and any known or potentially significant factors that may interfere with normal development or may signal any potential medical problems. At a minimum, the following shall be documented and shared with parents prior to placement:

1. Evaluation of the infant that includes a correlation and interpretation of all available information, such as, genetic, laboratory, etc.

2. Medical care and immunizations.

3. The nature and degree of any existing handicap, complete information about the type of handicap and the concomitant treatment and support programs that should be provided to the child and adoptive parents, extra costs of medical care that can be anticipated, and plans to subsidize the health care, if so indicated.

D. Psychological Testing: Psychological testing for children should be used selectively and as a tool for observation and diagnosis of current developments, if warranted.

E. Family History: Information should be obtained from the birth parents about their family backgrounds to:

1. Determine whether there are any significant hereditary factors or pathology, including illnesses of the birth mother or father, that may affect the child's development.

2. Assist the adoptive parents and, eventually, the child to understand the family situation, the reasons for adoption, and the birth family histories.

3. Decide, in the case of older children who have lived with their birth families, which characteristics should be given consideration in selecting and preparing for a new family.

F. Evaluation of Children: An interdisciplinary approach based upon the needs of the child is to be used in the selection process either by asking other professionals to submit written recommendations or by inviting them to participate as a member of the placement committee.

G. Timing of Adoptive Placement: Infants under the age of two should be placed with their adoptive families at the earliest time possible after being freed for adoption and directly upon release from the hospital in the case of newborns.

H. Placement of Children Over Five Years of Age: When placing children over the age of five, care shall be taken to ensure that an adequate assessment of their needs is made, that they and the adoptive family are prepared for the placement, and a plan is developed to ensure that the needed services are provided after placement.

I. Temporary Care Before Placement for Adoption: A child that has been freed for adoption and is awaiting placement with an adoptive family shall be placed in a foster home where his or her needs can be met and which can assist in preparing the child for placement in a prospective adoptive home. Children awaiting adoptive placement shall only be placed in group or residential treatment programs when the needs are such that they can only be met in such a setting.

J. Responsibility for a Different Permanency Plan: Children that have been accepted for adoptive placement will have a permanency treatment plan developed with a goal of adoptive placement and finalization, and objectives that focus on assisting the family and child during the transition phase to ensure that ongoing services required are obtained.

K. Supervisory Visits: After a child has been placed in the adoptive home, a social worker shall supervise the placement until finalization to assist with the transition and assist the family in obtaining any needed services. At a minimum, three supervisory visits shall be made so the agency can have sufficient information to make a recommendation regarding finalization.

L. Listing with the Adoption Exchanges: Agencies having a child available for adoption who has not been placed within 60 days of being freed, shall document all efforts to screen the child with other Child Placing Agencies and list the child with inter-state Adoption Exchanges to help find an appropriate placement.

M. Preparation of the Child for Placement: Sufficient time and planning must be provided according to the needs of the child. The child should be helped to accept the adoptive placement and should be protected insofar as possible from emotional disturbances associated with sudden separation from a known situation.

1. The child who is old enough to comprehend and take some responsibility should have a part in the decision that adoption is the best plan. The child must know that his or her own parents cannot

continue to provide care and must accept separation from them in order to become a part of another family.

2. Before meeting with the adoptive parents, the child should know that placement is under consideration. Should the adoptive family decide not to proceed with placement, the worker will help the child to understand the situation in a manner that will minimize any damage to the child.

3. The child should have the opportunity to become acquainted with the new parents gradually. A series of short visits to the adoptive home before placement can be particularly helpful. Such visits should not take place until after adoptive parents have expressed interest in adopting the child.

4. The number and place of visits with adoptive parents, and the time of placement should be determined by the age and the particular needs of the child and the family.

N. Retention of Records: In an effort to prepare for possible requests for information pertinent to a significant medical or hereditary concern on the part of the adoptive family or adult adoptee, the agency shall maintain in the file, medical, historical and developmental information and records about the child and the birth parents, received prior to finalization.

R501-7-5. Services to Adoptive Parents.

A. Services for Adoptive Parents:

1. Discussion of birth parent's rights, including legal rights of the putative father. Provisions shall be made for accessibility to non-identifying information on the child's birth family. Information shall be made available about Utah's Mutual Consent Voluntary Adoption Registry through the Utah Bureau of Vital Records.

2. Individual and group social work counseling shall be provided to help the adoptive parent evaluate and develop their capacities to meet the needs of the children added to the family. This support should continue into the post-placement period when it is necessary and deemed appropriate. If an agency cannot provide this preparation and support, they are responsible for offering another support for the family.

3. Assistance in the selection of a child whose needs the adoptive parents will be able to meet.

4. Preparation of both the child and family for the placement of the child in the home, including discussion and approval of a subsidy when appropriate.

5. If an agency places a child for adoption, that agency is responsible for the supervision of the placement and continued support to the child and family. The agency shall assist with finalization.

B. Basis for Selection of Adoptive Parents:

1. The agency must have a written process for approval of adoptive homes. The pre-adoptive evaluation shall include a series of interviews with the adoptive applicants in the office and at home. If the family has children or other individuals living in the home, they shall be part of the pre and post adoption evaluation and application process. The applicants shall supply names of at least three non-related references. The applicants must be informed, in writing, as to the acceptance or the denial of their application. This notice must be given in a timely manner with the agency's appeal process.

2. The agency shall select applicants who are able to:

a. provide the continuity of a caring relationship,

b. provide non-identifying or open linkages to the child's birth family if and when appropriate,

c. be informed and sensitive to ethnic, religious, cultural, and racial heritage, and

d. demonstrate an ability to understand the needs of a child at various developmental states.

3. Agencies shall assess each applicant from the perspective of what would be in the best interest of a child.

4. No single factor should be decisive in and of itself.

C. Criteria of Capacity for Adoptive Parenthood, Contents of Home Study Evaluation or Pre-Adoptive Evaluation Eligibility:

1. Assessment of adoptive applicants should be designed to provide the best indication of an applicant's capacity for adoptive parenthood; total personality functioning; emotional maturity; quality of spousal relationship, when applicable; capacity to parent children; attitude toward childlessness and readiness to adopt; and reasons for adoption.

2. The agency must have written standards for approval of adoptive families. These standards must include the following items plus other aspects of lifestyle and behavior which reflect the ability to protect, nurture, and care for the child. Agencies shall provide adoptive applicants with a realistic description of their services and procedures.

a. Residence: Adoptive applicants shall reside either within the area that the agency can serve directly, or in an area where the agency can procure services through another agency with acceptable standards.

b. Age: Chronological age alone should not be the determining factor for the selection of adoptive applicants. Utah statutes require that the adoptive parents be at least ten years older than the child placed for adoption. Physical condition and life expectancy of the applicants should be taken into consideration to protect the child against a repeated, foreseeable loss of parents through death or incapacitating illness. Also, it is important for applicants to be physically and emotionally capable of meeting the needs of the children as they grow and develop.

c. Marital Status: When applicants are married, husband and wife shall maintain a residence together and the relationship shall be of sufficient duration to give evidence of its stability. Single parents shall be considered in accordance with their ability to meet the needs of available children.

d. Health of Applicant: A medical history and recent physical examination shall be required as evidence that the applicants have reasonable health and life expectancy, and that the applicants have the physical and emotional ability to fulfill the responsibilities of parenthood.

e. Family Income: Adoptive applicant income shall be sufficient in order to provide financial stability and security for a child. Income alone shall not be the determining factor for the selection of adoptive applicants.

f. Housing: Housing and neighborhood shall provide space and living conditions necessary for health, safety, emotional well-being, and self-respect of the family and the adoptive child. Strict space requirements should not be a deterrent to placement if relationships in the family are satisfactory.

g. Religion: Lack of religious affiliation or of a religious faith should not be a bar to consideration of any applicant to meet the specific needs of a child.

h. Applicant Abilities: Consideration shall be given to the ability of the applicant to meet the specific needs of the individual child.

i. Working Parents: Applicants who work outside the home shall not be excluded from consideration as adoptive parents. Consideration shall be given to a plan to provide security and responsible child care adequate to the individual child's needs.

j. Provisions of R501-14 and ~~R501-15~~ shall be met.

D. Use of Committee in Placement: The final decision to approve a family for the placement of a child should be the responsibility of the professional staff. The decision shall be made by more than one person. The applicants shall be informed in writing of the decision of the committee. If the agency disapproves the applicants for placement, the applicants are entitled to be informed of this in person and to be given the reasons for the agency decision. They are also entitled to the opportunity to appeal the decision and should be informed of this process in writing. The agency shall maintain a written record of any appeals.

R501-7-6. Services During and After Adoption Placement.

A. Selection of Adoptive Family for Specific Child:

1. The selection of the adoptive family for a specific child shall be made through the use of a multi-disciplinary committee as needed and the final decision shall be based on the family's and the child's suitability for each other. Suitability is determined by the family's ability to meet the individual needs of the child and the capacity of the child to benefit from the family.

2. Consideration for the wishes of the birth parents, the adoptive parents, and the adoptee, when applicable, shall be a part of the selection process.

3. The decision of the committee shall be in writing, signed by all members of the committee, and filed in the case record.

B. Information to Adoptive Parents:

1. Agency adoption fees shall be discussed with the adoptive family prior to starting the application process. A flat fee may be charged for processing application materials, which is not refundable, regardless of whether the family is accepted or not, and an itemized account of the charges shall be made available to the family. Placement fees shall also be discussed with the family prior to applying along with payment schedules, and these fees shall reflect a reasonable cost based on the expenses incurred by the agency.

2. Adoptive parents shall be provided information about the children they adopt and their birth parents, when available, that will help them to:

a. Understand their child, including talents, special needs or problems.

b. Decide whether or not they can accept the child.

c. Feel comfortable about the birth parents and the reasons for placement.

d. Understand their child's heredity, maturation process, and developmental issues related to adoption.

e. Talk to their child about their biological origins.

3. Adoptive parents shall be given full disclosure of information about the birth parents and child with the exception of information deemed by law to be identifying. The information to be shared shall include the following:

a. developmental and behavioral history,

b. level of current development,

- c. personality and temperament traits,
- d. medical information,
- e. ethnic background,
- f. cultural hereditary conditions,
- g. prior placement history,
- h. information about the birth parents that would be helpful for the child to know while growing up, such as physical descriptions, special abilities, and personality traits.
- i. Agency staff shall be prepared to review with the adoptive family the above information and to help them relate it to present day and placement consideration for their family.

5. When a Child Placing Agency has a child who requires an adoption subsidy, the agency shall coordinate with the state agency to establish the subsidy. Subsidies shall be paid by the state agency based on state policy. The Child Placing Agency shall discuss the subsidy with the family.

C. Pre and Post Placement Services: The Child Placing Agency shall provide continuing support and help to the child and his or her adoptive family as needed during the time after placement both before and following the legal adoption. These services shall be recorded and include:

1. The agency shall inform the adoptive family, prior to placement, of the available services, so that the family shall view the services as a source of help and security.

2. The agency has a protective function when the child's custody remains with the agency during the placement prior to finalization, and is responsible for determining that the child's adjustment and development is satisfactory and that the family is able to cope with any difficulties. This may be accomplished through direct services and, when necessary, referring to specialized services.

3. The agency shall provide assistance to the family in helping their child, friends, family members, extended family members, neighbors, schools, etc., understand the adoption process. This shall be accomplished through individual interviews, family counseling services, selected literature, and consultation.

4. The agency shall provide services to the adoptive family that will assist them in understanding their own feelings, the adjustments of adding a child to their family, understanding the complicated feelings of the child, the specialized services that their child may need in the home and out of the home. This shall be accomplished through individual sessions and family support groups.

5. The frequency of home visits, office contacts, telephone calls, and other contacts shall depend on whether the child is an infant, an older child, or a child with medical or other difficulties, and whether the adoptive parents are faced with unanticipated problems. Early placement visits shall convey the agency's support and readiness to help. A contact soon after placement is essential in building the relationship and shall take place within two weeks of placement. A minimum of three supervisory visits shall take place before finalization, with at least two visits in the home.

6. The length of time between placement and finalization shall be determined by Utah State Law. Finalization shall not take place until the family and the agency have determined that they are ready. The post-placement period, however, shall not go on indefinitely. In each case, a plan shall be made for the time likely to be needed, with an outer limit set.

7. The agency shall consider removal of children before legal adoption only if circumstances impair their security in the family or jeopardize their physical and emotional development. These circumstances might include incompatibility, mental illness, seriously incapacitating illness, or the death of one of the adoptive parents, separation of adoptive parents, abuse, neglect, or rejection of the child, lack of attachment to the child, an unanticipated physical or mental problem of the child, or request by the adopting parents for the removal of the child.

8. The agency shall offer supportive services to maintain the family and document this support. Services may include the following:

- a. respite care for the child,
- b. counseling services, and
- c. family and adoption committee review of placement and planning.

D. Post Adoption Services: Adoption services shall be made available to birth and adoptive parents and adopted persons after the legal adoption. These services shall respond to matters related to the adoption, and will include the following:

1. Information, counseling services within the agency or referral to proper resources for counseling, crisis intervention, respite care, and specialized support groups.

2. Adoptees shall be offered post-legal adoption services that assist them in exploring their attitudes toward themselves as adopted persons.

3. Within the relevant statutes, child welfare agencies shall assist adopted persons who have reached the age of majority in their search for information about, or their wish to establish contact with birth parents, siblings, or other members of their birth family, provided that these persons are willing.

R501-7-7. Adoption and the Community.

A. Adoptions in Relation to Community Child Welfare Programs: Private and public agencies shall:

- 1. List waiting children with local and regional exchanges.
- 2. Be active in interpreting child welfare programs and adoption services to assure widest utilization by persons needing the services, and to ensure realistic understanding of services by the public.
- 3. Participate in any joint inter-agency planning and coordination to maximize programs so that birth parents and adoptive applicants will have freedom of choice and equal opportunity to apply for services, regardless of racial, ethnic, religious group, or ability to pay a fee.

B. Expansion of Adoption Services:

1. Adoption agencies shall have in place methods to serve children awaiting for adoption, particularly those hard to place children for whom there are limited resources as follows:

- a. Public information about programs so that persons needing services will know where to obtain the services.
- b. Access to adoption subsidies for families accepting hard to place children.
- c. An adequate number of adoptive families for hard to place children.
- d. Services available after placement and legal adoption.

2. Adoption agencies shall have in place a method to determine unmet placement needs and a plan to recruit adoptive families when needs are identified.

3. Recruitment efforts shall involve adoptive parents and include use of persons of similar ethnic or racial groups as the children requiring families, as well as coordination with ethnic and cultural minority groups, religious, and other civic groups as needed.

C. Legal Protection Required for Adoption Services: Adoption agency mission statements, policies, and procedures shall assure that the following legal protections are met:

1. The best interests of the child are paramount.
2. Parental rights and responsibilities are safeguarded.
3. Children are not deprived unnecessarily of either birth parents or a permanent family.
4. Legal responsibility for the child will be clearly established at all times.
5. Children will not be placed in unsuitable families or families detrimental to the child's growth and development.

D. Transfer of Parental Rights:

1. Adoption agency policies and procedures shall assure an orderly adoption process for the following:
 - a. The legal separation of the child from birth parents.
 - b. Transfer of custody and guardianship of the child.
 - c. Consent to a specific adoption.
 - d. Final transfer of parental rights and duties to the adoptive parents.
2. Agencies shall follow Utah State Statutes regarding the relinquishment of children, termination of parental rights, placement, and finalization procedures.
3. Legal risk adoptions shall be made only when:
 - a. The child's best interests are served.
 - b. Adoption is clearly the goal.
 - c. Termination is likely and able to be obtained in a reasonable time period.
 - d. Adoptive parents have given written consent, indicating that they are fully informed of the risks involved.

R501-7-8. Interstate or Out-of-Country Adoptions.

A. For interstate placements, adoption agencies shall comply with requirements of the Interstate Compact for Placement of Children.

B. Prior to an adoption or placement with a family out of the state, the agency shall complete a plan with the other agency which defines financial and social services responsibilities.

C. International adoption agencies shall abide by all applicable Federal, State, and Immigration laws and regulations, and shall document that:

1. The child is legally freed for adoption in the country of origin.
2. Information was provided about the physical or mental health of the orphan or abandoned child.
3. Referral information was given to the adopting parents about naturalization proceedings.
4. The country of origin was provided all follow-up information as that country requires prior to final adoption.
5. Agencies which place children in inter-country adoptions shall ensure that the following legal processes occur properly:
 - a. consent to adoption and transfer of parental rights,
 - b. legal responsibility for the child in the new country,
 - c. validity of the adoption in the country of origin, if they are adopted in that country, and

d. application to adopt or re-adopt the child or children in the United States, as applicable.

D. The same standards shall apply to home studies for out-of-country children as for all adoption services.

E. International Adoption Agencies shall do the following:

1. Provide all applicants with policies governing refunds when adoption services that have been promised are not rendered or when there is a disruption of services that may nullify an adoption.
2. Notify adoptive applicants within five working days whenever it receives information that a foreign country is suspending its adoption program.
3. Verify the credentials and qualifications of agents in foreign countries working in their behalf on adoption matters.
4. Disclose data to adoptive applicants on their rates of successful adoptions and requests.

KEY: licensing, human services, child placing
~~October 16, 1998~~ **August 17, 1999** 62A-2-101 et seq.
Notice of Continuation September 2, 1997

Human Services, Recovery Services **R527-450** Federal Tax Refund Intercept

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22158

FILED: 06/29/1999, 15:53

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is necessary to change "AFDC" and "Non-AFDC" references in the rule to "IV-A" and "Non-IV-A" respectively because the AFDC (Aid to Families with Dependent Children) program no longer exists. "IV-A" refers to Title IV-A of the Social Security Act and the new financial assistance program under that title. Under the Debt Collection Improvement Act (DCIA) of 1996, Public Law 104-134, enacted April 26, 1996, spousal support may be certified for federal tax refund intercept if the Office of Recovery Services/Child Support Services (ORS/CSS) is enforcing a spousal support debt. This applies to Non-IV-A as well as IV-A cases. Consequently, it is necessary to revise this rule to conform to the DCIA. The references to an obligee's claim of "good cause" (for refusal to cooperate with ORS/CSS) and how it affects tax intercepts should be deleted from the rule because it is already covered under Rule R527-24 and various federal regulations, including Section 454 of the Social Security Act and 42 U.S.C. 654. Because the federal requirement at 45 CFR 303.72 (1999) states that a support delinquency must be three months or longer (provided the other minimum requirements are met) to qualify for federal tax refund offset, it is not necessary to have additional qualifying or explanatory language in the rule regarding the three month requirement. Therefore, all such

language should be struck and replaced with one sentence under "IV-A debts" and "Non-IV-A debts" stating the basic requirement. The section in the rule dealing with waiving certification when an obligor has paid faithfully under an order or stipulation specifying an arrears payment schedule, needs to be eliminated because it is more restrictive than the past-due support qualifying requirement in 45 CFR 303.72 (1999). It should be replaced with one sentence stating that an otherwise qualified debt may be certified even if the obligor is making arrears payments. This also eliminates the need for the special provision that cases with Uniform Reciprocal Enforcement of Support Act (URESA) orders may be certified when the obligor is making arrears payments. The requirement under "Certification Criteria" that AFDC and foster care arrearages must be satisfied before intercept money can be applied to a Non-IV-A case also appears under "Distribution of Collections." It should be eliminated from "Certification Criteria" in favor of its more appropriate placement under "Distribution of Collections." "Office of Recovery Services" and "office" need to be replaced with "Office of Recovery Services/Child Support Services (ORS/CSS)" to make it clear that this rule applies to the child support services program within the Office of Recovery Services. Because the section dealing with joint tax returns is adequately covered in federal regulations, it should be deleted and replaced with a new section entitled "Earned Income Credit" to explain when the credit is refundable and the conditions under which it cannot be refunded. Because there have been changes in federal requirements mandating deletion of an obligor's name from the federal tax refund certification list when arrears drop below the minimum amounts for certification, and requiring modification of certified amounts only when the arrearage decreases, revision of the rule is necessary. It needs to be changed to specify that the obligor's name will be deleted from the certification list only when he has reduced the total amount certified for both IV-A and Non-IV-A to zero, and that modification of the certified amount may be done when the arrearage increases as well as when it decreases.

SUMMARY OF THE RULE OR CHANGE: A brief introductory statement has been added to the "Certification Criteria" section. In Subsection R527-450-1(1), "AFDC cases" has been replaced with the more specific, "IV-A debts." In paragraph 1(b), the first two sentences have been replaced with, "[t]he delinquency must be three months or older," to more accurately reflect the federal requirement. Other minor rewording has been done in paragraph 1(b) to make the intended meaning clearer. In paragraph 1(c) "may be certified" has been replaced with "qualifies for certification only"; "BCSS" has been replaced with the current agency name, "the Office of Recovery Services/Child Support Services (ORS/CSS)"; and "case" has been replaced with "debt." Paragraphs 1(d) and 1(e), dealing with "good cause" have been deleted. "In Non-AFDC cases" has been replaced with "Non-IV-A debts" in paragraph 2. The two sentences in 2(b) dealing with the three-month delinquency requirement have been replaced with one sentence that more accurately reflects the federal requirement. In paragraph 2(c), "support is owed" has been changed to "support shall be owed"; "a minor" in the second sentence has been replaced with "under

18 years old" to clarify what is meant by "minor" in the first sentence; and "the case is submitted for offset" has been replaced with "the debt is submitted for offset." Because paragraph 2(d) is no longer correct as it reads, appropriate text has been added to make it clear that Non-IV-A spousal support debts may be certified for federal tax intercept when ORS/CSS is enforcing spousal support and there is at least one minor child. Subheading 3 has been deleted because the amended rule addresses debts, not cases. Paragraphs 3(b) and 3(c) have also been deleted, and 3(a), which has been renumbered 3, has been changed in conformance with 45 CFR 303.72 (1999) to allow certification even when the obligor is making arrears payments. The name of the child support services program within the Office of Recovery Services, "Office of Recovery Services/Child Support Services (ORS/CSS)," has been added to Section R527-450-2 and the word "must" has been changed to "will" in the two places it appears in the section. Section R527-450-3, "Joint Returns," has been deleted and replaced with "Earned Income Credit." The new section describes the conditions under which an obligor may have a portion of the federal tax refund returned to him for earned income credit and when that cannot be done. The word "originally" in front of the word "certified" has been deleted from Subsection R527-450-4(1) because certification is now an ongoing process. In Subsection R527-450-4(2), "IV-A" has replaced "AFDC" in the two places it appears. The words "will be" in front of "applied" have been replaced by "are" to denote the real-time nature of the payment distribution process. Because federal tax intercepts are now handled by a specialized agency within the Department of the Treasury, "Internal Revenue Service (IRS)" has been replaced with "Department of the Treasury, Financial Management Service (FMS)" in Subsection R527-450-4(4); in addition, "AFDC" has replaced "IV-A." The words "total" and "for IV-A and Non-IV-A" have been added to "amount certified" in Subsection R527-450-5(1). Because decertification will not occur until the arrearage amount reaches zero, the references to the IV-A and Non-IV-A amounts required to maintain certification have been struck and replaced with "to zero." In Subsection R527-450-5(2), "increases or" has been added to "decreases" in reference to the requirement to modify the obligor's certified arrearage; the word "significantly" has been struck, the words "ORS/CSS will modify" have replaced "must be modified" to clearly denote the entity responsible for the modification; and "[t]he amount certified cannot be modified to a higher amount" has been deleted because it is no longer a correct statement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: An increase in state revenue is expected as a result of the proposed change to maintain certification until the total arrearage amount reaches zero, and the proposed change to modify the certified amount upward whenever the obligor's arrearage increases. These changes will ensure that the certified amount at the time the federal tax refund is processed will consistently equal the obligor's past-due obligation, thereby maximizing the amount

intercepted. The increase in revenue to the state is dependent upon several variable factors, including: 1) the number of obligors who file for a federal tax refund; 2) the refund amounts; 3) the number of federal tax refunds eligible for intercept that were formerly not eligible; and 4) the amount of arrearages at the time of intercept. Because most arrears balances exceed the amount of the refund, ongoing certification of large and increasing arrears balances will result in less revenue to the state than that which results from capturing refunds when an arrearage which has dropped below the minimums has returned to a level qualifying for intercept. Prior to this change, if the obligor's arrearage amount dropped below the minimum certification amount after annual certification, it could not be recertified when it reached (or exceeded) the minimum unless that time coincided with the annual certification date. The proposed changes will make it possible for ORS/CSS to intercept federal tax refunds whenever arrears balances meet or exceed the minimums which will result in increased IV-A collections. It is estimated that an annual increase in revenue to the state of \$938,000 is possible. A minimal loss in revenue to the state will result from refunding the earned income credit portion of federal tax intercepts to qualified obligors who make a written request for the refund prior to the time the intercept payment is disbursed. It is estimated that this will involve less than seven federal tax intercepts per year involving cases with IV-A arrears. If the average credit is \$800, the loss to the state would be less than \$5,600 annually.

❖LOCAL GOVERNMENTS: None--administrative rules of the Office of Recovery Services do not apply to local governments.

❖OTHER PERSONS: Many obligees receiving Non-IV-A support services are expected to benefit financially from the proposed changes because the number and, in some cases, the amount of federal tax refund intercepts should increase as a result of the changes. It is estimated that an annual increase of \$780,000 in support payments to Non-IV-A obligees is possible. A reduction in federal tax refund payments affecting a very few Non-IV-A obligees (probably less than four cases per year) will result from refunding the earned income credit portion of the federal tax intercept to qualified obligors. If the average credit is \$800, the aggregate loss to these obligees would be less than \$3,200 annually.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Although obligors will generally see a reduction in the amount of federal tax refunds they receive as a result of the proposed changes, there will also be a positive benefit to them of reducing or eliminating the amount of past-due support and interest that is owed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule and its proposed changes deal with general procedures for intercepting federal tax refunds that involve the Department of the Treasury, Financial Management Service (FMS); the child support agency(ORS/CSS); obligors who owe past-due support; and obligees who are eligible to receive funds collected through the federal tax intercept program. Because there is no direct connection to businesses, no fiscal impact on them is anticipated.

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

Human Services
Recovery Services
Fourteenth Floor, Eaton/Kenway Building
515 East 100 South
PO Box 45011
Salt Lake City, UT 84145-0011, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.

R527-450. Federal Tax Refund Intercept.

R527-450-1. Certification Criteria.

The Office of Recovery Services/Child Support Services (ORS/CSS) will refer qualified support debts to the federal Office of Child Support Enforcement (OCSE) for offset by federal tax refund intercept according to the following criteria.

1. ~~[In AFDC cases:]~~IV-A debts.
 - a. There must be an order for support. The order may be either judicial or administrative.
 - b. ~~[The obligor must be three months delinquent under the order, as of January 1 following the October 1 certification. This means that the obligor is still delinquent three months after he was notified that the office was certifying the arrearage for intercept of a federal tax refund.]~~The obligor~~[arrearage]~~ must be delinquent in an amount of[at least] \$150 or more. The delinquency must be three months or older.
 - c. Spousal support ~~[may be certified]~~qualifies for certification only if [BCSS]ORS/CSS is currently enforcing a spousal support [case]debt.
 - ~~d. If an obligee's claim of good cause has been approved, federal tax refunds cannot be intercepted.~~
 - ~~e. If approval of good cause permits the office to pursue support without the obligee's involvement, federal tax refunds may be intercepted.]~~
2. ~~[In Non-AFDC cases:]~~Non-IV-A debts.
 - a. There must be an order for support. The order may be either judicial or administrative.
 - b. The obligor must be delinquent in an amount of \$500 or more. The support has been delinquent for three months or longer~~[obligor must be three months delinquent under the order, as of January 1 following the October 1 certification. This means that the obligor is still delinquent three months after he was notified that the office was certifying the arrearage for intercept of a federal tax refund].~~

c. The support [is]shall be owed to or on behalf of a minor child. The child must be [a minor]under 18 years old as of December 31 of the year in which the [case]debt is submitted for offset.~~[An arrearage only Non-AFDC case cannot be certified.]~~

d. Non-~~[AFDC]~~IV-A spousal support ~~[cases cannot]~~debts may be certified if ORS/CSS is currently enforcing a spousal support debt and at least one child on the case is under 18 years old.

3. ~~[All Cases:]~~IV-A and Non-IV-A debts which meet certification criteria

a. If a stipulation or order specifies that tax refunds may be intercepted, ~~the case]~~ may be certified and the federal tax refund may be intercepted, even if the obligor is paying on arrearages [has paid according to a payment schedule. If there is no agreement to specify that tax refunds may be taken, and an administrative stipulation or a judicially approved stipulation or court order specifies a payment schedule on arrears, and the obligor has paid faithfully according to that schedule, the obligor's federal tax refund must not be certified for interception unless the order is modified:

b. Cases with a URESA order may be certified even if the obligor is paying on arrearages.

c. AFDC and foster care arrearages must be satisfied before intercept money can be applied to a Non-AFDC case. The office must notify Non-AFDC obligees of this rule].

R527-450-2. Notice of Offset.

~~[The Office of Recovery Services]~~ORS/CSS [must]will send a pre-offset notice to all obligors certified for the federal tax refund intercept and to all unobligated spouses of these obligors, notifying the obligor of the amount of the arrearage certified, outlining the unobligated spouse's rights, and directing the obligor to contact ~~[the office]~~ORS/CSS if he has questions. The notice [must]will advise the obligor of his right to contest the amount of past-due support and of his right to an administrative review.

R527-450-3. ~~[Joint Returns]~~Earned Income Credit.

~~[Pursuant to 45 CFR 303.72 (e) (1) (iv), if an offset for delinquent support is made against a joint tax refund, the Internal Revenue Service (IRS) notifies the unobligated spouse of the intercept and the steps to take to protect the share of the refund which may be payable to the unobligated spouse:]~~ORS/CSS will refund the portion of the obligor's intercepted federal tax refund that resulted from an earned income credit, if the obligor makes a written request and includes a copy of the federal tax return. If the intercept payment has been credited to a Non-IV-A case and has disbursed to the family, the request will be denied.

R527-450-4. Distribution of Collections.

1. Any money collected through the tax refund offset process can be applied only to the arrearage ~~[originally]~~certified.

2. Collections received through federal tax refund intercept will be applied to satisfy certified ~~[AFDC]~~IV-A and foster care arrearages before ~~[intercept money can be applied to a]~~ Non-~~[AFDC]~~IV-A arrearage.

3. On Non-~~[AFDC]~~IV-A cases the federal tax intercept payments will be held for at least 30 days before being ~~[disbursed]~~refunded to the obligee. ~~[In the event that the Internal Revenue Service (IRS) reclaims money which has been refunded to a Non-AFDC obligee, that obligee will be required to repay to the state the amount reclaimed by IRS.]~~

4. In the event that the Department of the Treasury, Financial Management Service (FMS) reclaims money which has been refunded to a Non-IV-A obligee, that obligee will be required to repay to the state the amount reclaimed by FMS.

R527-450-5. Deleting or Modifying a Federal Tax Certification.

1. If the total amount certified for IV-A and Non-IV-A is reduced to zero after the certification ~~[to below \$150 in an AFDC case or \$500 in a Non-AFDC case],~~ ORS/CSS will delete the ~~[case]~~obligor from the certification list.

2. If the obligor's arrearage increases or decreases [significantly], ORS/CSS will modify the certification amount accordingly [must be modified. The amount certified cannot be modified to a higher amount].

KEY: alimony, child support

~~[1990]~~1999

62A-11-107

Notice of Continuation December 1, 1995



Natural Resources, Wildlife Resources
R657-4
Possession of Live Game Birds

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22167

FILED: 07/01/1999, 17:18

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the Wildlife Board meeting conducted for taking public input and reviewing the provisions of this rule established for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of live game birds.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to include "Ocellated" wild or pen-reared turkey; and provide reference to Rule R657-46 if game birds are used for training dogs. In addition, a person may apply for or renew a certificate of registration on or three months before the date on which the certificate of registration expires. And, a person must submit a letter requesting permission to release game birds. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-13-4, 23-14-18, and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies the procedures and requirements for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of wild game birds. Therefore, the amendment does

not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget. DWR determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies the procedures and requirements for possession, importation, purchase, propagation, sale, barter, trade, or disposal of wild game birds. Therefore, the amendment does not create compliance costs for affected persons.

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
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.
R657-4. Possession of Live Game Birds.**

.....

R657-4-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Aviculture installation" means an enclosed place such as a pen or aviary where privately owned game birds are propagated or kept, and restricts the game birds from escaping into the wild.
 - (b) "Commercial use" means, for purposes of this rule, the sales of any game birds authorized by the certificate of registration in excess of \$5,000 annually.

- (c) "Game bird" means;
 - (i) crane;
 - (ii) blue, ruffed, sage, sharp-tailed, and spruce grouse;
 - (iii) chukar, red-legged, and Hungarian partridge;
 - (iv) pheasant;
 - (v) band-tailed~~[-and red-billed]~~ pigeon;
 - (vi) bobwhite, California, Gambel's, harlequin, mountain, and scaled quail;
 - (vii) waterfowl;
 - (viii) common ground, Inca, mourning,~~[ruddy ground, white-tipped,~~] and white-winged dove;
 - (ix) wild or pen-reared wild turkey of the following subspecies:
 - (A) Eastern;
 - (B) Florida or Osceola;
 - (C) Gould's;
 - (D) Merriam's;
 - ~~[and]~~ (E) Ocellated; and
 - ~~[(E)]~~ (F) Rio Grande; and
 - (x) ptarmigan.
 - (d) "Pen-reared wild turkey" means any turkey or turkey egg held under human control ~~[or which is]~~ that:
 - (i) is imprinted on other poultry or humans; and
 - (ii) has morphological characteristics of wild turkeys.
 - (e) "Wild turkey" means recognized subspecies and hybrids of free-ranging turkeys hatched in the wild ~~[that are managed and regulated by the division]~~. Recognized subspecies and hybrids between subspecies include Eastern, Florida or Osceola, Gould's, Merriam's, Ocellated, and Rio Grande.

R657-4-3. Certificates of Registration.

- (1) Except as provided in Subsections R657-4-3(5) and R657-4-7(2), a person may not possess, import, purchase, propagate, sell, barter, trade, or dispose of any live game bird, or the eggs of any game bird, without first obtaining a certificate of registration for aviculture from the division.
- (2) Any person who has obtained a certificate of registration for aviculture may possess, import, purchase, propagate, sell, barter, trade, or dispose of only those species of game birds designated on that person's certificate of registration.
- (3) Certificates of registration for aviculture:
 - (a) are not transferable; and
 - (b) are valid for five years from the date of issuance.
- (4) Any person who has applied for and obtained a certificate of registration for aviculture must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live game birds.
- (5) A person who acquires live game birds is not required to obtain a certificate of registration:
 - (a) if the game birds are used for training dogs ~~[or]~~ as provided in Rule R657-46;
 - (b) if the game birds are used for the sport of falconry and:
 - (i) each game bird held in possession is banded with a metal leg band purchased from the division;
 - (ii) the game birds are not held in possession longer than 60 days;
 - (iii) a bill of sale establishing proof of purchase from a legal source is in possession; and

(iv) a valid entry permit number and a certificate of veterinary inspection has been obtained from the Department of Agriculture as provided in Rule R58-1 if the game birds are imported into Utah; or

~~(b)~~(c) for holding game birds in temporary storage while the game birds are in transit through Utah provided the birds are identified as to their source and destination and are not removed from the shipping containers.

R657-4-4. Application for a Certificate of Registration.

(1) A person may obtain a certificate of registration for aviculture by submitting a completed application and the appropriate fee to the regional division office in the area in which the aviculture installation is to be located.

(2) If the applicant is under the age of 18, a parent or guardian must co-sign the application and is responsible for compliance with this rule and all other associated laws.

(3) A person may apply to renew a certificate of registration on or three months before the date on which the certificate of registration expires.

.....

R657-4-6. Unlawful Possession -- Release of Game Birds.

(1) A person may not:

(a) take any live game bird or the egg of any game bird from the wild, except as provided in ~~Rule~~Rules R657-3 and R657-6 and the proclamation of the Wildlife Board for taking upland game;

(b) release or abandon any live game bird without first obtaining written authorization from the division director or appropriate regional supervisor as provided in Subsection (2), except that game birds may be released for training dogs or raptors as provided in Rule R657-46; or

(c) release any wild turkey ~~[from captivity;]or pen-reared wild turkey from captivity.~~

~~(2)~~(2) A person must submit a letter requesting permission to release game birds and must include the operator's:

(a) name, address and telephone number;

(b) certificate of registration number;

(c) area and date of intended release;

(d) species to be released;

(e) number and sex of each species to be released; and

(f) a statement from a veterinarian that the birds are disease free and in good health.

(3) In determining whether to allow the release of a game bird as allowed under Subsection (1)(b), the division shall consider:

(a) the potential release site and its relative impact on wildlife and wildlife habitat;

(b) the species or subspecies of game birds to be released; and

(c) the activity for which the game birds are to be released.

~~(3)~~(4)(a) Any game bird that escapes from captivity becomes the property of the state of Utah.

(b) The director may authorize the destruction of any escaped game birds that may impact wildlife.

~~(4)~~(5) The division may dispose of game birds or their eggs held in possession in violation of this rule.

~~(5)~~(6) Game birds or their eggs held in captivity must be confined to the registered aviculture installation, except when in transit or being displayed.

.....

R657-4-8. Sale or Purchase of Live Game Birds.

(1)(a) Any person who sells, ~~[propagates, exchanges, or gives]~~barters, trades, or disposes of a live game bird or the egg of a game bird to another person must provide a bill of sale.

(b) The transferer's certificate of registration number must be written on the bill of sale.

(2)(a) Any person who possesses, imports, purchases, propagates, sells, barter, trades, or ~~[propagates]~~disposes of live game birds must keep a record of each transaction that includes:

(i) the species;

(ii) the number and sex of the game birds;

(iii) the name and address of each party to the transaction; and

(iv) the date of the transaction.

(b) The records required under Subsection (a) must be maintained for five years.

R657-4-9. Penalty for Violation.

A violation of any provision of this rule is punishable as provided in Section 23-13-11.

KEY: wildlife, birds, game laws, aviculture*

~~August 15, 1996~~1999

23-14-18

Notice of Continuation October 27, 1997

23-14-19

23-13-4



Natural Resources, Wildlife Resources

R657-6

Taking Upland Game

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22168

FILED: 07/01/1999, 17:18

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing permit numbers for upland game species and sandhill crane.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to clarify and make consistent application procedures for sandhill crane, sharp-tailed grouse, and wild turkey permits. This amendment also clarifies that ptarmigan and band-tailed pigeon permits may be obtained from Division of Wildlife offices by the first week in August free of charge. The spotlighting provision is being added, whereby, except as provided in Section 23-13-17, a person may not use any spotlight to locate protected wildlife while having in possession a firearm or other weapon that could be used to take or injure protected wildlife. Also, the season dates, bag and possession limits, areas open, and number of permits for

taking wild turkey are provided in a Turkey Addendum to the Upland Game Proclamation of the Wildlife Board for taking upland game. Other changes are made for consistency and clarity.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies application procedures and requirements for drawing sandhill crane, sharp-tailed grouse, and wild turkey permits; and makes other changes for consistency and clarity. Therefore, the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget. DWR determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies application procedures and requirements for obtaining sandhill crane, sharp-tailed grouse, and wild turkey permits. Therefore, the amendment does not create compliance costs for affected persons.

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
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

R657-6. Taking Upland Game.

R657-6-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, [~~1996~~1998] edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the proclamation of the Wildlife Board for taking upland game.

R657-6-2. Definitions.

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

(2) In addition:

(a) "Baited area" means any area where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing migratory and upland game birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for ten days following complete removal of all such corn, wheat, or other grain, salt, or other feed.

(b) "Baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked or unshucked corn, wheat, or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on, or over any area where hunters are attempting to take migratory and upland game birds.

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

(d) "Closed season" means the days on which migratory game birds shall not be taken.

(e) "Commercial hunting area" means private land operated under Rule R657-22, where hatchery or artificially raised or propagated game birds are released for the purpose of hunting during a specified season and where a fee is charged.

(f) "Falconry" means the sport of taking quarry by means of a trained raptor.

(g) "Field possession limit" means no person may possess, have in custody, or transport, whichever applies, more than the daily bag limit of migratory game birds, tagged or not tagged, at or between the place where taken and either:

(i) his or her automobile or principal means of land transportation;

(ii) his or her personal abode or temporary or transient place of lodging;

(iii) a migratory bird preservation facility; or

(iv) a post office or common carrier facility.

(h) "Immediate family" means the landowner's spouse, children, father, mother, brother, sister, stepchildren and grandchildren.

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

(j) "Migratory game bird" means, for the purposes of this rule, mourning dove, band-tailed pigeon, and sandhill crane.

(k) "Nontoxic shot" means soft iron, steel, copper-plated steel, nickel-plated steel, zinc-plated steel, bismuth, and any other shot types approved by the U.S. Fish and Wildlife Service. Lead, nickel-plated lead, copper-plated lead, copper and lead/copper alloy shot have not been approved.

(l) "Open season" means the days when migratory and upland game birds may lawfully be taken. Each period prescribed as an open season shall include the first and last days thereof.

(m) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from a temporary or transient place of abode or dwelling, such as a hunting club, cabin, tent, or trailer house used as a hunting club or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(n) "Cooperative Wildlife Management Unit" means a generally contiguous area of private land open for hunting small game, waterfowl, or big game by permit that is registered in accordance with Rules R657-21 and R657-37.

(o) "Possession limit" means, for purposes of this rule, the number of upland game birds one individual may have in possession at any one time.

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

(q) "Upland game" means pheasant, quail, chukar partridge, Hungarian partridge, sage grouse, ruffed grouse, blue grouse, sharp-tailed grouse, cottontail rabbit, snowshoe hare, white-tailed ptarmigan, wild turkey, and the following migratory game birds: mourning dove, band-tailed pigeon, and sandhill crane. [

~~(r) "Wildlife Habitat Authorization" for purposes of this rule means the primary document granting authority to engage in activities under:~~

~~(i) the Wildlife Resources Code; or~~

~~(ii) a rule or proclamation of the Wildlife Board.]~~

R657-6-3. Migratory Game Bird Harvest Information Program.

(1) A person must obtain a Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds (mourning dove, band-tailed pigeon and sandhill crane).

(2)(a) A person must call 1-800-WETLAND (1-800-938-5263) to obtain their HIP registration number. Use of a public pay phone will not allow access to 1-800-WETLAND.

(b) A person must write their HIP registration number on their current year's hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

- (a) hunting license number;
- (b) hunting license code key;
- (c) name;
- (d) address;
- (e) birth date; and
- (f) information about the previous year's migratory bird hunts.

(4) Lifetime license holders will receive a sticker every three years from the Division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

R657-6-4. Permits for Ptarmigan and Band-tailed Pigeon.

(1) A person may not take or possess:

(a) ptarmigan without first obtaining a ptarmigan permit; or

(b) band-tailed pigeon without first obtaining a band-tailed pigeon permit.

(2) Ptarmigan and band-tailed pigeon permits are available from Division offices by the first week in August free of charge.

R657-6-5. Application Procedure for Sandhill Crane.

(1)(a) Applications are available from Division offices and license agents. Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for sandhill crane is published in the proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the upland game proclamation may be rejected. Late applications will be returned unopened.

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

(3)~~(a)~~ Group applications for sandhill crane will not be accepted.

~~(b) Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.~~

~~—](4)(a) A person may obtain only one sandhill crane permit each year.~~

~~(b) A person may not apply more than once annually.~~

~~(5) [A]Each application must include:~~

~~(a) a \$5 nonrefundable handling fee [must be submitted with the application];~~

~~(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;~~

~~(c) the small game or combination license fee, if it has not yet been purchased.~~

(6) A Wildlife Habitat Authorization and a small game license or combination license may be purchased before applying, or the Wildlife Habitat Authorization and small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

~~(7)(a) Personal checks, money orders, cashier's checks and credit cards are accepted [from residents].~~

~~(8) Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.]~~

~~(b) Personal checks drawn on an out-of-state account are not accepted.~~

~~(9) Applications must be sent to:~~

~~— SANDHILL CRANE APPLICATIONS~~

~~— P.O. Box 168888~~

~~— Salt Lake City, Utah 84116-8888.~~

~~(10)(8) The date of the drawing results is published in the proclamation of the Wildlife Board for taking upland game.~~

(11) Any permits remaining after the drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

R657-6-6. Application Procedure for ~~Wild Turkey~~ Sharp-Tailed Grouse.

(1)(a) Applications are available from Division offices and license agents. Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for ~~wild turkey~~ sharp-tailed grouse is published in the proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the upland game proclamation may be rejected. Late applications will be returned unopened.

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

(3)~~(a)~~ Group applications for sharp-tailed grouse are not accepted.~~[wild turkey will not be accepted:~~

~~(b) Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.]~~

(4)(a) A person may obtain only one ~~[wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit:]~~sharp-tailed grouse permit each year.

(b) A person may not apply ~~[for wild turkey]~~ more than once annually.

(5) Each application must include:

(a) a \$5 nonrefundable handling fee;

(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;

(c) the small game or combination license fee, if it has not yet been purchased.

(6) A Wildlife Habitat Authorization and a small game license or combination license may be purchased before applying, or the Wildlife Habitat Authorization and small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

~~(7)~~(7)(a) Personal checks, money orders, cashier's checks and credit cards are accepted~~[from residents.]~~.

~~(7)~~ Money orders, cashier's checks and credit cards are accepted from nonresidents. Personal checks are not accepted from nonresidents.~~(b) Personal checks drawn on an out-of-state account are not accepted.~~

(8) Applications for wild turkey must be sent to:

~~WILD TURKEY APPLICATIONS~~

~~P.O. Box 168888~~

~~Salt Lake City, Utah 84116-8888.~~

~~(9) The date]~~(8) The date of the drawing results~~[are posted]~~ is published in the proclamation of the Wildlife Board for taking upland game.

~~(10)~~(11) Any permits remaining after the ~~[drawings]~~ drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

R657-6-7. Application Procedure for Wild Turkey.

(1)(a) Applications are available from Division offices and license agents. Applications must be mailed by the date prescribed in the Turkey Addendum to the proclamation of the Wildlife Board for taking upland game.

(b) Residents and nonresidents may apply.

(c) The application period for wild turkey is published in the Turkey Addendum to the proclamation of the Wildlife Board for taking upland game.

(2)(a) Applications completed incorrectly or received after the date prescribed in the Turkey Addendum to the Upland Game Proclamation may be rejected. Late applications will be returned unopened.

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

(3)(a) Group applications for wild turkey will not be accepted.

(b) Applications mailed in the same envelope will be accepted, but will be processed and drawn individually.

(4)(a) A person may obtain only one wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining a limited entry or remaining wild turkey permit.

(b) A person may not apply for wild turkey more than once annually.

(5) A Wildlife Habitat Authorization and small game license or combination license may be purchased before applying or the Wildlife Habitat Authorization and small game license or combination license will be issued upon successfully drawing a permit. Fees must be submitted with the application.

(6) Each application must include:

(a) the \$5 nonrefundable handling fee;

(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased;

(c) the small game or combination license fee, if it has not yet been purchased; and

(d) the wild turkey permit fee.

(6)(a) Personal checks, money orders, cashier's checks and credit cards are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

(7) The date the drawing results are posted is published in the Turkey Addendum to the proclamation of the Wildlife Board for taking upland game.

(8) Any permits remaining after the drawings are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

(9)~~(11)~~ Unsuccessful applicants will receive a refund in March.

~~(12)~~(10) Any person who obtained a Rio Grande turkey permit during the preceding year may not apply for or obtain a Rio Grande turkey permit for the following two years. Any person who obtains a Rio Grande turkey permit in the current year, may not apply for or obtain a Rio Grande turkey permit for a period of two years, except:

(a) Waiting periods do not apply to the purchase of turkey permits remaining after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

(b) Waiting periods do not apply to conservation permits or landowner permits.

R657-6-[7]8. Landowner Permits.

(1)(a) Up to an additional 20 percent of the limited entry permits authorized for taking Merriam's and Rio Grande turkeys are available to private landowners through a drawing.

(b) Landowners interested in obtaining landowner permits must contact the regional Division office in their area before December 15 to be eligible for the landowner permit drawing.

(c) Landowner permit applications that are not signed by the local Division biologist will be rejected.

(d) Landowner permit applications must be received in the Salt Lake Division Office by the date published in the proclamation of the Wildlife Board for taking upland game.

(2)(a) A landowner who owns at least 640 acres of critical habitat that supports wild Merriam's turkeys or at least 20 acres of critical habitat that support wild Rio Grande turkeys within any of the open limited entry areas for wild turkeys is eligible to participate in the drawing for available landowner turkey permits.

(b) "Critical habitat" means areas where wild turkeys regularly and consistently roost, feed, loaf, nest or winter.

(3)(a) A landowner who applies for a landowner permit may:

(i) be issued the permit;

(ii) designate a member of the landowner's immediate family or landowner's regular full-time employee to receive the permit; or

(iii) donate the permit to a qualified 501C-3 conservation organization as provided in Rule R657-41.

(b) The landowner permit may be used only on the open limited entry area in which the landowner's property is located during the open season established for hunting wild turkeys.

(4) The drawing results for landowner permits shall be posted on the date published in the proclamation of the Wildlife Board for taking upland game.

(5) Any permits remaining after the drawing are available by mail-in application on a first-come, first-served basis beginning on the date published in the proclamation of the Wildlife Board for taking upland game.

(6)(a) A waiting period does not apply to landowner permits.

(b) Only one permit may be issued to a landowner per year.

R657-6-[8]9. Purchase of Wildlife Habitat Authorization, License, or Permit by Mail.

(1) A nonresident may obtain a license and Wildlife Habitat Authorization by mail by sending the following information to the Salt Lake Division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, driver license number (if available), proof of hunter education certification and fees.

(2) A person may obtain a ptarmigan permit, band-tailed pigeon permit or sharp-tailed grouse permit by mail by sending the following information to the Salt Lake Division office: full name, complete mailing address, phone number, Wildlife Habitat Authorization number and hunting license number.

(3) ~~[Residents may send a personal check, cashier's check, or money order. Nonresidents must send either a cashier's check or money order. Personal checks are not accepted from nonresidents.]~~(a) Personal checks, cashier's checks, or money orders are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

(4) Checks must be made payable to Utah Division of Wildlife Resources.

R657-6-[9]10. Firearms and Archery Tackle.

(1) A person may not use any weapon or device to take upland game except as provided in this section.

(2)(a) Upland game may be taken with archery equipment, or a shotgun no larger than 10 gauge, or a handgun. Loads for shotguns and handguns must be one-half ounce or more of shot size no. 2 or smaller and no. 8 or larger, except:

(i) migratory game birds may not be taken with a shotgun capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(ii) wild turkey may be taken only with a bow and broadhead arrows or a shotgun no larger than 10 gauge and no smaller than 20 gauge, firing shot sizes BB or smaller and no. 6 or larger;

(iii) cottontail rabbit and snowshoe hare may be taken with archery equipment or any firearm not capable of being fired fully automatic; and

(iv) only shotguns, firing shot sizes no. 4 or smaller, may be used on temporary game preserves as specified in the Big Game Proclamation.

(b) Crossbows are not legal archery equipment for taking upland game species.

(3) A person may not use:

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

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

R657-6-[10]11. Nontoxic Shot.

(1) Only nontoxic shot may be used to take sandhill crane.

(2) Except as provided in Subsection (3), nontoxic shot is not required to take any species of upland game, except sandhill crane.

(3) A person may not possess or use lead shot or any other shot that has not been approved by the U.S. Fish and Wildlife Service for taking migratory game birds while hunting sandhill crane or while on federal refuges or the following state wildlife management areas: Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Manti Meadows, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Scott M. Matheson Wetland Preserve, Stewart Lake, and Timpie Springs.

R657-6-[11]12. Use of Firearms and Archery Tackle on State Wildlife Management Areas.

A person may not possess a firearm or archery tackle, except during the specified hunting seasons or as authorized by the Division on the following wildlife management areas: Bear River Bottoms, Bud Phelps, Castle Dale, Huntington, Cedar, Goshen Warm Springs, James Walter Fitzgerald, Logan, Mallard Springs, Manti Meadows, Milford, Nephi, Pahvant, Richfield, Roosevelt, Scott M. Matheson Wetland Preserve, Vernal, and Willard Bay.

R657-6-[12]13. Use of Firearms and Archery Tackle on State Waterfowl Management Areas.

(1) A person may not possess a firearm or archery tackle, except during the specified waterfowl hunting seasons or as

authorized by the Division on the following waterfowl management areas: Bicknell Bottoms, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.

(2) During the waterfowl hunting seasons, a shotgun is the only firearm that may be held in possession.

R657-6-~~13~~14. Shooting Hours.

(1)(a) Except as provided in Subsection (b), shooting hours for upland game are as follows:

(i) Mourning dove, band-tailed pigeon and sandhill crane may be taken only between one-half hour before official sunrise through official sunset.

(ii) Sage grouse, ruffed grouse, blue grouse, sharp-tailed grouse, white-tailed ptarmigan, chukar partridge, Hungarian partridge, pheasant, quail, wild turkey, cottontail rabbit, and snowshoe hare may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(b) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state. Specific times are provided in a time zone map in the proclamation of the Wildlife Board for taking upland game.

(2) Pheasant and quail may not be taken prior to 8 a.m. on the opening day of the pheasant and quail seasons.

(3) A person may not discharge a firearm on state owned lands adjacent to the Great Salt Lake, state waterfowl management areas or on federal refuges between official sunset through one-half hour before official sunrise.

R657-6-~~14~~15. State Parks.

(1) 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 R651-603-5.

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

(3) Hunting with shotguns or archery tackle is prohibited within one quarter mile of the above stated areas.

R657-6-~~15~~16. Falconry.

(1)(a) Falconers must obtain an annual Wildlife Habitat Authorization, a small game or combination license and a falconry license to hunt upland game and must also obtain:

(b) a ptarmigan permit before taking ptarmigan;

(c) a band-tailed pigeon permit before taking band-tailed pigeon;

(d) a sharp-tailed grouse permit before taking sharp-tailed grouse; or

(e) a sandhill crane permit before taking sandhill crane.

(2) Areas open and bag and possession limits for falconry are provided in the proclamation of the Wildlife Board for taking upland game.

R657-6-~~16~~17. Live Decoys and Electronic Calls.

A person may not take a wild turkey by the use or aid of live decoys, records or tapes of turkey calls or sounds, or electronically amplified imitations of turkey calls.

R657-6-~~17~~18. Baiting Upland Game.

(1) A person may not hunt upland game birds by baiting, or on or over a baited area.

(2) It is not necessary for the hunter to know an area is baited to be in violation.

R657-6-~~18~~19. Turkeys.

A person may not take or attempt to take any turkey sitting or roosting in a tree.

R657-6-~~19~~20. Use of Motorized Vehicles.

Motorized vehicle travel on all state wildlife management areas is restricted to county roads and improved roads that are not posted closed.

R657-6-~~20~~21. Possession of Live Protected Wildlife.

A person may not possess live, protected wildlife. Protected wildlife that is wounded must be immediately killed and shall be included in the hunter's bag limit.

R657-6-~~21~~22. Tagging Requirements.

(1) The carcass of a sandhill crane or turkey must be tagged in accordance with Section 23-20-30.

(2) A person may not hunt or pursue sandhill crane, sharp-tailed grouse or turkey after any of the notches have been removed from the tag or the tag has been detached from the permit.

R657-6-~~22~~23. Identification of Species and Sex.

(1) One fully feathered wing must remain attached to each upland game and migratory game bird taken, except wild turkey, while it is being transported to allow species identification.

(2) The head must remain attached to the carcass of wild turkey while being transported to permit species and sex identification.

R657-6-~~23~~24. Waste of Upland Game Birds.

A person shall not kill or cripple any upland game bird without making a reasonable effort to retrieve the bird.

R657-6-~~24~~25. Utah Pheasant Project.

(1) Boy Scouts, Girl Scouts, or youth enrolled in 4-H or FFA may collect and rear pheasants from eggs in nests destroyed by normal hay mowing operations. The 4-H club leader, FFA adviser or Scout Master shall first apply for and obtain a certificate of registration for this activity.

(2) Landowners or operators of mowing equipment may collect the eggs and possess them for no more than 24 hours for pick up by a person with a certificate of registration.

(3) Pheasants must be released by 16 weeks of age.

(4) These pheasants remain the property of the state of Utah.

R657-6-~~25~~26. Use of Dogs.

(1) Dogs may be used to locate and retrieve upland game during open hunting seasons.

(2) Dogs are not allowed on state wildlife management or waterfowl management areas, except during open hunting seasons or as posted by the Division.

(3) State wildlife management and waterfowl management areas are listed under Sections R657-6-~~11~~12 and R657-6-~~12~~13.

R657-6-~~26~~27. Closed Areas.

A person may not hunt upland game in any area posted closed by the Division or any of the following areas:

- (1) Salt Lake County Airport boundaries as posted.
- (2) Incorporated municipalities: Most of the incorporated areas of Alta, Garland City, Layton, Logan, Pleasant View City, West Jordan, and West Valley City are closed to the discharge of firearms. Check with the respective city officials for specific boundaries. Other municipalities may have additional firearm restrictions.
- (3) Waterfowl Management Areas:
 - (a) Waterfowl management areas are open for hunting upland game only during designated waterfowl hunting seasons, including: Bear River National Wildlife Refuge, Bicknell Bottoms, Blue Lake, Brown's Park, Clear Lake, Desert Lake, Farmington Bay, Harold S. Crane, Howard Slough, Locomotive Springs, Mills Meadows, Ogden Bay, Ouray National Wildlife Refuge, Powell Slough, Public Shooting Grounds, Salt Creek, Stewart Lake, and Timpie Springs.
 - (b) Fish Springs National Wildlife Refuge is closed to upland game hunting.
- (4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

R657-6-~~27~~28. Live Decoys and Electronic Calls.

A person may not take migratory game birds by the use or aid of live decoys, records or tapes of migratory bird calls or sounds, or electronically amplified imitations of bird calls.

R657-6-~~28~~29. Baiting Migratory Game Birds.

Migratory game birds may not be taken by the aid of baiting, or on or over any baited area. However, nothing in this paragraph shall prohibit:

- (1) the taking of sandhill crane, mourning dove, and band-tailed pigeon on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or
- (2) the taking of sandhill crane, mourning dove, and band-tailed pigeon on or over any lands where feed has been distributed or scattered solely as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes.

R657-6-~~29~~30. Transporting Another Person's Birds.

(1) No person may receive, transport, or have in custody any migratory game birds belonging to another person unless such birds have a tag attached that states the total number and species of birds, the date such birds were killed, and the address, signature, and license number of the hunter.

(2) No person shall import migratory game birds belonging to another person.

R657-6-~~30~~31. Gift of Migratory Game Birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunters address, the

total number and species of birds and the date such birds were taken.

R657-6-~~31~~32. Shipping.

(1) No person may transport by the Postal Service or a common carrier migratory game birds unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds contained therein clearly and conspicuously marked on the outside of the container.

(2) A shipping permit issued by the Division must accompany each package containing migratory game birds within or from the state.

R657-6-~~32~~33. Importation Limits.

No person shall import during any one calendar week beginning on Sunday more than 25 doves, singularly or in the aggregate, or ten band-tailed pigeons from any foreign country, except Mexico. Importation of doves and band-tailed pigeons from Mexico may not exceed the maximum number permitted by Mexican authorities to be taken in any one day.

R657-6-~~33~~34. Transfer of Possession.

(1) A person may not put or leave any migratory game bird at any place other than at his personal abode or in the custody of another person for picking, cleaning, processing, shipping, transporting, or storing, including temporary storage, or for the purpose of having taxidermy services performed unless there is attached to the birds a disposal receipt, donation receipt, or transportation slip signed by the hunter stating his address, the total number and species of birds, and the date such birds were killed.

(2) A migratory bird preservation facility may not receive or have in custody any migratory game bird without the documents required in Subsection (1).

R657-6-~~34~~35. Waste of Migratory Game Birds.

No person shall kill or cripple any migratory game bird without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and his automobile or principle means of land transportation; and either his personal abode or temporary or transient place of lodging; or a migratory bird preservation facility or a post office or a common carrier facility.

R657-6-36. Spotlighting.

(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 locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(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 of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

R657-6-37[R657-6-35]. Season Dates, Bag and Possession Limits, and Areas Open.

(1) Season dates, bag and possession limits, areas open, and number of permits for taking upland game are provided in the proclamation of the Wildlife Board for taking upland game.

(2) Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the Turkey Addendum of the proclamation of the Wildlife Board for taking upland game.

KEY: wildlife, birds, rabbits*, game laws

[August 19, 1998]1999

Notice of Continuation June 16, 1997

23-14-18

23-14-19



**Natural Resources, Wildlife Resources
R657-22
Commercial Hunting Areas**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 22169

FILED: 07/01/1999, 17:18

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to the Wildlife Board meeting conducted for taking public input and reviewing the procedures and requirements for establishing, maintaining, and operating a commercial hunting area.

SUMMARY OF THE RULE OR CHANGE: This amendment provides clarification of the required documents that must be submitted with an application for a certificate of registration to operate a commercial hunting area. An operator must also maintain complete and accurate records, including health certificates for all game birds purchased from outside the state of Utah; the number, species, and date the game birds are released or taken; and copies of the bill of sale issued to hunters or any other person who purchases game birds. The commercial hunting area license requirements, age restrictions, and proof of hunter education are deleted, and registration and requirements are added in accordance with Section 23-17-6. Hunting hours are modified on commercial hunting areas located adjacent to a state wildlife or waterfowl management area, whereby game birds may be taken one-half hour before sunrise through sunset. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-17-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies the procedures and requirements for establishing, maintaining, and operating a commercial hunting area. Therefore, the

amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget. DWR determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖OTHER PERSONS: No impact--these amendments do not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies the procedures and requirements for establishing and operating commercial hunting areas. Therefore, the amendment does not create compliance costs for affected persons.

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
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.
R657-22. Commercial Hunting Areas.**

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R657-22-3. Certificate of Registration Required.

(1) A certificate of registration is required before any person may operate a commercial hunting area.

(2)(a) Any person who owns or leases land and controls the shooting and hunting rights for that property may apply for a certificate of registration.

(b) Applications are available from division offices.

(3) In addition to the application, the applicant must provide the following:

(a) ~~[a map]~~two photocopies of the following maps of the proposed commercial hunting area to scale~~[-such as a photocopy of a]~~:

(i) county plat ~~[or]~~maps; and

(ii) U.S. Geological Survey topographical ~~[map]~~maps, no smaller scale than 7 1/2 minutes, with the proposed boundaries clearly marked;

(b) a legal description and county tax identification number of the property, including total acreage;

(c) proof of ownership or a lease agreement for the period of authorization as follows:

(i) a copy of a title, deed, or tax notice that establishes proof the applicant is the owner of the property described; or

(ii) a lease agreement listing the ~~[names and addresses]~~name, address and telephone number of the lessor that establishes proof the applicant is the lessee of the hunting or shooting rights of the property described;

~~[and]~~(d) the address of any propagation or game bird holding facility not located on the commercial hunting area property; and
~~[(c)]~~(e) a \$150 fee.

(4) The division may return any application that is incomplete, completed incorrectly, or that is not accompanied by the information required in Subsection (3).

(5)(a) Review and processing of the application may require up to ~~[30]~~45 days.

(b) More time may be required to process an application if the applicant requests authorization from the Wildlife Board for a variance to this rule.

(6)(a) Applications must be submitted to the ~~[Wildlife Section of the division:]~~division regional office in which the commercial hunting area is located by July 1 each year the commercial hunting area is to be hunted.

(b) Applications are not accepted from any person who requests to establish a commercial hunting area;

(i) within 1/4 mile of any existing commercial hunting area without ~~[prior approval]~~requesting a variance from the Wildlife Board and a written agreement from the operator of the existing commercial hunting area; and

(ii) within 1/4 mile of any existing state wildlife or waterfowl management area without requesting a variance from the Wildlife Board.

(7) The division may deny any application or impose provisions on the certificate of registration that are more restrictive to this rule in the interest of wildlife or wildlife habitat.

(8) If an application is denied, the division shall state the reason in writing within 30 days of denial.

(9) Certificates of registration are effective ~~[July 1, or]~~from the date issued[-] through ~~[June 30]~~March 31 of the following year.

(10) Rights granted by a certificate of registration are not transferable or assignable.

R657-22-4. Renewal of Certificate of Registration.

(1) A certificate of registration may be renewed by completing a renewal application and paying a renewal fee of \$150.

(2) Renewal applications must be completed and submitted to the ~~[Wildlife Section of the division:]~~division regional office in which the commercial hunting area is located by July 1 each year the commercial hunting area is to be hunted.

(3) In addition to the renewal application and renewal fee, the applicant must provide the following:

(a) a current lease agreement if any land within the commercial hunting area boundary is being leased, including:

(i) the lessor's name, address and telephone number;

(ii) the county tax identification number of properties being leased;[-]

(b) an annual report as provided in Subsection R657-22-6(2); and

(c) any requested change to the certificate of registration that was issued for the previous year, including updated maps as provided in Subsection R657-22-3(3)(a) if the commercial hunting area boundaries change.

R657-22-5. Conditions for Approval of Renewal Applications.

(1) Applications for renewal shall be denied by the division if the commercial hunting area operator or any of its agents:

(a) failed to comply with any provision of this rule or any provision of the certificate of registration;

(b) failed to adequately medicate or control the spread of a contagious disease;

(c) refused to allow the division to inspect any premises, facility, wildlife, or required records;

(d) restricted public access upon public roads or public rights-of-way or easements through the commercial hunting area;

(e) conducted commercial hunting activities on property not authorized on the certificate of registration;

(f) failed to release the minimum number of game birds specified on the certificate of registration or harvested more than 85% of the game birds released;

(g) obtained or attempted to obtain a certificate of registration by fraud, deceit, falsification, or misrepresentation; or

(h) falsified any required report or record.

(2) If an application is denied, the division shall state the reasons in writing within 30 days of denial.

R657-22-6. Records and Reports -- Annual Report.

(1) The operator of a commercial hunting area shall maintain complete and accurate records of:

(a) the number, species, and source of any game birds purchased or propagated;

(b) ~~[the number and date the]~~health certificates for all game birds purchased from outside the state of Utah;

~~(c) the number, species and date the~~game birds are released; and

~~[(c)]~~(d) the number, species and date of game birds taken within the commercial hunting area boundary, including wild game birds; and

~~(e) copies of the bill of sale issued to hunters and any other person who purchases game birds.~~

(2) Each operator must submit an annual report on a form provided by the division within 30 days of the close of the season or at the time of renewal, including:

(a) the number of game birds by species that were released and the total number of game birds taken by hunters or sold;

(b) the date, source, and number of the game birds purchased; and

(c) the number of game birds by species held in possession on May 15.

(3) All records must be maintained on the hunting premises or the principal place of business for three years and must be available for inspection by the division.

R657-22-7. Boundary Marking.

- (1) The commercial hunting area must be posted:
 - (a) at least every ~~[200]~~300 feet along the outer boundary of all hunted areas; and
 - (b) on all corners, streams, rivers, drainage divides, roads, gates, trails, rights-of-way, dikes, canals, and ditches crossing the boundary lines.
- (2) Each sign used to post the property must be at least 8-1/2 by 11 inches and must clearly state:
 - (a) the name of the commercial hunting area as designated on the certificate of registration;~~[-and]~~
 - (b) the words "No Trespassing~~[-"]~~"; and
 - (c) wording indicating the sign is located on the commercial hunting area boundary.
- (3)(a) If the commercial hunting area operator fails to renew a certificate of registration or a renewal application is denied, all signs shall be immediately removed.
- (b) The division may remove and dispose of any signs that are not removed within 30 days after the termination of the certificate of registration.

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R657-22-9. Bill of Sale Required.

- (1) The operator of a commercial hunting area shall issue a bill of sale to each person who has taken a game bird from the commercial hunting area.
- (2) The bill of sale shall be issued prior to the transportation of any bird from the commercial hunting area.
- (3) The bill of sale must include:
 - (a) the person's name;
 - (b) the date the game birds were taken or purchased;
 - (c) the species, number of game birds, and sex of the game birds; and
 - (d) the name of the commercial hunting area where the game birds were taken or purchased.

.....

R657-22-14. Restrictions on Release and Harvest.

- (1)(a) Except as provided in Subsection R657-22-16(2)(e), game birds raised or held in possession under this rule may be released only on the commercial hunting area property.
- (b) Each game bird released must be healthy, capable of flight, and free of disease.
- (c) A person may not ~~[permanently]~~retard or restrict a game bird's ability to fly or run by clipping, ~~[braiing]~~brailing, blinding, pinioning, harnessing, or drugging.
- (2) At least 100 game birds of each authorized species shall be released on the commercial hunting area during the current operating year.
- (3)(a) Operators may not allow the harvest of more than 85% of each species released, except as provided in Subsection (b).
- (b) There is no limit to the ~~[number]~~percentage of game birds that may be harvested that are not, in the opinion of the division,

established as a wild population in the vicinity of the commercial hunting area. Any variance to Subsection (a) shall be indicated on the certificate of registration.

- (4) Only those game birds obtained from the following sources may be released or held in possession on a commercial hunting area:
 - (a) ~~[a private wildlife farm]~~an aviculturist, certified as provided in Rule R657-4;
 - (b) a commercial hunting area, certified under this rule; or
 - (c) a source located outside of Utah provided the game birds are imported as provided in ~~[Section]~~Rule R58-1~~[-4]~~.
- (5) Protected wildlife not authorized for release on the commercial hunting area may be hunted only during their respective seasons as provided in the rules and proclamations of the Wildlife Board.

R657-22-15. Recapture.

- (1)(a) Trapping game birds alive or retrapping game birds that have been released is permitted only:
 - (i) within the commercial hunting area boundaries;~~[-and]~~
 - (ii) from September 1 ~~[through April 2:]~~through April 2; and
 - (iii) for species listed on the certificate of registration as not established in the area.
- (b) Any game bird that escapes from the commercial hunting area becomes the property of the state of Utah and may not be recaptured.
- (2) Any game bird trapped alive may not be recounted or added to the total number of birds released when computing the number which may be taken as provided in Subsection R657-22-14(3).

R657-22-16. Propagation.

- (1) The certificate of registration allows the propagation of those species of game birds held in possession as indicated on the certificate of registration.
- (2) Any game birds held in possession under this rule must be released on the commercial hunting area or may be sold:
 - (a) to a private wildlife farm, certified as provided in Rule R657-4;
 - (b) a commercial hunting area, certified under this rule;
 - (c) to a person located outside of Utah;
 - (d) to a person for consumption; or
 - (e) for use in training dogs or the sport of falconry as provided in ~~[Section]~~Rule R657-~~[4-3(5)(a)]~~46.
- (3)(a) If ~~[game birds are]~~a commercial hunting area game bird is held in possession at any location other than ~~[the commercial hunting area]~~that listed on the application or transferred alive to any other location, prior authorization must be obtained from the division or must be authorized on the certificate of registration.
- (b) Authorization for the possession of live game birds for any primary purpose other than being released to allow hunters to take them for a fee may be obtained under the provisions of Rule R657-4 or Rule R657-46.

R657-22-17. Commercial Hunting Area ~~[License:]~~Registration and Requirements for Hunters.

- ~~[(1) Commercial hunting area licenses may be offered for sale by the]~~(1) Any person desiring to operate a commercial hunting area [operator with the approval of the division:]to permit the

releasing and shooting of pen-raised game birds may apply to the Wildlife Board for authorization to do so and must comply with all requirements in accordance with Section 23-17-6.

~~[(2) A](2) Any person hunting within the state on any commercial hunting area must be at least 12 years old and meet hunter education requirements[license is valid for use only on commercial hunting areas and must be on the person of the purchaser while hunting and transporting game birds.~~

R657-22-18. Age Restrictions:

~~(1) A person must be 12 years of age or older to hunt on commercial hunting areas.~~

~~(2)(a) A person 13 years of age or younger 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 with any weapon.~~

~~(b) A person 14 or 15 years of age must be accompanied by a person 21 years of age or older while hunting with any weapon.~~

~~(3) As used in this section, "accompanied" means at a distance within which visual and verbal communication is maintained for the purposes of advising and assisting.~~

R657-22-19. Proof of Hunter Education:

~~(1) The division and commercial hunting area operators may not issue a commercial hunting area license to any person born after December 31, 1965, unless proof is presented that the person has passed a division approved hunter education course offered by a state, province, or country] as provided in Section 23-[19-11 and Rule R657-23.]17-6.~~

~~[(2) For purposes of this section, "proof" means:~~

~~(a) a certificate of completion of a hunter education course; or~~
~~(b) a current or immediately preceding year's hunting license issued by a state, province, or country with the applicant's hunter education number noted on the hunting license.~~

~~(3) Any person, after being domiciled in Utah for six consecutive months, must obtain a division issued blue card prior to obtaining a resident license. A blue card may be obtained at any division office at no charge.~~

R657-22-20]R657-22-18. Season Dates.

~~(1)(a) Hunting on commercial hunting areas is permitted from September 1 through March 31.~~

~~(b) The Wildlife Board may authorize a variance to the dates provided in Subsection (a) if:~~

~~(i) game birds do not nest within the location of the commercial hunting area or surrounding areas; and~~

~~(ii) there are no detrimental effects to other species of wildlife.~~

~~(2) If September 1 falls on a Sunday, the season will open on [September 2]August 31.~~

~~(3) The director may extend the season up to fifteen days, provided wild nesting game birds are not adversely affected.~~

R657-22-[24]19. Hunting Hours.

Game birds may be taken on a commercial hunting area only one-half hour before sunrise through one-half hour after sunset, except on a commercial hunting area located adjacent to a state wildlife or waterfowl management area, game birds may be taken one-half hour before sunrise through sunset.

KEY: game birds*, wildlife, wildlife law

[June 3, 1996]1999

Notice of Continuation June 4, 1997

63-46b-5

23-17-6



Natural Resources, Wildlife Resources
R657-46

The Use of Game Birds in Dog Field Trials and Training

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 22170

FILED: 07/01/1999, 17:18

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides the requirements, standards, and application procedures for the use of game birds in dog field trials and training.

SUMMARY OF THE RULE OR CHANGE: This rule provides the requirements, standards and application procedures for obtaining a certificate of registration to use pen-reared game birds for field trials and dog training; and the use of wild game birds for dog training.

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

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** This rule establishes the requirements and standards for the use of game birds for dog field trials and dog training. The Division of Wildlife Resources (DWR) determines that this rule will not create any cost or savings impact to the state budget or the DWR's budget.

❖**LOCAL GOVERNMENTS:** None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖**OTHER PERSONS:** No impact--this rule does not impose any requirements on persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule establishes the requirements and standards for the use of game birds for dog field trials and dog training. Therefore, the amendment does not create compliance costs for affected persons. However, if a person chooses to obtain a certificate of registration for the purpose of using game birds for dog field trials and dog training that person must pay the certificate of registration fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not create an impact on businesses.

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

Natural Resources
Wildlife Resources
Suite 2110
1594 West North Temple
PO Box 146301
Salt Lake City, UT 84114-6301, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdrw.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.

R657-46. The Use of Game Birds in Dog Field Trials and Training.

R657-46-1. Purpose and Authority.

Under authority of Sections 23-14-18 and 23-14-19 this rule provides the requirements, standards, and application procedures for dog field trials and training.

R657-46-2. Definitions.

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

(2) In addition:

(a) "Field trial" means an organized event where the abilities of dog handlers and their dogs are evaluated, including the ability of the dogs to hunt or retrieve game birds.

(b) "Game bird" means:

(i) crane;

(ii) blue, ruffed, sage, sharp-tailed, and spruce grouse;

(iii) chukar, red-legged, and Hungarian partridges;

(iv) pheasant;

(v) band-tailed pigeon;

(vi) bobwhite, California, Gambel's, harlequin, mountain, and scaled quail;

(vii) waterfowl;

(viii) common ground, Inca, mourning, and white-winged dove;

(ix) wild or pen-reared wild turkey of the following subspecies:

(A) Eastern;

(B) Florida or Osceola;

(C) Gould's;

(D) Merriam's;

(E) Ocellated; and

(F) Rio Grande; and

(x) ptarmigan.

(c) "Train" or "training" means the informal handling, exercising, teaching, instructing, and disciplining of dogs in the

skills and techniques of hunting and retrieving game birds characterized by absence of fees, judging, or awards.

R657-46-3. Application for a Field Trial Certificate of Registration.

(1)(a) A person may conduct a field trial using pen-reared game birds provided that person applies for and obtains a certificate of registration from the Division of Wildlife Resources, except as provided in Subsection (b).

(b) A person may conduct a field trial using pen-reared game birds on a commercial hunting area without obtaining a certificate of registration.

(2) Applications are available at any division office.

(3) The application must include written permission from the owner, lessee, or land management agency of the property where the field trial is to be conducted.

(4)(a) Applications must be submitted to the appropriate regional division office where the field trial is being held.

(b) Applications must be received at least 45 days prior to the date of the field trial.

(5) The division will not approve any application for an area where, in the opinion of the division, the field trial or the release of pen-reared game birds interferes with wildlife, wildlife habitat or wildlife nesting periods.

(6) Field trials may be held only during the dates and within the area specified on the field trial certificate of registration.

R657-46-4. Use of Pen-Reared Game Birds for Field Trials.

(1) Legally acquired pen-reared game birds may be possessed or used for field trials.

(2) Any person using pen-reared game birds must have an invoice or bill of sale in their possession showing lawful personal possession or ownership of such birds.

(3) Pen-reared game birds may not be imported into Utah without a valid veterinary health certificate as required in Rules R58-1 and R657-4.

(4)(a) Each pen reared game bird must be marked with an aluminum leg band before being released in the field trial, except as provided in Subsection (d).

(b) Aluminum leg bands may be purchased at any division office.

(c) The aluminum leg band must remain attached to the pen-reared game bird.

(d) Each pen-reared game bird used in a field trial that is conducted on a commercial hunting area may be released without marking each pen-reared game bird with an aluminum leg band.

(5) Pen-reared game birds used for a field trial may be released only on the property specified in the certificate of registration where the field trial is conducted.

(6) After release, pen-reared game birds may be taken:

(a) by the person who released the pen-reared game birds, or by any person participating in the field trial; and

(b) only during the dates of the field trial event as specified in the certificate of registration.

(7) Wild game birds may be taken only during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(8) Pen-reared game birds acquired for a field trial that are not released may be held in possession:

(a) no longer than 60 days; or
 (b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.
 (9) Pen-reared game birds that leave the property where the field trial is held at the end of the field trial shall become the property of the state of Utah and may not be taken, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

R657-46-5. Use of Pen-Reared Game Birds for Dog Training.

(1)(a) A person may train a dog using legally acquired pen-reared game birds provided:
 (i) the person using the pen-reared game birds has an invoice or bill of sale in their possession showing lawful personal possession or ownership of the pen-reared game birds;
 (ii) each pen-reared game bird is marked with an aluminum leg band before being released for training, except as provided in Subsection (c); and
 (iii) any pheasant, which is intended to be killed during training, must be marked with a visible streamer or tape at least 24 inches in length while in the field.
 (b) Aluminum leg bands may be purchased at any division office.
 (c) Each pen-reared game bird used for dog training that is conducted on a commercial hunting area may be released without marking each pen-reared game bird with an aluminum leg band.
 (2)(a) The training may not consist of more than four dogs in the field at any time.
 (b) A person or group of persons may not release more than ten pen-reared game birds per day, except a professional dog trainer may release more than ten pen-reared game birds per day provided that person applies for and obtains a certificate of registration from the Division of Wildlife Resources.
 (c) A person or group of persons may not use more than two firearms in the field at any time.
 (3) Pen-reared game birds acquired for training that are not released may be held in possession:
 (a) no longer than 60 days; or
 (b) longer than 60 days provided the person possessing the pen-reared game birds first obtains a private aviculture certificate of registration as provided in Rule R657-4.
 (4) Pen-reared game birds that are not recovered on the day of the training or pen-reared game birds that escape shall become property of the state of Utah and may not be recaptured or taken, except during legal hunting seasons as specified in the Upland Game and Waterfowl proclamations of the Wildlife Board.

R657-46-6. Use of Wild Game Birds for Dog Training.

(1) A person may train a dog on wild game birds provided:
 (a) the dog, or the person training the dog, may not harass, catch, capture, kill, injure, or at any time, possess any wild game birds, except during legal hunting seasons as provided in the Upland Game or Waterfowl proclamations of the Wildlife Board;
 (b) the dogs are not on any state wildlife management or waterfowl management areas as specified in Rule R657-6, except during open hunting seasons or as posted by the division;
 (c) the person training a dog on wild game birds, except during legal hunting seasons;

(i) must not possess a firearm, except a pistol firing blank cartridges;
 (ii) must comply with city and county ordinances pertaining to the discharge of any firearm;
 (iii) must obtain written permission from the landowner for training on properly posted private property.

KEY: wildlife, birds, dogs, training
1999

23-14-18
23-14-19



Public Safety, Comprehensive
 Emergency Management
R704-1
 Search and Rescue Financial
 Assistance Program

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 22163
FILED: 06/30/1999, 15:36
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is mandated by Subsection 53-2-107(7) to assist the Division in administering the Search and Rescue Financial Assistance Program.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the search and rescue costs incurred by counties that qualify as reimbursable expenses under the Search and Rescue Financial Assistance Program; the procedures counties must follow in submitting search and rescue expenses for reimbursement; and the formula used by the Search and Rescue Advisory Board to disburse available funds to counties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-2-107

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--this rule does not create any cost or savings to the state budget. The funds paid out by the state to counties are obtained by the state from statewide impact fees.
- ❖LOCAL GOVERNMENTS: This rule will have a positive effect on county budgets in that it provides a mechanism whereby counties can obtain reimbursement for eligible expenses they incur in search and rescue operations.
- ❖OTHER PERSONS: Other persons, e.g., volunteer posse members, can obtain reimbursement from their counties for eligible expenses such volunteers incur in connection with search and rescue operations. The counties, in turn, can seek reimbursement from the state for such expenses. To

that extent, this rule will have an indirect positive effect on the budgets of such persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance cost for affected persons would be the minimal amount of time the counties might experience in filling out the paperwork necessary to make application for search and rescue expense reimbursement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses--Craig L. Dearden.

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

Public Safety
Comprehensive Emergency Management
1110 State Office Building
435 North Main Street
PO Box 141710
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

J. Francis Valerga at the above address, by phone at (801) 965-4463, by FAX at (801) 965-4608, or by Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Ferris E. Groll, Deputy Commissioner

R704. Public Safety, Comprehensive Emergency Management.

R704-1. Search and Rescue Financial Assistance Program.

R704-1-1. Purpose.

The purpose of this rule is to set forth the process whereby the Division of Comprehensive Emergency Management administers the Search and Rescue Financial Assistance Program in accordance with Title 53, Chapter 2, Part 1, "Comprehensive Emergency Management Act", as amended.

R704-1-2. Authority.

This rule is authorized under Section 53-2-107 which requires the Division to administer the Search and Rescue Financial Assistance Program, and, with the approval of the Search and Rescue Advisory Board, make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

R704-1-3. Definitions.

Terms used in this rule shall be defined as follows:

A. "Adjusted reimbursable expenses" means reimbursable expenses which have been adjusted by application of the formula set forth in R704-1-7.

B. "Board" means the Search and Rescue Advisory Board created in Section 53-2-108.

C. "Director" means the director of the Division of Comprehensive Emergency Management.

D. "Division" means the Division of Comprehensive Emergency Management of the Utah Department of Public Safety.

E. "Expense monies" means money in the SAR Fund used primarily to reimburse expenses under the program.

F. "Outstanding reimbursable expenses" means the difference, after the first review, between a county's adjusted reimbursable expenses and its reimbursable expenses.

G. "Program" means the Search and Rescue Financial Assistance Program.

H. "Reimbursable expenses" means those expenses incidental to SAR activities, determined by the board to be reasonable under R704-1-6, for rental of fixed wing aircraft, helicopters, snowmobiles, boats and generators, and other equipment or expenses necessary or appropriate for conducting SAR activities. Said expenses do not include any salary or overtime paid to any person on a regular or permanent payroll, including permanent part-time employees, of any agency or political subdivision of the state.

I. "Reimbursable replacement costs" means those costs incidental to SAR activities determined by the board to be reasonable under R704-1-6, for replacement and upgrade of SAR equipment.

J. "Reimbursable training costs" means those costs incidental to SAR activities determined by the board to be reasonable under R704-1-6, for training of SAR volunteers.

K. "Reimbursement cap" means an artificial limit on the amount of reimbursement allowed to a county on first review of its application as determined by the board pursuant to R704-1-6B.

L. "Replacement monies" means money in the SAR Fund used primarily to reimburse replacement costs under the program.

M. "SAR" means search and rescue.

N. "SAR Fund" means all funds generated under the Search and Rescue Financial Assistance Program.

O. "Training monies" means money in the SAR Fund used primarily to reimburse training costs under the program.

R704-1-4. Application Process.

A. It is the purpose of this section to set forth the procedure for obtaining reimbursements of SAR costs and expenses from the program in accordance with Title 53, Chapter 2, Part 1.

B. As soon as possible after each incident, but no later than March 31 of each year, each county sheriff seeking reimbursement of SAR costs and expenses under the program which were incurred during the first half of that fiscal year, shall submit to the director a separate application package for each SAR incident. The application package shall include:

1. A completed "Utah Search and Rescue Financial Assistance Application" form provided by the division; and

2. All receipts and other documentation supporting the costs and expenses.

C. Not later than May 1 of each year, the board shall review all timely submitted applications, apply the formula set forth below, and determine a fair and equitable distribution of all monies then available in the fund.

D. As soon as possible after each incident, but not later than July 20 of each year, each county sheriff seeking reimbursement of SAR costs and expenses under the program which were incurred during the second half of the previous fiscal year, shall submit to

the director a separate primary application package for each SAR incident.

E. Not later than July 31 of each year, the board shall review all timely submitted applications, apply the formula set forth in Rule 704-1-5 below, and determine a fair and equitable distribution of all monies available in the fund at the close of the previous fiscal year.

R704-1-5. Distribution Process - Division Responsibilities.

A. Prior to the time the board meets to determine distribution, the division shall organize all applications and shall provide them to the board, along with the following information required under Subsection 53-2-107(7)(c):

1. The total amount of SAR funds available in the program from the first half of the fiscal year for applications received prior to April 1; and from the second half of the fiscal year for applications received prior to October 1. One-half of the money appropriated by the legislature as dedicated credit for the program shall be available for each application period.

2. The total costs and expenses requested by each county;

3. The total number of search and rescue incidents occurring per each county population. Said information shall be presented in the form of a ratio (i.e., 1 incident per 500 residents, written as 1:500);

4. The number of victims residing outside of the subject county. Said information shall be presented in the form of a percentage (i.e., if 10 out of 20 victims resided outside of the county, it would be presented to the board as 50%);

5. The number of volunteer hours spent in each county in emergency response and SAR related activities per county population. Said information shall be presented in the form of a ratio (i.e., 1 volunteer hour per 25 residents, written as 1:25); and

6. Which applications were received after the deadline.

R704-1-6. Distribution Process - Determination of Reimbursable Expenses and Reimbursement Caps.

A. Upon meeting to determine distribution, the board shall first make a determination which costs and expenses sought are reimbursable expenses under the program. In so determining, the board shall consider whether the costs and expenses are:

1. Reasonable in light of the types of services and equipment provided and the then existing market value of said services and equipment;

2. Incidental to search and rescue activities;

3. Excludable as salary or overtime pay; and

4. Necessary or appropriate for conducting the type of SAR operations for which reimbursement is sought. For example, Wasatch County might apply for a total of \$45,000 for costs and expenses, but the board could determine that only \$40,000 met the criteria of reimbursable expenses.

B. After determining the amount of reimbursable expenses for each county, the board shall determine reimbursement caps to provide a fair distribution of monies available in the fund:

1. If the total amount of reimbursable expenses is less than the amount available in the fund, each county shall be awarded the amount determined to be reimbursable expenses.

2. If the total amount of reimbursable expenses is more than the amount available in the fund, the board shall apply the following formula in determining reimbursement caps:

a. From the total amount available in the fund for the subject application period, the board shall first set aside as 10% for replacement costs, and 10% for training costs. For example, if \$280,000 were available, \$28,000 would be set aside as replacement monies, and \$28,000 would be set aside as training monies, leaving an available balance of \$224,000.

b. From the remaining 80% of available funds, the board will calculate reimbursement caps per county by dividing the available amount equally between the 29 counties. Using the above example, if \$224,000 were available, a first review maximum of \$7,724.14 would be available for each county. To determine how much of that maximum will be awarded, the board must determine the adjusted reimbursable expenses based on the formula set forth in R704-1-7.

R704-1-7. Formula for Determining Adjusted Reimbursable Expenses.

A. For the purpose of determining a fair and equitable distribution of monies available in the fund, on its first review of applications, the board shall adjust the amount of equitable expenses each county will be awarded by applying the following point system formula:

1. To award full payment of a county's reimbursable expenses, said county would have to achieve all of the 100 percentage points possible. The formula is based on the criteria set forth in Subsection 53-2-107(7)(c). By applying this formula, the board will determine adjusted reimbursable expenses by calculating a percentage point value for each county, and will then award each county that percent of their reimbursable expenses up to the reimbursement cap set under R704-1-6. In calculating the percentage, the following point totals are possible:

a. Each county which submits its application packages on time shall receive 25 points.

b. There will be a possible 25 points based on the number of SAR incidents occurring per county population.

c. There will be a possible 25 points based on the percentage of victims residing outside of the subject county; and

d. There will be a possible 25 points based on the number of volunteer hours spent in each county in emergency response and SAR related activities per county population.

2. The following ratios will determine the points awarded based on the number of SAR incidents occurring per county population:

a. 5 points if the ratio is greater than 1:1000 but less than 1:750.

b. 10 points if the ratio is equal to or greater than 1:750 but less than 1:500.

c. 15 points if the ratio is equal to or greater than 1:500 but less than 1:250.

d. 20 points if the ratio is equal to or greater than 1:250 but less than 1:100.

e. 25 points if the ratio is equal to or greater than 1:100.

3. The following ratios will determine the points awarded based on the percentage of victims residing outside of the subject county:

a. 5 points if up to 20% of the victims are from outside the county.

b. 10 points if between 20% and 40% of the victims are from outside the county.

c. 15 points if between 40% and 60% of the victims are from outside the county.

d. 20 points if between 60% and 80% of the victims are from outside the county.

e. 25 points if more than 80% of the victims are from outside the county.

4. The following ratios will determine the points awarded based on the number of volunteer hours spent in each county in emergency response and SAR related activities per county population:

a. 5 points if the ratio is greater than 1:100 but less than 50.

b. 10 points if the ratio is equal to or greater than 1:50 but less than 1:25.

c. 15 points if the ratio is equal to or greater than 1:25 but less than 1:10.

d. 20 points if the ratio is equal to or greater than 1:10 but less than 1:5.

e. 25 points if the ratio is equal to or greater than 1:5.

5. The total awarded points will be multiplied by the reimbursable expenses to determine the adjusted reimbursable expenses for each county. For example, if the board awarded 85 points to Wasatch County, the \$40,000 in reimbursable expenses would be adjusted to \$34,000 ($\$40,000 \times .85$). Since the cap is \$7,724.14, Wasatch County would be entitled to only that amount on first review. However, on second review it could receive some or all of the remaining \$32,275.86.

R704-1-8. Second Review of Applications.

A. If, after the first review and determination of the adjusted reimbursable expenses for each county, reduced as necessary to the reimbursement caps, there are expenses funds remaining from that half of the fiscal year, the board shall throw out the reimbursement caps, and determine distribution as follows.

B. If there are enough expense funds remaining to cover the outstanding reimbursable expenses of all counties, the board shall reimburse those amounts.

C. If there are not enough expense funds to pay the outstanding reimbursable expenses, the board shall apply the same percentage point value established for each county under R704-1-7 to the outstanding reimbursable expenses. If there are enough expense monies remaining to cover all adjusted reimbursable expenses, the board shall reimburse those amounts.

D. If there are not enough expense monies to cover all adjusted reimbursable expenses, the board shall determine by majority vote how the remaining expense funds are to be distributed among the counties. In so ruling, the board should give consideration to the equities sought to be established by the percentage point values determined under the forgoing formula. In addition, the board may, by a majority vote, elect to utilize reimbursement and training monies to cover reimbursable expenses.

R704-1-9. Reimbursement of Replacement Costs.

A. If after determining distribution of expense monies, there are any remaining, they may be added to the funds set aside for reimbursement of replacement and upgrade of SAR equipment under Subsection 53-2-107(1)(b).

B. The board shall then make a determination which replacement costs sought are reimbursable under the program. In so determining, the board shall consider whether the said costs are:

1. Reasonable in light of the type and extent of replacement or upgrade sought and the then existing market value of said costs;

2. Reasonably related to and/or caused by the utilization of the subject equipment in SAR activities; and

3. Not considered an unjust or improper enrichment of the owner of the subject equipment.

C. The board shall then apply the same percentage point value established for each county under R704-1-7 to the replacement costs determined by the board to be reimbursable. If there are enough replacement monies to cover all reimbursable replacement costs sought, the board shall reimburse those amounts.

D. If there are not enough replacement monies to cover all reimbursable replacement costs, the board shall determine by majority vote how the remaining replacement monies are to be distributed among the counties. In so ruling, the board should give consideration to the equities sought to be established by the percentage point values determined under R704-1-7. In addition, the board may, by a majority vote, elect to utilize any training monies and remaining expense monies to cover replacement costs.

R704-1-10. Reimbursement of Training Costs.

A. If after determining distribution of expense and replacement monies, there are funds remaining, they may be added to the monies set aside for reimbursement of training costs under Subsection 53-2-107(1)(c).

B. The board shall then make a determination which training costs sought are reimbursable under the program. In so determining, the board shall consider whether the said costs are:

1. Reasonable in light of the type and extent of training and the then existing market value of said costs;

2. Reasonably related to the training of search and rescue volunteers; and

3. Excludable as salary or overtime pay to instructors.

C. The board shall then apply the same percentage point value established for each county under R704-1-7 to the training costs determined by the board to be reimbursable. If there are enough training monies to cover all reimbursable training costs sought, the board shall reimburse those amounts.

D. If there are not enough training monies to cover all reimbursable training costs, the board shall determine by majority vote how the remaining training monies are to be distributed among the counties. In so ruling, the board should give consideration to the equities sought to be established by the percentage point values determined under R704-1-7. In addition, the board may, by a majority vote, elect to utilize any remaining expense and replacement monies to cover training costs.

E. The board may also elect to carry over any monies remaining from the first half of the fiscal year to the second half. However, on review of the applications from the second half of the fiscal year, the board shall, pursuant to Subsection 53-2-109(1)(e) award all program monies remaining in the fund for that fiscal year.

KEY: search and rescue, financial reimbursement, expenses 1999 53-2-107

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Tax Commission, Auditing
R865-19S-79
 Tourist Home, Hotel, Motel, or Trailer
 Court Accommodations and Services
 Defined Pursuant to Utah Code Ann.
 Sections 59-12-103, 59-12-301,
 59-12-352, and 59-12-353

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE No.: 22161
 FILED: 06/30/1999, 10:30
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Language is deleted in accordance with 1999 Utah Supreme Court decision in *Airport Hilton Ventures, Ltd. v. Utah State Tax Commission*. The Supreme Court found that the language at issue went beyond the statutory power to assess sales and transient room taxes. Hence, the language is being deleted.

SUMMARY OF THE RULE OR CHANGE: Proposed amendment deletes language that limited the sales tax exemption for accommodation and the transient room tax exemption to instances where residency was maintained pursuant to written agreement and where accommodations were billed at a monthly rate.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103, 59-12-301, 59-12-352, and 59-12-353

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Estimated increase of \$1,500,000; additional Olympic increase of \$220,000.

❖LOCAL GOVERNMENTS: Estimated increase of \$1,800,000; additional Olympic increase of \$123,000.

❖OTHER PERSONS: Some savings to individuals/businesses in the amount of the sales tax they would have had to pay on room rentals prior to the Utah Supreme court ruling.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs to comply. This amendment required by the Utah Supreme Court allows an entity a greater chance of availing itself of the sales tax exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a tax savings to businesses or groups who will no longer pay sales tax and transient room tax on stays longer than 30 days under the proposed rule change.

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

Tax Commission
 Auditing

Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-79. Tourist Home, Hotel, Motel, or Trailer Court Accommodations and Services Defined Pursuant to Utah Code Ann. [Section]Sections 59-12-103, 59-12-301, 59-12-352, and 59-12-353.

A. [~~Definitions:~~]The following definitions shall be used for purposes of administering the sales tax on accommodations and transient room taxes provided for in Sections 59-12-103, 59-12-301, 59-12-352, and 59-12-353.

1. "Tourist home," "hotel," or "motel" means any place having rooms, apartments, or units to rent by the day, week, or month.
2. "Trailer court" means any place having trailers or space to park a trailer for rent by the day, week, or month.
3. "Trailer" means house trailer, travel trailer, and tent trailer.
4. "Accommodations and services charges" means any charge made for the room, apartment, unit, trailer, or space to park a trailer, and includes charges made for local telephone, electricity, propane gas, or similar services.[]

~~B. Tax shall not apply where residency is maintained continuously under the terms of a written agreement for 30 days or more:~~

- ~~1. The written agreement must identify the specific room; apartment, unit, trailer, or space to park a trailer that will be occupied for the period:~~
- ~~2. The accommodations or services must be billed at a specified monthly rate and not at an accumulation of daily rates:[]~~

KEY: charities, tax exemptions, religious activities, sales tax
[~~October 14, 1998~~]1999 **59-12-103**
Notice of Continuation May 22, 1997 **59-12-301**
59-12-352
59-12-353



Tax Commission, Auditing
R865-19S-108
User Fee Defined Pursuant to Utah
Code Ann. Section 59-12-103

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 22162

FILED: 06/30/1999, 10:30

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-12-103 imposes a sales or use tax on admission or user fee for any amusement, entertainment, recreation, exhibition, cultural, or athletic activity, but does not define a user fee. This rule will provide guidance to the hotel industry and ensure that all similar transactions are treated consistently for sales tax purposes.

SUMMARY OF THE RULE OR CHANGE: The proposed rule defines "user fee" for purposes of administering the sales or use tax on admission or user fees. Specifically, the law provides that user fees include charges for access to a video or video game, television program, or cable, or satellite broadcast, if that access occurs at any location other than the individual's residence. Under the current frame work, hotels must apply sales tax to charges for satellite broadcasts provided in room are not subject to sales tax. The proposed rule will treat a patron's selection of an in-room movie the same, whether the movie is shown from a video located at the hotel, or is received from a satellite broadcast.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: A small increase to state budget due to increased sales tax revenue. Under the current procedures, most larger hotels/motels employ video systems to provide movies to their patrons, and as such, are currently applying sales tax to those charges for movies. Smaller hotels/motels, in general are incorporating newer satellite technologies, and are not collecting sales tax on charges for movies they provide to their patrons

❖LOCAL GOVERNMENTS: A small increase to local government due to increased sales tax revenue. Under the current procedures, most larger hotels/motels employ video systems to provide movies to their patrons, and as such are currently applying sales tax to those charges for movies. Smaller hotels/motels in general, are incorporating newer satellite technologies, and are not collecting sales tax on charges for movies they provide to their patrons.

❖OTHER PERSONS: No increase to hotel patrons who stay at hotels that are currently collecting the sales tax on movie

charges. For those patrons who stay at hotels that have not collected sales tax on movie charges, there will be an increase by the amount charged for the movie, multiplied by the sales tax range.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No increased costs to businesses. These businesses currently collect sales tax on many items charged to their patrons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on businesses. The proposed rule defines "user fees" to give more guidance for the sales tax charges for admissions when not in an individual's residence.

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

Tax Commission
 Auditing
 Tax Commission Building
 210 North 1950 West
 Salt Lake City, UT 84134, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.**R865-19S. Sales and Use Tax.****R865-19S-108. User Fee Defined Pursuant to Utah Code Ann. Section 59-12-103.**

A. For purposes of administering the sales or use tax on admission or user fees provided for in Section 59-12-103, "user fees" includes charges imposed on an individual for access to the following, if that access occurs at any location other than the individual's residence:

1. video or video game;
2. television program; or
3. cable or satellite broadcast.

B. The provisions of this rule are effective for transactions occurring on or after October 1, 1999.

KEY: charities, tax exemptions, religious activities, sales tax
[October 14, 1998]1999 **59-12-103**
Notice of Continuation May 22, 1997

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Transportation, Administration
R907-64
 Longitudinal and Wireless Access to
 Interstate Highway Rights-of-Way for
 Installation of Telecommunications
 Facilities

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 22165

FILED: 07/01/1999, 10:15

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement a program for limited longitudinal access and wireless access to interstate highway rights-of-way for purposes of installing, operating, and maintaining wireline and wireless telecommunications facilities in the rights-of-way. This rule seeks to preserve, to the greatest degree possible, the safety and convenience of the traveling public on Interstate highways in Utah. It also permits the use of highway rights-of-way for telecommunications facilities that support the federal and state law goals of encouraging competition in telecommunications and permitting the deployment of advanced telecommunications technologies. The department shall, through designated personnel, and pursuant to written guidelines, control such installations, and maintenance of such facilities.

SUMMARY OF THE RULE OR CHANGE: Newly enacted Section 72-7-108 grants authority to the Department of Transportation to permit longitudinal access on highway rights-of-way within the interstate system. This rule sets out the conditions under which telecommunications facility providers may seek and be granted access to interstate highway rights-of-way within the state.

(DAR Note: A corresponding 120-day (emergency) rule that is effective as of June 28, 1999, is under DAR No. 22124 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-7-108

FEDERAL REQUIREMENT FOR THIS RULE: Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Department of Transportation will incur some costs each time access is granted to one or more telecommunications facility providers. These costs will be dependent on variables such as distance and type of facilities installed, and will be incurred as the department reviews construction plans, inspects facilities as they are constructed, and performs other related technical reviews. However, the department plans to recover these costs through the compensation received for permitting telecommunications

facilities within the interstate highway rights-of-way, as granted by Section 72-7-108. At a minimum, the department will not issue permits to telecommunications facility providers unless the department is reimbursed for all its expenses. Until a telecommunications facility provider proposes a specific use for a segment(s) of the interstate highway rights-of-way, no estimate of costs can be provided. The amount of any type of compensation received by the department is expected to cover any costs incurred by the department.

❖LOCAL GOVERNMENTS: None--Local governments are unaffected by this rule.

❖OTHER PERSONS: Telecommunications facility providers who seek and are granted access to a segment(s) or all of the interstate highway rights-of-way must provide compensation to the Department of Transportation (state). The type and amount of this compensation will not be set until a schedule of rates is established, as provided by Section 72-7-108. Therefore, the actual cost to any telecommunications facility provider is not yet known. At a minimum, all telecommunications facility providers will reimburse the department for expenses the department incurs during the planning and construction of any approved telecommunication facility installed on interstate highway rights-of-way. The actual cost to any telecommunications facility provider is unknown at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not require action on the part of other parties, and therefore, there are no mandatory compliance costs. If one or more telecommunications facility providers choose to seek and are granted access to interstate highway rights-of-way, then some amount of compliance costs in the form of compensation to the department (State) will be incurred. The level and type of compensation charged will be set by a rate schedule established by the department pursuant to the provisions of Section 72-7-108. Therefore, no exact compliance costs can be stated at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule permits the implementation of key provisions of Section 72-7-108, supports the intent of the Federal and State Telecommunications Acts, and creates opportunities for telecommunications facility providers to expand their networks within Utah. The rule imposes no cost to telecommunications facility providers except when they voluntarily seek access to interstate highway rights-of-way.

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

Transportation
 Administration
 4501 South 2700 West
 PO Box 141265
 Salt Lake City, UT 84114-1265, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Neal F. Christensen at the above address, by phone at (801) 965-4032, by FAX at (801) 965-4338, or by Internet E-mail at nchrste@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/16/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 08/17/1999

AUTHORIZED BY: Neal F. Christensen, Director

R907. Transportation, Administration.

R907-64. Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.

R907-64-1. Purpose.

The purpose of this rule is to implement a program for facilitating longitudinal access and wireless access to interstate highway rights-of-way to provide for the installation, operation and maintenance of wireline and wireless telecommunications facilities in the rights-of-way. This rule recognizes the importance of quality of infrastructure of the Interstate System and that the safety and convenience of users of the Interstate System must be preserved to the greatest extent possible. Compatible with this principle, the rule also permits the use of the rights-of-way of the Interstate System for telecommunications facilities that support Federal and State laws that encourage competition in telecommunications services and the deployment of advanced telecommunications technologies. The Department shall, through designated personnel, facilitate such installations and maintenance of such facilities, which comply with the criteria established by this rule.

R907-64-2. Authority.

Subsection 72-7-108(2)(a) states that, except as provided in Subsection (4), the Department may allow a Telecommunication Facility Provider longitudinal access to the right-of-way of a highway on the Interstate System for the installation, operation, and maintenance of Telecommunication Facility.

R907-64-3. Definitions.

(1) "Department" means the Department of Transportation.

(2) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. The width of the clear zone is dependent upon the traffic volumes, speeds and the roadway geometry.

(3) "Interstate System" means any existing or future highway included as a part of the national system on interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental or amendatory acts, and which primarily consist of Interstate Highways I-15, I-215, I-70, I-80, and I-84.

(4) "Longitudinal access" means access to or use of any part of a right-of-way of a highway on the Interstate System that extends generally parallel to the right-of-way for a total of 30 or more linear meters.

(5) "Permit" means a document issued by the Department of Transportation to a Telecommunications Facility Provider which specifies the requirements and conditions under which longitudinal or wireless access to highway right-of-way of the Interstate System shall be allowed.

(6) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(7) "Telecommunication Facility" means any telecommunication cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system and device used to transmit, receive, produce or distribute via wireless, wireline, electronic, or optical signal for communication purposes.

(8) "Telecommunications Facility Provider" means any owner or operator of a Telecommunication Facility.

(9) "Utility" includes telephone, wireline and wireless, gas, electricity, cable television, water, and sewer transmission lines, drainage and irrigation systems, and other similar utilities located in, on, along, across, over, through, or under any highway of the State Highway System.

(10) "Wireless access" means access to and use of any part of a right-of-way or rights-of-way on, any highway of the Interstate System for the purpose of constructing, installing, maintaining, using and operating Telecommunication Facilities for wireless telecommunications.

R907-64-4. Access Policy.

(1) Telecommunication facility accommodations on the Interstate System shall comply with the federal utilities accommodations policies set forth in 23 CFR 645 (1997): "It is in the public interest for utility facilities to be accommodated on the right-of-way when such use and occupancy of the highway right-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations."

(2) The Department also acknowledges that recent Federal and State Legislation, primarily the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70 (Feb. 8, 1996) and Utah Code Section 54-8b-1, encourage competition in the provision of telecommunications services, and the development and deployment of advanced telecommunication technologies, infrastructure, and networks. These legislative initiatives in turn have increased demand for rights-of-way, including highway rights-of-way, for the installation of Telecommunication Facilities necessary to support increased competition and deployment of an advanced telecommunication infrastructure.

(3) The Department also recognizes that longitudinal access and wireless access for Telecommunication Facilities may be provided without compromising highway integrity, safety, normal highway operation or maintenance activities, while contributing to the deployment and efficient operation of intelligent transportation systems.

(4) Therefore, effective on or after August 17, 1999, the Department may allow longitudinal access and wireless access on highways of the Interstate System for placement, construction, installation, maintenance, repair, use, operation, replacement and removal of Telecommunication Facilities, as authorized by Utah Code Section 72-7-108 and subject to compliance with this rule. This rule applies only to longitudinal access and wireless access for Telecommunication Facilities on rights-of-way within the Interstate System and does not alter the existing policy concerning other Utilities on interstate rights-of-way, or for accommodating Utilities on other facilities under the jurisdiction of the Department.

R907-64-5. Limitations and Conditions.

(1) Longitudinal and wireless access of Telecommunication Facilities shall be permitted only as approved by the Executive Director or designee in accordance with the criteria and procedures set forth in this rule.

(2) Occupancy by longitudinal access or wireless access shall comply with, and produce no significant compromise of, the following factors:

- (a) highway safety requirements of federal and state law;
- (b) written policy and agreements adopted by the Department;
- (c) safe use of highways in the Interstate System by the traveling public;
- (d) prudent use and management of the Interstate System and its rights-of-way;
- (e) highway design;
- (f) highway construction;
- (g) highway operational and/or technical capacity;
- (h) highway maintenance or stability;
- (i) future expansion of the Interstate System;
- (j) physical environmental features; and
- (k) physical capacity of the right-of-way to accommodate longitudinal access.

(3) In the interest of safety and preservation of the highway facility and pavement structure, the placement, installation, maintenance, repair, use, operation, replacement and removal of Telecommunications Facilities with longitudinal access or wireless access to the Right-of-way of the Interstate System shall be accommodated only when in compliance with the "MANUAL FOR ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY," as adopted by rule (Rule 930-6), and with 23 CFR 645 (1997), Subpart B, "Accommodation of Utilities."

(a) The location of all Telecommunication Facilities, whether above ground or below ground installations, including towers, pedestals, poles and boxes, within the highway right-of-way of the Interstate System shall be as set forth in the permit and/or the negotiated agreement between the Telecommunications Facility Provider and the Department. Telecommunications Facilities shall avoid: (a) use of through traffic roadways, lanes and ramps for construction, inspection, testing or maintenance activities; (b) placement of facilities within the median strip; (c) placement of facilities in a non-uniform alignment; (d) placement of facilities in places other than at or adjacent to the Right-of-way line and beyond the recovery or clear zone area; or (e) placement of facilities within the clear zone of through-traffic roadways, lanes or ramps. The Executive Director or designee is authorized to grant variances from the Manual and guidelines on a case-by-case basis. Variances will not be granted if, in the opinion of the Executive Director or designee, they create unacceptable risks of significant compromise of any factor listed in Subsection R907-64-5(2) of this rule.

(4) The Department may consider financial and technical qualifications of telecommunication facility providers, and specify insurance requirements for contractors authorized to enter Interstate System rights-of-way to construct, install, inspect, test, maintain or repair Telecommunication Facilities with longitudinal access or wireless access. During each period that the Department authorizes longitudinal access or wireless access for construction and installation, the Department may require approved Telecommunication Facility Providers to install Telecommunication

Facilities into the same general location on the Interstate System; coordinate their planning and work; install in a joint trench; and equitably share costs.

(5) The Department shall manage and administer access to rights-of-way of the Interstate System in compliance with 47 U.S.C. 253 (1999).

R907-64-6. Compensation.

(1) The Department shall require compensation from a Telecommunication Facility Provider under the provisions of Section 72-7-108 for longitudinal access or other use within the Right-of-way of the Interstate System consistent with the rate schedule adopted by the Department through rulemaking.

(2) Until the rate schedule has been formally adopted pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all agreements are subject to modification to comply with the rate schedule.

R907-64-7. Permits and Agreements.

(1) In accordance with 23 CFR 645 (1997), subpart B, "Accommodations of Utilities," the Utah Code Section 72-6-116 "Regulation of Utilities-Relocation of Utilities," and Rule R930-6, which is described in the Department's "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights of Way," a Telecommunication Facility Provider shall be required to complete and sign an agreement with the Department prior to obtaining a permit for construction or installation of Telecommunication Facilities in the Right-of-way. Based on the statements of interest, if any, received by the Department in response to its advertisements of intent to consider opening highway segments in the Interstate System for construction and installation of Telecommunication Facilities, as provided for in Subsections R907-64-8(3) and (4) of this rule, the Department shall determine within 30 days of the deadline for the receipt of such statements of interest, whether to open such segments for such use. If the Department decides to open such segments of the Interstate System for construction and installation of Telecommunication Facilities, it shall notify each Telecommunication Facility Provider which filed a statement of interest of such decision in writing and direct them to file with the Office of the Deputy Director an application, as modified by the Department from time to time, for a permit for longitudinal access or wireless access on rights-of-way in the Interstate System. The Department shall also specify the deadline for the filing of such permit applications.

(2) The Department will review each permit application within 30 working days following receipt thereof, in accordance with the criteria set forth in this rule. The review process will begin only when the Telecommunication Facility Provider(s) submits a complete permit application, including all documentation, as required in the "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way," Rule R930-6. No later than the end of the 30 working day review period, the Department will either: (a) issue to the Telecommunications Facility Provider a written notice that the permit application is accepted for the negotiation of an agreement for the construction and installation of Telecommunication Facilities in the right-of-way segment, or (b) issue to the Telecommunication Facility Provider a written denial of the permit application, together with the specific reasons why the permit application was not approved, based on the

criteria set forth in this rule. If the Telecommunication Facility Provider's permit application has been accepted for negotiation of an agreement, the Department shall commence such negotiations not later than five working days after the date of such notice of acceptance and shall proceed in a diligent manner to favorably conclude such negotiations, to execute the Department's standard form agreement with negotiated modifications necessary to accommodate the unique needs of each project, and to issue a permit for the construction and installation of Telecommunication Facilities in the right-of-way segment.

(3) Each agreement and permit shall comply with the contracting requirements listed or incorporated herein and authorize longitudinal access or wireless access only for the shorter of: (a) the time period requested by the Telecommunications Facility Provider, or (b) 30 years. Telecommunication Facility Providers shall be given every reasonable opportunity to renew any and all agreements and permits following the expiration of the term, provided that new mutually acceptable agreements are entered into between the Department and the Telecommunication Facility Providers.

(4) No permit shall be issued prior to an agreement having been reached between the Department and Telecommunication Facility Providers. Failure of the parties to reach agreement shall cause longitudinal access to be denied and no permit shall be issued.

R907-64-8. Limited, Periodic Opportunities for Installation for Longitudinal Access.

(1) In order to minimize adverse impacts to rights-of-way and related highway facilities and pavement structures within the Interstate System and to avoid significant compromise of the safe, efficient and convenient use of the Interstate System for the traveling public, advertising for longitudinal access for constructing and installing Telecommunication Facilities in any particular segment of such Rights-of-Way shall be limited in frequency to once every 18 months, except that the Executive Director or designee may permit construction and installation of Telecommunications Facilities with longitudinal access more frequently than once every 18 months, based on factors in Section 64-5(2) of this rule.

(2) the 18 month period shall begin on the date of the Department's formal notice of intent to open access to any highway segment in the Interstate System which has been noticed.

(3) When exercising the discretion to permit construction and installation of Telecommunications Facilities with longitudinal access to the Interstate System, the Executive Director or his or her designee shall consider all factors relevant to the Department's policy with respect to utility accommodations as expressed in this rule, including the safe, effective, efficient use of highways in the Interstate System by the traveling public, impacts on the Interstate System's operational capacity, and prudent economic management of the Interstate System. The Department may perform capacity surveys of the Interstate System rights-of-way to assure that longitudinal access is feasible prior to opening any segment of the Interstate System to longitudinal access for new or additional Telecommunication Facilities.

(4) The Department will advertise intent to consider opening highway segments in the Interstate System to provide opportunities for constructing and installing Telecommunications Facilities for

longitudinal access and wireless access, by one or more of the following means; provided, however, that Telecommunication Facility Providers who have been granted a certificate of convenience and necessity by the Public Service Commission of Utah shall be given actual notice by mail:

(a) Publication of the intent notice for not less than five consecutive days in a newspaper of national circulation;

(b) Publication of the intent notice for not less than five consecutive days in a newspaper of statewide circulation;

(c) Publication of notices of the intent in the calendar or other regular publications of the Department and/or those of other state agencies or Departments; or

(d) Press or news releases from the Department to newspapers, magazines, periodicals, or telecommunications industry publications.

(5) Advertisements and notices of intent to consider opening highway segments for constructing and installing Telecommunications Facilities in Interstate System highway rights-of-way whether for longitudinal access or wireless access, shall contain all of the following:

(a) A description of the segment or segments of the Interstate System for which longitudinal access for the installation and construction of Telecommunications Facilities are proposed;

(b) A deadline that is not less than 30 days from the first date of publication or release of an advertisement or notice of intent to consider opening, as described above in Subsection (3), for the filing of statements of interest with the office of the Deputy Director by Telecommunications Facility Providers regarding their interest in installing and constructing Telecommunications Facilities in one or more specified highway segments of the Interstate System; and

(c) The required contents of the statements of interest, to be filed in response to the advertisements or notices, shall include the identity of the interested party, the financial and technical qualifications of the interested party, and any other information specified by the Department in the advertisement or notice.

(6) Statements of interest received by the Department shall be processed in accordance with the requirements set forth herein. Based on its review of the statements of interest received, the Department will notify those Telecommunication Providers who submitted statements of interest of its intent to open one or more of the highway segments advertised within 30 days. This notice will include instructions to initiate the permitting process as specified in "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way," (Rule R930-6).

(7) The Department may enter into negotiations with one or more of the interested parties filing Statements of Interest toward the execution of an agreement or agreements and permits required under Section R907-64-7 above. After executing an agreement and permit, each telecommunications facility provider shall file them with the office of the Deputy Director.

R907-64-9. Removal and Relocation.

Pursuant to Subsection 72-7-108(c)(v), the Department shall require the removal and/or relocation of Telecommunication Facilities located on the Interstate System when highway changes are required to provide for the free and safe flow of traffic at the Telecommunication Facility Provider's expense. If prudent management of the interstate highway rights-of-way demand, The Department may require removal and/or relocation of such

Telecommunication Facilities upon expiration or earlier termination of the permit or other agreements at the Telecommunication Facility Provider's expense, in accordance with applicable law.

KEY: right-of-way, interstate highway system
1999

72-1-201

72-6-116



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (•••••) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends August 16, 1999. At its option, the agency may hold public hearings.

From the end of the waiting period through November 12, 1999, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (1996); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Public Service Commission,
Administration
R746-405
Tariffs for Gas, Electric, Telephone,
Water and Heat Utilities and Price Lists
and Competitive Contract Information
for Telecommunications Corporations

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 21880
FILED: 06/29/1999, 15:48
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify that the changes associated with information concerning competitive contracts is applicable to telecommunications corporations.

SUMMARY OF THE RULE OR CHANGE: Changes in the definitions to track the same language used in Title 54, Chapter 2, and inserting the word "telecommunications corporation" in Section R746-405-3, which deals with the filing of competitive contract information.

(DAR Note: The original proposed amendment upon which this change in proposed rule is based was published in the March 1, 1999, *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 54-8b-2.3(4) and 54-8b-2.3(7)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--the proposed changes to the proposed rule amendments previously published are for clarification of the original intent of the proposed amendments, not substantive changes.

❖LOCAL GOVERNMENTS: None--as the rule has no effect upon the operations of any local government activity.

❖OTHER PERSONS: None--as the proposed changes to the proposed amendments make no substantive changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated that companies filing information regarding service prices, terms, and conditions with the Public Service Commission will experience additional costs as a result of the proposed amendments. Current statutory provisions already require this information to be filed. Different companies have used different formats and displays in filing their information. The proposed amendments attempt to provide some uniformity to the information filed by the different companies and uses a format with which they are already familiar and using, in the context of tariff filings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Effected companies are currently required to file tariffs in a specified format, to provide consistent information to customers of the price, terms, and conditions of service offerings. The Commission

believes that using a similar format for price lists and competitive contract information will make it easier for the public to ascertain the choices available to them and to more easily understand the terms and conditions of available services. As these companies are already providing this information, the Commission does not anticipate that additional costs will be incurred (or that costs will be de minimus) in specifying the format and structure of the information that is to be filed. The proposed change is to make clear that the changes are applicable to telecommunications corporations.

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

Public Service Commission
Administration
Fourth Floor, Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 08/31/1999.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/1999

AUTHORIZED BY: Barbara Stroud (Designee), Paralegal

**R746. Public Service Commission, Administration.
R746-405. Tariffs for Gas, Electric, Telephone, Water and Heat
Utilities and Price Lists and Competitive Contract Information
for Telecommunications Corporations.
R746-405-1. General Provisions.**

A. Scope--The following rules for electricity, gas, telephone, and water utilities and telecommunications corporations are designed to provide for:

1. the general form and construction of tariffs, price lists and competitive contract information required by law to be filed with the Commission and open for public inspection,
2. the procedures for filing and publishing tariffs, price lists and competitive contract information in Utah, and
3. the particular circumstances and procedures under which utilities may depart from their filed and effective tariffs.

B. Applicability--These rules apply to and govern all companies, whether they begin service before or after the effective date of these rules, but they shall not affect a right or duty arising out of an existing rule or order in conflict herewith. The rules apply only to new tariff[-], [-]price list and competitive contract information filings, and do not require the modification of tariffs, price lists and competitive contract information which were effective on the date the rule is adopted or modified. Each company shall have on file with the Commission its current tariffs, price lists and competitive contract information. Each company shall abide by

the tariffs, price lists and competitive contract information as filed with the Commission. The Commission at any time may direct companies to make revisions or filings of their tariffs, price lists and competitive contract information or a part thereof to bring them into compliance.

C. Definitions--

1. "Commission" means the Public Service Commission of Utah.

2. "Company" means a telecommunications corporation as defined in Section 54-8b-2 and a public utility as defined in Section 54-2-1.

3. "Competitive contract information" means the information referenced in Section 54-8b-2.3(7) and as provided in R746-405-4.

4. "Effective Date" means the date on which the rates, charges, rules and classifications stated in the sheets first become effective, except as otherwise provided by statute or order. This date, in accordance with the statutory notice period, shall not be less than the 30th calendar day after the filed date of tariff sheets, and the 5th calendar day after the filed date of price list sheets, without the prior approval of the Commission. Unless otherwise authorized, rates shall be made effective for service rendered on or after the effective date.

5. "Filed Date" of materials submitted to the Commission for filing is the date the materials are date-stamped at the Commission's Salt Lake City office.

6. "Tariff" and "Price lists" means the entire body of rates, tolls, rentals, charges classifications and rules collectively enforced by the company[-], although the book or volumes incorporating the same may consist of one or more sheets applicable to distinct service classifications.

7. "Sheet" means the individual sheets of the volume constituting the entire tariff or price list or competitive contract information of a company and includes the title page, preliminary statement, table of contents, service area maps, rates schedules and rules.

8. "Telecommunications corporation" means a person or entity as defined in Section 54-8b-2.

9. "Utility" means a gas, electric, telecommunications, water or heat corporation as defined in Section 54-2-1.

D. Separate Utility Services--

1. Utilities engaged in rendering two or more classes of utility services, such as both gas and electric services, shall file with the Commission a separate tariff covering each class of utility service rendered.

2. Utilities planning to jointly provide utility service shall designate one utility to file a joint tariff for the service with the other utility or utilities filing a concurrence with the joint tariff.

E. Withdrawal of Service--No utility shall, without prior approval of the Commission, withdraw from public service entirely or in any portion of the territory served.

R746-405-2. Format and Construction of Tariffs.

A. Format--Tariffs shall be filed in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:

"TARIFF"

Applicable to

Kind of

SERVICE

NAME OF UTILITY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the tariff sheets are arranged in the tariff book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes of service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C). The preliminary statement shall clearly define the symbols used in the tariffs. For example:

a. "C" to signify changed listing, rule or condition which may affect rates or charges;

b. "D" to signify discontinued material, including listing, rate, rule or condition;

c. "I" to signify increase;

d. "L" to signify material relocated from or to another part of the tariff schedules with no change in text, rate, rule or condition;

e. "N" to signify new material including listing, rate, rule or condition;

f. "R" to signify reduction;

g. "T" to signify change in wording of text but no change in rate, rule or condition.

4. Service area maps: maps for telecommunication utilities shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on tariff sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Tariff Books--

1. Utilities shall constantly maintain their presently effective tariff at each business office open to the public.

2. Utilities shall remove canceled tariff sheets from their currently effective tariffs. Utilities shall permanently retain a file of canceled tariff sheets.

C. Construction of Tariffs for Filing--

1. The loose-leaf sheets used in tariffs shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size. Tariffs may be printed, typewritten or mimeographed or other similar process. Tariffs may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The tariff sheets of each utility shall provide the following information:

i. the name of the utility;

ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;

iii. the number of the advice letter with which the sheet is submitted to the Commission or the docket number if the sheet is filed in accordance with a report and order of the Commission;

iv. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Tariffs shall include the following information and as nearly as possible in the following order:

- a. schedule number or other designation;
- b. class of service, such as business or residential;
- c. character of applicability, such as heating, lighting or power, or individual and party-line service;
- d. territory to which the tariff applies;
- e. rates, in tabular form if practicable;
- f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Tariff Sheets and Advice Letters--

1. Tariff sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed tariff change, if the change requires alteration of the table of contents.

2. Ten copies of each submission of advice letter and tariff sheets shall be filed with the Commission. One copy of the tariff sheets bearing the "Filed Date" and "Effective Date" shall be returned to the utility to constitute the utility's official file copy.

3. Advice letters shall include the following:

- a. sheet numbers and titles of the tariff sheets being filed, together with the sheet numbers of the sheets being canceled;
- b. essential information as to the reasons for the filing;
- c. dates on which the tariff sheets are proposed to become effective;
- d. increases or decreases, more or less restrictive conditions, or withdrawals;
- e. in the case of an increase authorized by the Commission, reference to the report and order authorizing the increase and docket number;
- f. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;
- g. a statement that the tariff sheets proposed do not constitute a violation of state law or Commission rule. The filing of proposed tariff sheets shall of itself constitute the representation of the filing utility that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders. The Commission may, after hearing, impose sanctions for a violation hereof.

4. If authorized to file a notice that the effective tariff of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

5. Advice letters shall be numbered annually and chronologically. The first two digits represent the year followed by a hyphen and two or more digits, beginning with 01, as submitted by a company.

6. If a change is proposed on a tariff sheet, attention shall be directed to the change by an appropriate character along the right-hand margin of the tariff sheet using the symbols set forth in the preliminary statement.

7. At the time of making a tariff filing with the Commission, the utility shall furnish a copy of the advice letter and a copy of each related tariff sheet to interested parties having requested notification.

8. If the suspension is lifted by order of the Commission, the filing shall be resubmitted under a new advice letter number. If the suspension is made permanent by the Commission, the advice letter number shall not be used again.

E. Approval of Filed Tariff Sheets--

1. Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified. This requirement does not apply to electrical or telephone cooperatives in compliance with Section 54-7-12(6), or by telecommunications utilities with less than 5,000 subscribers access lines in compliance with Section 54-7-12(7).

2. New tariff sheets covering a service or commodity not previously furnished or supplied, or revised tariff sheets, not increasing, or increasing pursuant to Commission order, a rate, toll, rental or charge, may be filed by the advice letter. Tariff sheets, unless otherwise authorized by the Commission either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date.

3. Upon application in the advice letter and for good cause shown, the Commission may authorize tariff sheets to become effective on a day before the end of the 30 day notice period.

4. The Commission may reject tariff sheets that do not conform to these rules, which have alterations on the face thereof or contain errors, or for other reasons as the Commission determines. Copies of rejected tariff sheets and accompanying advice letter shall be stamped "Sheet Rejected" in the appropriate places. The Commission shall return one copy of the rejected sheets to the utility, with a letter stating the reasons for its rejection. Rejected tariff sheets shall be retained in the utility's file of canceled and superseded sheets. Advice letter numbers of rejected filings shall not be reused.

F. Public Inspection of Tariffs--

1. Utilities shall maintain, open for public inspection at their main office, a copy of the complete tariff and advice letters filed with the Commission. Utilities shall maintain, open for public inspection, copies of their effective tariffs applicable within the territories served by the offices.

2. Utilities shall post in a conspicuous place in their major manned business office, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone desiring to do so.

G. Contracts Authorized by Tariff--Tariff sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the tariff as provided in these rules.

This contract shall be subject to changes or modifications by the Commission.

R746-405-3. Format and Construction of Price lists.

A. Format--Price lists of telecommunications corporations shall be filed in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:
"Price list"
- Applicable to
- Kind of
- SERVICE
- NAME OF COMPANY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the sheets are arranged in the book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

4. Service area maps: maps for telecommunication corporations shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on filed sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Price list Books--

1. Companies shall constantly maintain their presently effective price lists at each business office open to the public.

2. Companies shall remove canceled sheets from their currently effective price lists.

C. Construction of Price lists for Filing--

1. The loose-leaf sheets used in price lists shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size. Price lists may be printed, typewritten or photocopied or other similar process. Sheets may not be handwritten. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The price list sheets of each company shall provide the following information:

- i. the name of the company;
- ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;
- iii. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Price lists shall include the following information and as nearly as possible in the following order:

- a. schedule number or other designation;
- b. class of service, such as business or residential, if applicable;
- c. character of applicability, such as heating, lighting or power, or individual and party-line service;
- d. territory to which the price list applies;

e. rates, in tabular form if practicable;

f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Price list Sheets and Advice Letters--

1. Price list sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed price list change, if the change requires alteration of the table of contents.

2. Five copies of each submission of advice letter and price list sheets shall be filed with the Commission. One copy of the price list sheets bearing the "Filed Date" and "Effective Date" shall be returned to the company to constitute the company's official file copy.

3. Advice letters shall include the following:

- a. sheet numbers and titles of the sheets being filed, together with the sheet numbers of the sheets being canceled;
- b. essential information as to the reasons for the filing;
- c. dates on which the sheets are proposed to become effective;
- d. increases or decreases, more or less restrictive conditions, or withdrawals;

e. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;

4. The filing of proposed price list sheets shall of itself constitute the representation of the filing company that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders.

5. If authorized to file a notice that the effective price list of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

6. Advice letters for price lists shall use and be included in the number sequencing described in R746-405-2.D.5.

7. If a change is proposed on a sheet, attention shall be directed to the change by filing a version of the sheet using strike out text for proposed deleted text and underlined text for proposed added text.

E. Public Inspection of price lists--

1. Companies shall maintain, open for public inspection at each business office, a copy of the complete price lists filed with the Commission.

2. Companies shall post in a conspicuous place in their business offices, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone.

G. Contracts Authorized by Price lists--Price list sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the price lists as provided in these rules.

R746-405-4. Format and Construction of Competitive Contract Information.

A. Format -- Competitive contract information of a telecommunications corporation shall be filed in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

- 1. Title:
"Competitive Contract Information"
- "Applicable to"
- Kind of service
- NAME OF COMPANY
- "and"
- NAME OF PURCHASER

2. Preliminary statement: a brief description of the territory served; types and classes or service rendered; and general explanation of the conditions under which the service is rendered.

3. Prices, terms and conditions: a description of the territory served; the terms, conditions, limitations, qualifications and restrictions under which the service is rendered; and the rates, charges or prices applicable to the service. In lieu of this information, a copy of the competitive contract may be filed.

B. Construction of Competitive Contract Information for Filing -- The sheets used in competitive contract information filings shall be of paper stock not less than 16 lb. Bond or of equal durability and 8-1/2 x 11 inches in size. Text may be printed, typewritten or mimeographed or other similar process. Sheets may not be handwritten. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

C. Submission of Competitive Contract Information --

1. Competitive contract information shall be transmitted by an advice letter or in response to a Commission order.

2. Three copies of each submission of advice letter and two copies of the competitive contract information shall be filed with the Commission. One copy of the advice letter bearing the "Filed Date" and "Effective Date" shall be returned to the company to constitute the Company's official file copy.

3. Advice letters shall include a general description of the services offered under the contract, the territory in which the services will be offered and an identification of the purchaser.

4. Advice letters for competitive contract information shall use and be included in the number sequencing described in R746-405-2(D)(5).

**End of the Notices of Changes
in Proposed Rules Section**

KEY: procedure, public utilities, tariffs, utility regulation

1999	54-3-2
Notice of Continuation April 3, 1998	54-3-3
	54-3-4
	54-4-1
	54-4-3
	54-4-4
	54-7-12



NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (1996); and *Utah Administrative Code* Section R15-4-8.

Transportation, Administration

R907-64

Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 22124
FILED: 06/28/1999, 14:03
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement a program for limited longitudinal access and wireless access to interstate highway rights-of-way for purposes of installing, operating, and maintaining wireline and wireless telecommunications facilities in the rights-of-way. This rule seeks to preserve, to the greatest degree possible, the safety and convenience of the traveling public on Interstate highways in Utah. It also permits the use of highway rights-of-way for telecommunications facilities that support the federal and state law goals of encouraging competition in telecommunications and permitting the deployment of advanced telecommunications technologies. The department shall, through designated personnel, and pursuant to written guidelines, control such installations, and maintenance of such facilities.

SUMMARY OF THE RULE OR CHANGE: Newly enacted Section 72-7-108 grants authority to the Department of Transportation to permit longitudinal access on highway rights-of-way within the interstate system. This rule sets out the conditions under which telecommunications facility providers may seek and be granted access to interstate highway rights-of-way within the state.

(**DAR Note:** A corresponding proposed new rule is under DAR No. 22165 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-7-108

FEDERAL REQUIREMENT FOR THIS RULE: Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Department of Transportation will incur some costs each time access is granted to one or more telecommunications facility providers. These costs will be dependent on variables such as distance and type of facilities installed, and will be incurred as the department reviews construction plans, inspects facilities as they are constructed, and performs other related technical reviews. However, the department plans to recover these costs through the compensation received for permitting telecommunications facilities within the interstate highway rights-of-way, as granted by Section 72-7-108. At a minimum, the department will not issue permits to telecommunications facility providers unless the department is reimbursed for all its expenses. Until a telecommunications facility provider proposes a specific use for segments of the interstate highway rights-of-way, no estimate of costs can be provided. The amount of any type of compensation received by the department is expected to cover any costs incurred by the department.

❖LOCAL GOVERNMENTS: None--local governments are unaffected by this rule.

❖OTHER PERSONS: Telecommunications facility providers who seek and are granted access to a segment(s) or all of the interstate highway rights-of-way must provide compensation to the Department of Transportation (state). The type and amount of this compensation will not be set until a schedule of rates is established, as provided by Section 72-7-108. Therefore, the actual cost to any telecommunications facility provider is not yet known. At a minimum, all telecommunications facility providers will reimburse the department for expenses the department incurs during the planning and construction of any approved telecommunication facility installed on interstate highway rights-of-way. The actual cost to any telecommunications facility provider is unknown at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not require action on the part of other parties, and therefore, there are no mandatory compliance costs. If one or more telecommunications facility providers choose to seek and are granted access to interstate highway rights-of-way, then some amount of compliance costs in the form of compensation to the department (state) will be incurred. The level and type of compensation charged will be set by a rate schedule established by the department pursuant to the provisions of Section 72-7-108. Therefore, no exact compliance costs can be stated at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule permits the implementation of key provisions of Section 72-7-108, supports the intent of the Federal and State Telecommunications Acts, and creates opportunities for telecommunications facility providers to expand their networks within Utah. The rule imposes no cost to telecommunications facility providers except when they voluntarily seek access to interstate highway rights-of-way.

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

The immediate implementation of this emergency rule will allow the Department of Transportation the potential to avoid a \$700,000 construction expenditure now, and potentially will provide for a further avoidance of more than \$10,000,000 in construction costs in the near future.

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

Transportation
Administration
4501 South 2700 West
PO Box 141265
Salt Lake City, UT 84114-1265, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Neal F. Christensen at the above address, by phone at (801) 965-4032, by FAX at (801) 965-4338, or by Internet E-mail at nchrste@dot.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 06/28/1999

AUTHORIZED BY: Neal F. Christensen, Director

R907. Transportation, Administration.

R907-64. Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities.

R907-64-1. Purpose.

The purpose of this rule is to implement a program for facilitating longitudinal access and wireless access to interstate highway rights-of-way to provide for the installation, operation and maintenance of wireline and wireless telecommunications facilities in the rights-of-way. This rule recognizes the importance of quality of infrastructure of the Interstate System and that the safety and convenience of users of the Interstate System must be preserved to the greatest extent possible. Compatible with this principle, the rule also permits the use of the rights-of-way of the Interstate System for telecommunications facilities that support Federal and State laws that encourage competition in telecommunications services and the deployment of advanced telecommunications technologies. The Department shall, through designated personnel, facilitate such installations and maintenance of such facilities, which comply with the criteria established by this rule.

R907-64-2. Authority.

Subsection 72-7-108(2)(a) states that, except as provided in Subsection (4), the Department may allow a Telecommunication Facility Provider longitudinal access to the right-of-way of a highway on the Interstate System for the installation, operation, and maintenance of Telecommunication Facility.

R907-64-3. Definitions.

- (1) "Department" means the Department of Transportation.
- (2) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. The width of the clear zone is dependent upon the traffic volumes, speeds and the roadway geometry.
- (3) "Interstate System" means any existing or future highway included as a part of the national system on interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental or amendatory acts, and which primarily consist of Interstate Highways I-15, I-215, I-70, I-80, and I-84.
- (4) "Longitudinal access" means access to or use of any part of a right-of-way of a highway on the Interstate System that extends generally parallel to the right-of-way for a total of 30 or more linear meters.
- (5) "Permit" means a document issued by the Department of Transportation to a Telecommunications Facility Provider which specifies the requirements and conditions under which longitudinal or wireless access to highway right-of-way of the Interstate System shall be allowed.
- (6) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(7) "Telecommunication Facility" means any telecommunication cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system and device used to transmit, receive, produce or distribute via wireless, wireline, electronic, or optical signal for communication purposes.

(8) "Telecommunications Facility Provider" means any owner or operator of a Telecommunication Facility.

(9) "Utility" includes telephone, wireline and wireless, gas, electricity, cable television, water, and sewer transmission lines, drainage and irrigation systems, and other similar utilities located in, on, along, across, over, through, or under any highway of the State Highway System.

(10) "Wireless access" means access to and use of any part of a right-of-way or rights-of-way on, any highway of the Interstate System for the purpose of constructing, installing, maintaining, using and operating Telecommunication Facilities for wireless telecommunications.

R907-64-4. Access Policy.

(1) Telecommunication facility accommodations on the Interstate System shall comply with the federal utilities accommodations policies set forth in 23 CFR 645: "It is in the public interest for utility facilities to be accommodated on the right-of-way when such use and occupancy of the highway right-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations."

(2) The Department also acknowledges that recent Federal and State Legislation, primarily the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 70 (Feb. 8, 1996) and Utah Code Section 54-8b-1, encourage competition in the provision of telecommunications services, and the development and deployment of advanced telecommunication technologies, infrastructure, and networks. These legislative initiatives in turn have increased demand for rights-of-way, including highway rights-of-way, for the installation of Telecommunication Facilities necessary to support increased competition and deployment of an advanced telecommunication infrastructure.

(3) The Department also recognizes that longitudinal access and wireless access for Telecommunication Facilities may be provided without compromising highway integrity, safety, normal highway operation or maintenance activities, while contributing to the deployment and efficient operation of intelligent transportation systems.

(4) Therefore, effective on or after June 28, 1999, the Department may allow longitudinal access and wireless access on highways of the Interstate System for placement, construction, installation, maintenance, repair, use, operation, replacement and removal of Telecommunication Facilities, as authorized by Utah Code Section 72-7-108 and subject to compliance with this rule. This rule applies only to longitudinal access and wireless access for Telecommunication Facilities on rights-of-way within the Interstate System and does not alter the existing policy concerning other Utilities on interstate rights-of-way, or for accommodating Utilities on other facilities under the jurisdiction of the Department.

R907-64-5. Limitations and Conditions.

(1) Longitudinal and wireless access of Telecommunication Facilities shall be permitted only as approved by the Executive Director or designee in accordance with the criteria and procedures set forth in this rule.

(2) Occupancy by longitudinal access or wireless access shall comply with, and produce no significant compromise of, the following factors:

(a) highway safety requirements of federal and state law;

(b) written policy and agreements adopted by the Department;

(c) safe use of highways in the Interstate System by the traveling public;

(d) prudent use and management of the Interstate System and its rights-of-way;

(e) highway design;

(f) highway construction;

(g) highway operational and/or technical capacity;

(h) highway maintenance or stability;

(i) future expansion of the Interstate System;

(j) physical environmental features; and

(k) physical capacity of the right-of-way to accommodate longitudinal access.

(3) In the interest of safety and preservation of the highway facility and pavement structure, the placement, installation, maintenance, repair, use, operation, replacement and removal of Telecommunications Facilities with longitudinal access or wireless access to the Right-of-way of the Interstate System shall be accommodated only when in compliance with the "MANUAL FOR ACCOMMODATION OF UTILITIES AND THE CONTROL AND PROTECTION OF STATE HIGHWAY RIGHTS OF WAY," as adopted by rule (Rule 930-6), and with 23 CFR 645, Subpart B, "Accommodation of Utilities."

(a) The location of all Telecommunication Facilities, whether above ground or below ground installations, including towers, pedestals, poles and boxes, within the highway right-of-way of the Interstate System shall be as set forth in the permit and/or the negotiated agreement between the Telecommunications Facility Provider and the Department. Telecommunications Facilities shall avoid: (a) use of through traffic roadways, lanes and ramps for construction, inspection, testing or maintenance activities; (b) placement of facilities within the median strip; (c) placement of facilities in a non-uniform alignment; (d) placement of facilities in places other than at or adjacent to the Right-of-way line and beyond the recovery or clear zone area; or (e) placement of facilities within the clear zone of through-traffic roadways, lanes or ramps. The Executive Director or designee is authorized to grant variances from the Manual and guidelines on a case-by-case basis. Variances will not be granted if, in the opinion of the Executive Director or designee, they create unacceptable risks of significant compromise of any factor listed in Subsection R907-64-5(2) of this rule.

(4) The Department may consider financial and technical qualifications of telecommunication facility providers, and specify insurance requirements for contractors authorized to enter Interstate System rights-of-way to construct, install, inspect, test, maintain or repair Telecommunication Facilities with longitudinal access or wireless access. During each period that the Department authorizes longitudinal access or wireless access for construction and

installation, the Department may require approved Telecommunication Facility Providers to install Telecommunication Facilities into the same general location on the Interstate System; coordinate their planning and work; install in a joint trench; and equitably share costs.

(5) The Department shall manage and administer access to rights-of-way of the Interstate System in compliance with 47 U.S.C. 253.

R907-64-6. Compensation.

(1) The Department shall require compensation from a Telecommunication Facility Provider under the provisions of Section 72-7-108 for longitudinal access or other use within the Right-of-way of the Interstate System consistent with the rate schedule adopted by the Department through rulemaking.

(2) Until the rate schedule has been formally adopted pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, all agreements are subject to modification to comply with the rate schedule.

R907-64-7. Permits and Agreements.

(1) In accordance with 23 CFR 645 subpart B, "Accommodations of Utilities," the Utah Code Section 72-6-116 "Regulation of Utilities-Relocation of Utilities," and Rule R930-6, which is described in the Department's "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights of Way," a Telecommunication Facility Provider shall be required to complete and sign an agreement with the Department prior to obtaining a permit for construction or installation of Telecommunication Facilities in the Right-of-way. Based on the statements of interest, if any, received by the Department in response to its advertisements of intent to consider opening highway segments in the Interstate System for construction and installation of Telecommunication Facilities, as provided for in Subsections R907-64-8(3) and (4) of this rule, the Department shall determine within thirty days of the deadline for the receipt of such statements of interest, whether to open such segments for such use. If the Department decides to open such segments of the Interstate System for construction and installation of Telecommunication Facilities, it shall notify each Telecommunication Facility Provider which filed a statement of interest of such decision in writing and direct them to file with the Office of the Deputy Director an application, as modified by the Department from time to time, for a permit for longitudinal access or wireless access on rights-of-way in the Interstate System. The Department shall also specify the deadline for the filing of such permit applications.

(2) The Department will review each permit application within thirty (30) working days following receipt thereof, in accordance with the criteria set forth in this rule. The review process will begin only when the Telecommunication Facility Provider(s) submits a complete permit application, including all documentation, as required in the "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way," Rule R930-6. No later than the end of the thirty (30) working day review period, the Department will either: (a) issue to the Telecommunications Facility Provider a written notice that the permit application is accepted for the negotiation of an agreement for the construction and installation of Telecommunication Facilities in the right-of-way segment, or (b) issue to the

Telecommunication Facility Provider a written denial of the permit application, together with the specific reasons why the permit application was not approved, based on the criteria set forth in this rule. If the Telecommunication Facility Provider's permit application has been accepted for negotiation of an agreement, the Department shall commence such negotiations not later than five (5) working days after the date of such notice of acceptance and shall proceed in a diligent manner to favorably conclude such negotiations, to execute the Department's standard form agreement with negotiated modifications necessary to accommodate the unique needs of each project, and to issue a permit for the construction and installation of Telecommunication Facilities in the right-of-way segment.

(3) Each agreement and permit shall comply with the contracting requirements listed or incorporated herein and authorize longitudinal access or wireless access only for the shorter of: (a) the time period requested by the Telecommunications Facility Provider, or (b) thirty (30) years. Telecommunication Facility Providers shall be given every reasonable opportunity to renew any and all agreements and permits following the expiration of the term, provided that new mutually acceptable agreements are entered into between the Department and the Telecommunication Facility Providers.

(4) No permit shall be issued prior to an agreement having been reached between the Department and Telecommunication Facility Providers. Failure of the parties to reach agreement shall cause longitudinal access to be denied and no permit shall be issued.

R907-64-8. Limited, Periodic Opportunities for Installation for Longitudinal Access.

(1) In order to minimize adverse impacts to rights-of-way and related highway facilities and pavement structures within the Interstate System and to avoid significant compromise of the safe, efficient and convenient use of the Interstate System for the traveling public, advertising for longitudinal access for constructing and installing Telecommunication Facilities in any particular segment of such Rights-of-Way shall be limited in frequency to once every eighteen (18) months, except that the Executive Director or designee may permit construction and installation of Telecommunications Facilities with longitudinal access more frequently than once every eighteen (18) months, based on factors in Section 64-5(2) of this rule.

(2) the eighteen (18) month period shall begin on the date of the Department's formal notice of intent to open access to any highway segment in the Interstate System which has been noticed.

(3) When exercising the discretion to permit construction and installation of Telecommunications Facilities with longitudinal access to the Interstate System, the Executive Director or his or her designee shall consider all factors relevant to the Department's policy with respect to utility accommodations as expressed in this rule, including the safe, effective, efficient use of highways in the Interstate System by the traveling public, impacts on the Interstate System's operational capacity, and prudent economic management of the Interstate System. The Department may perform capacity surveys of the Interstate System rights-of-way to assure that longitudinal access is feasible prior to opening any segment of the Interstate System to longitudinal access for new or additional Telecommunication Facilities.

(4) The Department will advertise intent to consider opening highway segments in the Interstate System to provide opportunities for constructing and installing Telecommunications Facilities for longitudinal access and wireless access, by one or more of the following means; provided, however, that Telecommunication Facility Providers who have been granted a certificate of convenience and necessity by the Public Service Commission of Utah shall be given actual notice by mail:

(a) Publication of the intent notice for not less than five consecutive days in a newspaper of national circulation;

(b) Publication of the intent notice for not less than five consecutive days in a newspaper of statewide circulation;

(c) Publication of notices of the intent in the calendar or other regular publications of the Department and/or those of other state agencies or Departments; or

(d) Press or news releases from the Department to newspapers, magazines, periodicals, or telecommunications industry publications.

(5) Advertisements and notices of intent to consider opening highway segments for constructing and installing Telecommunications Facilities in Interstate System highway rights-of-way whether for longitudinal access or wireless access, shall contain all of the following:

(a) A description of the segment or segments of the Interstate System for which longitudinal access for the installation and construction of Telecommunications Facilities are proposed;

(b) A deadline that is not less than 30 days from the first date of publication or release of an advertisement or notice of intent to consider opening, as described above in Subsection (3), for the filing of statements of interest with the office of the Deputy Director by Telecommunications Facility Providers regarding their interest in installing and constructing Telecommunications Facilities in one or more specified highway segments of the Interstate System; and

(c) The required contents of the statements of interest, to be filed in response to the advertisements or notices, shall include the identity of the interested party, the financial and technical qualifications of the interested party, and any other information specified by the Department in the advertisement or notice.

(6) Statements of interest received by the Department shall be processed in accordance with the requirements set forth herein. Based on its review of the statements of interest received, the Department will notify those Telecommunication Providers who submitted statements of interest of its intent to open one or more of the highway segments advertised within thirty (30) days. This notice will include instructions to initiate the permitting process as specified in "Manual for Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way." (Rule R930-6).

(7) The Department may enter into negotiations with one or more of the interested parties filing Statements of Interest toward the execution of an agreement or agreements and permits required under Section R907-64-7 above. After executing an agreement and permit, each telecommunications facility provider shall file them with the office of the Deputy Director.

R907-64-9. Removal and Relocation.

Pursuant to Subsection 72-7-108(c)(v), the Department shall require the removal and/or relocation of Telecommunication Facilities located on the Interstate System when highway changes

are required to provide for the free and safe flow of traffic at the Telecommunication Facility Provider's expense. If prudent management of the interstate highway rights-of-way demand, The Department may require removal and/or relocation of such Telecommunication Facilities upon expiration or earlier termination of the permit or other agreements at the Telecommunication Facility Provider's expense, in accordance with applicable law.

KEY: right-of-way, interstate highway system
June 28, 1999

72-1-201
72-6-116



**End of the Notices of 120-Day
(Emergency) Rules Section**

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Natural Resources, Parks and
Recreation
R651-407
Off-Highway Vehicle Advisory Council

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 22125
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

**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 41-22-10(1): The Board may appoint and seek recommendations from the Off-highway Vehicle Advisory Council representing the various off-highway vehicle, conservation, and other appropriate interests.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule clearly defines and lists the components that make up the Off-Highway Vehicle Advisory Council.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and
Recreation
R651-408
Off-Highway Vehicle Education
Curriculum Standards

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 22126
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

**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 41-22-31 directs the Parks Board to create a program for safety education. Section 44-22-32 provides for a program for an instructor certification. Section 41-22-33 provides authority to charge a fee to offset the costs of an education program.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This program has provided a way for educating the public on the safe use of Off-Highway Vehicles (OHV). This rule continues this vitally important OHV safety education program. It provides implementation criteria which is required by cited state statutes.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines common terms used in the state park system, i.e., ranger, permit, posted, person, superintendent, park area, division representative, and permission to assist the public in their recreation within the state parks.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation
R651-601
Definitions as Used in These Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22127
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): Allows the Board to make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

Natural Resources, Parks and Recreation
R651-602
Aircraft and Powerless Flight

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22128
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains the landing and taking off of aircraft within the state park system. Gliders, hang gliders, hot air balloons, and other such devices designed to carry persons within state parks.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-603
Animals

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22129
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule

should be continued as it gives rules and regulations regarding animals within the state park system.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-604
Audio Devices

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22130
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Limitations when operating audio or noise producing devices within the state park system.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation
R651-605
Begging and Soliciting

Natural Resources, Parks and Recreation
R651-606
Camping

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22131
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22132
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Concessionaires authorized by the Division are the only solicitors allowed in the park system. This rule prohibits begging throughout state parks.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Information about amenities offered in the state park system, along with camping rules and other pertinent information.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-607
Disorderly Conduct

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22133
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Offenses against any person or property shall be handled through due process in the Utah Criminal Code.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-608
Events of Special Uses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22134
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is written to define Requests, Requirements, Conflicting Requests, Late Requests, and Appeals for special assemblies, public speeches, public demonstrations, special activities of uses classified as "events."

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

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**Natural Resources, Parks and
Recreation
R651-609
Explosives and Fireworks**

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 22135
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

**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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The use or possession of fireworks, explosives, or firecrackers is prohibited except by permit within the state park system.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

**Natural Resources, Parks and
Recreation
R651-610
Expulsion**

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE No.: 22136
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

**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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Under certain circumstances a person or persons may be expelled from a state park area by a ranger and then prohibited from returning for forty-eight (48) hours.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation
R651-612
Firearms, Traps and Other Weapons

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22137
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Weapons that are prohibited in the state park system and limitations when approved for special uses, are defined in this rule.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-613
Fires

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22138
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains uses of fire in the state park system. Gives restrictions for different types of fire used in a park, i.e., campfire, smoking, etc.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-614
Fishing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22139
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Certain provisions are specified in this rule for fishing in accordance with the Utah Fish and Game Code.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-615
Motor Vehicle Use

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22140
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rules and regulations are defined regarding traffic, entering and leaving the park, and off-road use of motor vehicles throughout the park system.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-616
Organized Sports

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22141
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains that organized sports or activities are prohibited in the picnic or campground areas except in designated locations.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-617
Permit Violation

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22142
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Permits may be revoked or suspended by a ranger if violations occur within the state park system.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-618
Picnicking

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22143
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains where picnicking is allowed and where it is prohibited in the state park system.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-619
Possession of Alcoholic Beverages or Controlled Substances

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22144
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Explains restrictions on possession and consumption of alcohol or controlled substances within the state park system

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation

R651-620

Protection of Public Property, Features and Resources

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 22145
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Intentional or wanton destruction, defacement, injury, or removal of any natural or cultural feature is prohibited within the park system as defined by this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Natural Resources Parks and Recreation 116 1594 West North Temple PO Box 146001 Salt Lake City, UT 84114-6001, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation

R651-621

Reports of Injury or Damage

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 22146
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: States that all injuries and damages to public or private property must be reported immediately to a park representative.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Natural Resources Parks and Recreation 116 1594 West North Temple PO Box 146001 Salt Lake City, UT 84114-6001, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-622
Rock Climbing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22147
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Technical rock climbing in the state park system is prohibited without a permit.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation
R651-623
Sale or Distribution of Printed Material

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 22148
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Any sale, posting, or distribution of printed matter is prohibited in the state park system, without a permit.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-624
Sanitation

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22149
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Allows dumping, draining, cleaning, washing, use of comfort stations, fish cleaning stations, and disposal of body waste in park systems only in areas permitted by this rule.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-625
Shirts and Shoes

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22150
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Visitors to museums and administrative offices of state parks will not be allowed inside without shirts and/or shoes.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation

R651-626

Skating and Skateboards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22151
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Areas where use of roller skates and skateboards may be permitted will be designated and posted. Use of roller skates or skateboards anywhere else in the state park system is prohibited.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation

R651-627

Swimming

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22152
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Swimming is permitted except in areas where such activities are prohibited by designation and posting of said area.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999

Natural Resources, Parks and Recreation
R651-628
Trails

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22153
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Indicates areas where bicycles or motor vehicles may operate and prohibits blocking, restricting, or otherwise interfering with normal use of any trail.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-629
Unattended Property

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 22154
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Indicates when and what an agency may do with unclaimed personal property, impounded property, lost and found articles, and impounding of a vehicle within the state park system.

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-630
Unsupervised Children

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22155
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 73-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Prohibits children under twelve (12) years old being left unsupervised within the state park system.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and Recreation
R651-631
Winter Sports

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 22156
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Skiing, sledding, tobogganing, snowshoeing, skating, and other similar winter sports are permitted except when posted otherwise in the state park system or upon roads and parking open to highway vehicle use.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



Natural Resources, Parks and
Recreation
R651-632
Enforcement

**FIVE-YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 22157
FILED: 06/29/1999, 07:10
RECEIVED BY: NL

**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 63-11-17(2)(b): States that the Board may make rules governing the use and protection of the state park system.

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 during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Shows that any authorized law enforcement officer may enforce the rules promulgated under this chapter.

**End of the Five-Year Notices of Review
and Statements of Continuation Section**

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

Natural Resources
Parks and Recreation
116
1594 West North Temple
PO Box 146001
Salt Lake City, UT 84114-6001, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dee Guess at the above address, by phone at (801) 538-7320, by FAX at (801) 537-3144, or Internet E-mail at nrdomain.dguess@email.state.ut.us.

AUTHORIZED BY: David K. Morrow, Deputy Director

EFFECTIVE: 06/29/1999



NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Health

Administration

No. 21984 (NEW): R380-25. Submission of Data Through an Electronic Data Interchange.
Published: May 15, 1999
Effective: July 1, 1999

Health Care Financing, Coverage and Reimbursement Policy

No. 21986 (AMD): R414-302. Eligibility Requirements.
Published: May 15, 1999
Effective: June 28, 1999

Human Resource Management

Administration

No. 22011 (AMD): R477-1. Definitions.
Published: May 15, 1999
Effective: June 26, 1999

No. 22012 (AMD): R477-2. Administration.
Published: May 15, 1999
Effective: June 26, 1999

No. 22013 (AMD): R477-4. Classification.
Published: May 15, 1999
Effective: June 26, 1999

No. 22014 (AMD): R477-5. Filling Positions.
Published: May 15, 1999
Effective: June 26, 1999

No. 22015 (AMD): R477-6. Employee Status and Probation.
Published: May 15, 1999
Effective: June 26, 1999

No. 22016 (AMD): R477-7. Compensation.
Published: May 15, 1999
Effective: June 26, 1999

No. 22017 (AMD): R477-8. Working Conditions.
Published: May 15, 1999
Effective: June 26, 1999

No. 22018 (AMD): R477-9. Employee Conduct.
Published: May 15, 1999
Effective: June 26, 1999

No. 22019 (AMD): R477-10. Employment Development.
Published: May 15, 1999
Effective: June 26, 1999

No. 22020 (AMD): R477-11. Discipline.
Published: May 15, 1999
Effective: June 26, 1999

No. 22021 (AMD): R477-12. Separations.
Published: May 15, 1999
Effective: June 26, 1999

No. 22022 (AMD): R477-14. Substance Abuse and Drug-Free Workplace.
Published: May 15, 1999
Effective: June 26, 1999

No. 22023 (AMD): R477-15. Sexual Harassment Policy and Procedure.
Published: May 15, 1999
Effective: June 26, 1999

Lieutenant Governor

Administration

No. 21963 (NEW): R622-2. Use of the Great Seal of the State of Utah.
Published: May 1, 1999
Effective: June 22, 1999

Tax Commission

Motor Vehicle

No. 21997 (AMD): R873-22M-20. Aircraft Registration Pursuant to Utah Code Ann. Sections 2-1-7, 2-1-7.5, 2-1-7.6, and 2-1-7.7.
Published: May 15, 1999
Effective: June 21, 1999

Property Tax

No. 21930 (AMD): R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5.
Published: April 15, 1999
Effective: June 21, 1999

No. 21931 (AMD): R884-24P-32. Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303.

Published: April 15, 1999

Effective: June 21, 1999

No. 21998 (AMD): R884-24P-64. Determination and Application of Taxable Value for Purposes of the Property Tax Exemption for Disabled Veterans and the Blind Pursuant to Utah Code Ann. Section 59-2-1104 and 59-2-1106.

Published: May 15, 1999

Effective: June 21, 1999

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 1999, including notices of effective date received through July 1, 1999, the effective dates of which are no later than July 15, 1999. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

<p>AMD = Amendment CPR = Change in proposed rule EMR = Emergency rule (120 day) NEW = New rule 5YR = Five-Year Review EXD = Expired</p>	<p>NSC = Nonsubstantive rule change REP = Repeal R&R = Repeal and reenact * = Text too long to print in <i>Bulletin</i>, or repealed text not printed in <i>Bulletin</i></p>
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CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-29	Across the Board Delegation	22041	5YR	05/11/99	99-11/75
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	21887	NSC	03/05/99	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	21888	NSC	03/05/99	Not Printed
R25-8	Meal Allowance	21889	NSC	03/05/99	Not Printed
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	21751	NEW	03/18/99	99-2/2
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-5	Grazing Advisory Boards	21884	5YR	02/22/99	99-6/27

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Plant Industry</u>					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21701	AMD	01/15/99	98-24/8
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	21808	AMD	03/18/99	99-4/7
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-5a	Podiatric Physician Licensing Act Rules	21907	5YR	03/02/99	99-7/54
R156-24a	Physical Therapist Practice Act Rules	21716	AMD	see CPR	98-24/11
R156-24a	Physical Therapist Practice Act Rules	21716	CPR	03/09/99	99-3/56
R156-28	Veterinary Practice Act Rules	21753	AMD	02/18/99	99-2/3
R156-31b	Nurse Practice Act Rules	21903	AMD	04/15/99	99-6/4
R156-37c	Utah Controlled Substance Precursor Act Rules	21908	5YR	03/02/99	99-7/54
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	21905	5YR	03/01/99	99-6/27
R156-50	Private Probation Provider Licensing Act Rules	21822	AMD	03/18/99	99-4/9
R156-50-502	Unprofessional Conduct	21927	NSC	03/29/99	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	22008	AMD	07/01/99	99-10/5
R156-62-302	Qualifications for Registration	21899	AMD	04/15/99	99-6/6
R156-63	Security Personnel Licensing Act Rules	21855	AMD	04/01/99	99-5/7
R156-74	Certified Shorthand Reporters Licensing Act Rules	21812	NEW	03/18/99	99-4/12
R156-78	Rules of the Certified Shorthand Reporters Licensing Board	21813	REP	03/18/99	99-4/13
<u>Real Estate</u>					
R162-2-2	Licensing Procedure	21967	AMD	06/03/99	99-9/3
R162-6	Licensee Conduct	21968	AMD	06/03/99	99-9/4
R162-9	Continuing Education	21969	AMD	06/03/99	99-9/10
R162-101	Authority and Definitions	22000	EMR	05/03/99	99-10/90
R162-102	Licensing Procedures	22001	EMR	05/03/99	99-10/91
R162-102	Licensing Procedures	21915	AMD	06/10/99	99-7/5
R162-103	Appraisal Education Requirements for Prelicense and Continuing Education Course, School and Instructor Certification	22002	EMR	05/03/99	99-10/94
R162-104	Experience Requirement	22003	EMR	05/03/99	99-10/98
R162-105	Scope of Authority	22004	EMR	05/03/99	99-10/100
R162-106	Professional Conduct	22005	EMR	05/03/99	99-10/102
R162-107	Unprofessional Conduct	22006	EMR	05/03/99	99-10/104
R162-109	Administrative Proceedings	22007	EMR	05/03/99	99-10/105
CORRECTIONS					
<u>Administration</u>					
R251-103	Undercover Roles of Offenders	21858	5YR	02/12/99	99-5/57

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R251-105	Applicant Qualifications for Employment with Department of Corrections	21828	5YR	02/01/99	99-4/65
R251-105	Applicant Qualifications for Employment with Department of Corrections	21829	AMD	03/29/99	99-4/15
R251-105	Applicant Qualifications for Employment with Department of Corrections	21925	NSC	03/29/99	Not Printed
CRIME VICTIM REPARATIONS					
<u>Administration</u>					
R270-1	Award and Reparation Standards	21904	AMD	04/15/99	99-6/7
EDUCATION					
<u>Administration</u>					
R277-102	Adjudicative Proceedings	21893	5YR	02/26/99	99-6/28
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	21823	NEW	03/22/99	99-4/16
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	21894	5YR	02/26/99	99-6/28
R277-436	Gang Prevention and Intervention Programs in the Schools	21902	AMD	04/15/99	99-6/12
R277-437	Student Enrollment Options	21677	NEW	01/05/99	98-23/4
R277-438	Dual Enrollment	22105	5YR	06/08/99	99-13/37
R277-455	Standards and Procedures for Building Plan Review	21895	5YR	02/26/99	99-6/29
R277-458	70% Utilization of School Buildings	22024	EMR	04/30/99	99-10/107
R277-458	70% Utilization of School Buildings	22025	REP	06/15/99	99-10/30
R277-470	Distribution of Funds for Charter Schools	21773	NSC	01/27/99	Not Printed
R277-503	An Alternative Preparation for Teaching Program	21972	AMD	06/03/99	99-9/13
R277-519	Educator In-service Procedures and Credit	21824	AMD	03/22/99	99-4/19
R277-601	Standards for Utah School Buses and Operations	21896	5YR	02/26/99	99-6/29
R277-702	Procedures for the Utah General Educational Development Certificate	21825	AMD	03/22/99	99-4/20
R277-712	Advanced Placement Programs	21897	5YR	02/26/99	99-6/30
R277-716	Alternative Language Services (ALS)	21973	AMD	06/03/99	99-9/15
R277-733	Adult Basic Skills and Adult High School Programs	21826	AMD	03/22/99	99-4/22
R277-734	Standards and Procedures for Adult Education Section 353 Funds	21898	5YR	02/26/99	99-6/30
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	21678	NEW	01/05/99	98-23/6
<u>Applied Technology Education (Board for), Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	21679	NEW	01/05/99	98-23/8
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	21680	NEW	01/05/99	98-23/10

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-12 (Changed to R307-205)	Fugitive Emissions and Fugitive Dust	21697	AMD	see CPR	98-24/12
R307-12 (Changed to R307-205)	Emission Standards: Fugitive Emissions and Fugitive Dust	21697	CPR	05/04/99	99-7/44
R307-101-2	Definitions	21588	AMD	01/07/99	98-22/49
R307-101-2	Definitions	21782	AMD	04/08/99	99-3/4
R307-101-2	Definitions	21851	AMD	05/06/99	99-5/9
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R686-103	Professional Practices and Conduct for Utah Educators	21922	NEW	05/06/99	99-7/40
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R708-2	Commercial Driver Training Schools	21579	CPR	03/18/99	99-4/61
R708-30	Motorcycle Rider Training Schools	21881	5YR	02/17/99	99-6/32
R708-30	Motorcycle Rider Training Schools	21933	R&R	05/18/99	99-8/48
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R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	21710	AMD	01/15/99	98-24/117
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R710-9	Rules Pursuant to the Utah Fire Prevention Law	21901	AMD	04/19/99	99-6/21
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R714-600	Performance Standards for Tow-Truck Motor Carriers	21882	NEW	04/15/99	99-6/25
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R724-9	Licensing of Private Investigators	21934	AMD	06/14/99	99-8/56
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R746-200	Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities	21794	AMD	06/01/99	99-3/41
R746-320	Uniform Rules Governing Natural Gas Service by Gas Utilities	21798	AMD	06/05/99	99-4/52
R746-365	Intercarrier Service Quality	20997	NEW	see CPR	98-9/50
R746-365	Intercarrier Service Quality	20997	CPR	01/13/99	98-18/39
R746-365	Intercarrier Service Quality	21774	NSC	01/15/99	Not Printed
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R765-607	Utah Higher Education Tuition Assistance Program	21771	NSC	01/27/99	Not Printed
R765-685	Utah Educational Savings Plan Trust	21674	AMD	01/04/99	98-23/40
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R784-1	Government Records Access and Management Act Rules	21820	NEW	03/18/99	99-4/57
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R850-20-175	Coal Leasing of Lands Acquired in Public Law 105-335 Exchanges	21909	EXP	03/03/99	99-7/52
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R865-6F-34	Qualified Subchapter S Subsidiaries Pursuant to Utah Code Ann. Section 59-7-701	21760	AMD	03/16/99	99-2/58
R865-6F-35	S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703	21761	AMD	03/16/99	99-2/59
DAR Note: The following three sections will be combined to create one new rule, "R865-7H. Environmental Assurance Fee."					
R865-7H-1	Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program Pursuant to Utah Code Ann. Section 19-6-410.5	21737	NEW	03/16/99	99-1/22
R865-7H-2	Environmental Assurance Fee on Packaged Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	21738	NEW	03/16/99	99-1/24
R865-7H-3	Environmental Assurance Fee on Exports of Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	21739	NEW	03/16/99	99-1/24
R865-13G-14	Environmental Assurance Fee Pursuant to Utah Code Ann. Section 19-6-410.5	21740	AMD	04/28/99	99-1/25
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R884-24P-27	Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Section 59-2-704.5	21930	AMD	06/21/99	99-8/59
R884-24P-32	Leasehold Improvements Pursuant to Utah Code Ann. Section 59-2-303	21931	AMD	06/21/99	99-8/61
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	AMD	see CPR	98-16/58
R884-24P-52	Criteria for Determining Primary Residence Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-103	21326	CPR	01/12/99	98-23/46
R884-24P-53	1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	21777	EMR	01/12/99	99-3/64
R884-24P-53	1999 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	21789	AMD	03/16/99	99-3/46
R884-24P-61	1.5 Percent Uniform Fee on Tangible Personal Property Required to be Registered with the State Pursuant to Utah Code Ann. Sections 41-1a-202, 59-2-104, 59-2-401, 59-2-402, and 59-2-405	21762	AMD	03/16/99	99-2/60
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R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	21780	AMD	05/04/99	99-3/49
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R912-4	Limitation of Special Permit Vehicles in Provo Canyon. Legal and Permitted Vehicles	21819	REP	06/01/99	99-4/58
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R912-76	Single Tire Configuration	21801	NSC	01/27/99	Not Printed
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R986-414	Income	21763	AMD	04/08/99	99-2/64
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R994-405	Ineligibility for Benefits	21745	AMD	02/17/99	99-2/65
R994-405	Ineligibility for Benefits	21746	AMD	02/17/99	99-2/72
R994-405	Ineligibility for Benefits	21748	AMD	02/17/99	99-2/77
R994-405	Ineligibility for Benefits	21749	AMD	02/17/99	99-2/83
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R994-600	Dislocated Workers	21770	AMD	03/05/99	99-3/51

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	* = Text too long to print in <i>Bulletin</i> , or repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

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	21910	R307-417	5YR	03/05/99	99-7/55
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	22021	R477-12	AMD	06/26/99	99-10/66
	22023	R477-15	AMD	06/26/99	99-10/71
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	21846	R602-2-4	AMD	04/05/99	99-5/40
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	21932	R850-40-1600	AMD	05/18/99	99-8/58
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	21826	R277-733	AMD	03/22/99	99-4/22
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	21697	R307-12 (Changed to R307-205)	CPR	05/04/99	99-7/44
	21588	R307-101-2	AMD	01/07/99	98-22/49
	21782	R307-101-2	AMD	04/08/99	99-3/4
	21851	R307-101-2	AMD	05/06/99	99-5/9
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	21593	R307-155	NEW	see CPR	98-22/62
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	21594	R307-158	CPR	03/04/99	99-3/60
	21504	R307-170	R&R	see CPR	98-20/5
	21504	R307-170	CPR	04/01/99	99-5/51
	21844	R307-214	5YR	02/03/99	99-5/57
	21595	R307-221	AMD	01/07/99	98-22/66
	21850	R307-221	NSC	02/27/99	Not Printed
	21570	R307-302-2	AMD	01/07/99	98-22/67
	21698	R307-309	NEW	see CPR	98-24/15
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	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
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	21917	R495-879	AMD	05/10/99	99-7/28
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	21809	R527-210	5YR	01/26/99	99-4/70
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	21813	R156-78	REP	03/18/99	99-4/13
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	21917	R495-879	AMD	05/10/99	99-7/28
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	21712	R710-8	CPR	02/23/99	99-2/88
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	21851	R307-101-2	AMD	05/06/99	99-5/9
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	21906	R426-6	AMD	05/14/99	99-7/12
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	21748	R994-405	AMD	02/17/99	99-2/77
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	21770	R994-600	AMD	03/05/99	99-3/51
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	21901	R710-9	AMD	04/19/99	99-6/21
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	21771	R765-607	NSC	01/27/99	Not Printed
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	21844	R307-214	5YR	02/03/99	99-5/57
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	21859	R432-2	AMD	04/21/99	99-5/29
	21776	R432-3	5YR	01/11/99	99-3/68
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	22089	R590-166	5YR	05/27/99	99-12/104
	21791	R590-167	AMD	03/11/99	99-3/24
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	21767	R590-190	NEW	see CPR	99-2/47
	21767	R590-190	CPR	05/26/99	99-8/64
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	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed
	21879	R746-365-4	AMD	06/01/99	99-5/42
<u>INTERSTATE HIGHWAY SYSTEM</u>					
Transportation, Administration	22124	R907-64	EMR	06/28/99	99-14/76
<u>INVENTORIES</u>					
Environmental Quality, Air Quality	21590	R307-150	REP	03/04/99	98-22/55
	21591	R307-150	NEW	see CPR	98-22/56
	21591	R307-150	CPR	03/04/99	99-3/57
	21592	R307-155	REP	03/04/99	98-22/60
	21593	R307-155	NEW	see CPR	98-22/62
	21593	R307-155	CPR	03/04/99	99-3/59

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Human Resources Management, Administration	22013	R477-4	AMD	06/26/99	99-10/47
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<u>LABORATORY ANIMALS</u>					
Health, Laboratory Services	21928	R438-13	5YR	03/18/99	99-8/73
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Public Safety, Fire Marshal	21901	R710-9	AMD	04/19/99	99-6/21
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Public Safety, Highway Patrol	21882	R714-600	NEW	04/15/99	99-6/25
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing	21929	R724-7	R&R	06/14/99	99-8/54
<u>LAW ENFORCEMENT OFFICER CERTIFICATION</u>					
Public Safety, Administration	21779	R698-4	NEW	03/05/99	99-3/33
<u>LEAVE</u>					
Human Resource Management, Administration	21803	R477-8	AMD	05/04/99	99-4/42
	22017	R477-8	AMD	06/26/99	99-10/55
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Environmental Quality, Radiation Control	21686	R313-19	AMD	03/12/99	98-24/33
	21948	R313-19-30	AMD	06/11/99	99-9/30
Public Safety, Law Enforcement and Technical Services, Regulatory Licensing	21934	R724-9	AMD	06/14/99	99-8/56
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Tax Commission, Motor Vehicle	21997	R873-22M-20	AMD	06/21/99	99-10/88
<u>LICENSING</u>					
Commerce, Occupational and Professional Licensing	21907	R156-5a	5YR	03/02/99	99-7/54
	21716	R156-24a	AMD	see CPR	98-24/11
	21716	R156-24a	CPR	03/09/99	99-3/56
	21753	R156-28	AMD	02/18/99	99-2/3
	21903	R156-31b	AMD	04/15/99	99-6/4
	21908	R156-37c	5YR	03/02/99	99-7/54
	21905	R156-39a	5YR	03/01/99	99-6/27
	21822	R156-50	AMD	03/18/99	99-4/9
	21927	R156-50-502	NSC	03/29/99	Not Printed
	20008	R156-56	AMD	07/01/99	99-10/5
	21899	R156-62-302	AMD	04/15/99	99-6/6
	21855	R156-63	AMD	04/01/99	99-5/7
	21812	R156-74	NEW	03/18/99	99-4/12

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	21915	R162-102	AMD	06/10/99	99-7/5
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	21947	R313-18-12	AMD	06/11/99	99-9/29
Human Services, Administration, Administrative Services, Licensing	21768	R501-1	NSC	01/27/99	Not Printed
	21821	R501-14	AMD	03/22/99	99-4/47
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Environmental Quality, Radiation Control	21682	R313-28	AMD	03/12/99	98-24/46
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<u>MEDICAID</u>					
Health, Health Care Financing	21668	R410-14	AMD	01/07/99	98-23/14
Health, Health Care Financing, Coverage and Reimbursement Policy	21890	R414-1	AMD	04/23/99	99-6/13
	21687	R414-29	AMD	01/21/99	98-24/50
	21891	R414-31X	REP	04/23/99	99-6/18
	21935	R414-54	5YR	03/31/99	99-8/73
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	21758	R647-3	AMD	02/26/99	99-2/55
	21759	R647-4	AMD	02/26/99	99-2/56
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	21697	R307-12 (Changed to R307-205)	CPR	05/04/99	99-7/44
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	21504	R307-170	CPR	04/01/99	99-5/51
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Tax Commission, Auditing	21740	R865-13G-14	AMD	04/28/99	99-1/25
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Tax Commission, Motor Vehicle	21997	R873-22M-20	AMD	06/21/99	99-10/88
<u>MOTOR VEHICLE SAFETY</u>					
Transportation, Motor Carrier, Ports of Entry	21800	R912-8	NSC	01/27/99	Not Printed
<u>MUNICIPAL LANDFILLS</u>					
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	21850	R307-221	NSC	02/27/99	Not Printed
<u>NATIONAL SENIOR SERVICE CORPS</u>					
Human Services, Aging and Adult Services	21885	R510-111	5YR	02/23/99	99-6/31
	21886	R510-111	NSC	02/27/99	Not Printed
<u>NATURAL RESOURCES</u>					
School and Institutional Trust Lands, Administration	21932	R850-40-1600	AMD	05/18/99	99-8/58
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	22126	R651-408	5YR	06/29/99	99-14/81
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Environmental Quality, Air Quality	21852	R307-403	AMD	05/06/99	99-5/16
	21853	R307-420	NEW	05/06/99	99-5/18
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	21589	R307-415-3	AMD	01/07/99	98-22/68
	21735	R307-417	AMD	03/05/99	99-1/3
	21910	R307-417	5YR	03/05/99	99-7/55
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<u>OZONE</u>					
Environmental Quality, Air Quality	21594	R307-158	NEW	see CPR	98-22/64
	21594	R307-158	CPR	03/04/99	99-3/60
	21727	R307-343	NEW	see CPR	98-24/18
	21727	R307-343	CPR	06/02/99	99-9/95
	21853	R307-420	NEW	05/06/99	99-5/18
<u>PALEONTOLOGICAL RESOURCES</u>					
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	22128	R651-602	5YR	06/29/99	99-14/82
	22129	R651-603	5YR	06/29/99	99-14/83
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	21888	R25-7	NSC	03/05/99	Not Printed
<u>PERMITS</u>					
Natural Resources; Forestry, Fire and State Lands	21672	R652-70-2300	AMD	01/14/99	98-23/36
Natural Resources, Wildlife Resources	21720	R657-42	AMD	01/15/99	98-24/109
Transportation, Motor Carrier, Ports of Entry	21799	R912-3	NSC	01/27/99	Not Printed
	21819	R912-4	REP	06/01/99	99-4/58
<u>PERMITTING AUTHORITY</u>					
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	21910	R307-417	5YR	03/05/99	99-7/55
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	21931	R884-24P-32	AMD	06/21/99	99-8/61
	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
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<u>PERSONNEL MANAGEMENT</u>					
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	22015	R477-6	AMD	06/26/99	99-10/50
	22016	R477-7	AMD	06/26/99	99-10/52
	22018	R477-9	AMD	06/26/99	99-10/61
	22022	R477-12	AMD	06/26/99	99-10/69
<u>PETROLEUM</u>					
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<u>PHYSICAL THERAPY</u>					
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	21716	R156-24a	CPR	03/09/99	99-3/56
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	21829	R251-105	AMD	03/29/99	99-4/15
	21925	R251-105	NSC	03/29/99	Not Printed
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	21927	R156-50-502	NSC	03/29/99	Not Printed
<u>PROBATION</u>					
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	21927	R156-50-502	NSC	03/29/99	Not Printed
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	21931	R884-24P-32	AMD	06/21/99	99-8/61
	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
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	21973	R277-716	AMD	06/03/99	99-9/15
	21678	R277-735	NEW	01/05/99	98-23/6
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	21794	R746-200	AMD	06/01/99	99-3/41
	21798	R746-320	AMD	06/05/99	99-4/52
	20997	R746-365	NEW	see CPR	98-9/50
	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed
	21879	R746-365-4	AMD	06/01/99	99-5/42
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	21808	R68-15	AMD	03/18/99	99-4/7
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<u>RADIATION SAFETY</u>					
Environmental Quality, Radiation Control	21947	R313-18-12	AMD	06/11/99	99-9/29
	21806	R313-30	5YR	01/25/99	99-4/66
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	21947	R313-18-12	AMD	06/11/99	99-9/29
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	21977	R645-104	5YR	04/19/99	99-10/110
	21978	R645-401	5YR	04/19/99	99-10/111
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	21873	R325-2	AMD	04/05/99	99-5/23
	21874	R325-3	AMD	04/05/99	99-5/24
	21875	R325-4	AMD	04/05/99	99-5/25
	21876	R325-5	AMD	04/05/99	99-5/26
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	21579	R708-2	CPR	03/18/99	99-4/61
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	21798	R746-320	AMD	06/05/99	99-4/52
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	21819	R912-4	REP	06/01/99	99-4/58
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	21666	R434-20	NEW	01/07/99	98-23/26
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	21439	R315-304	CPR	01/05/99	98-23/45
	21772	R315-304-1	NSC	01/05/99	Not Printed
	21785	R315-305-5	AMD	03/15/99	99-3/18
	21786	R315-315-6	AMD	03/15/99	99-3/19
	21919	R315-315-6	NSC	03/15/99	Not Printed
	21787	R315-317	AMD	03/15/99	99-3/20
	21788	R315-318	AMD	see CPR	99-3/22
	21788	R315-318	CPR	05/05/99	99-7/50
	21920	R315-320	5YR	03/12/99	99-7/55
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	21888	R25-7	NSC	03/05/99	Not Printed
	21889	R25-8	NSC	03/05/99	Not Printed
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<u>TAILINGS</u>					
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	21697	R307-12 (Changed to R307-205)	CPR	05/04/99	99-7/44
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	21761	R865-6F-35	AMD	03/16/99	99-2/59
DAR Note: The following three sections will be combined to create one new rule, "R865-7H. Environmental Assurance Fee."					
	21737	R865-7H-1	NEW	03/16/99	99-1/22
	21738	R865-7H-2	NEW	03/16/99	99-1/24
	21739	R865-7H-3	NEW	03/16/99	99-1/24
	21740	R865-13G-14	AMD	04/28/99	99-1/25
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	21931	R884-24P-32	AMD	06/21/99	99-8/61
	21326	R884-24P-52	AMD	see CPR	98-16/58
	21326	R884-24P-52	CPR	01/12/99	98-23/46
	21777	R884-24P-53	EMR	01/12/99	99-3/64
	21789	R884-24P-53	AMD	03/16/99	99-3/46
	21762	R884-24P-61	AMD	03/16/99	99-2/60
	21676	R884-24P-63	AMD	03/16/99	98-23/42
	21998	R884-24P-64	AMD	06/21/99	99-10/89
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	21824	R277-519	AMD	03/22/99	99-4/19
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	20997	R746-365	CPR	01/13/99	98-18/39
	21774	R746-365	NSC	01/15/99	Not Printed
	21879	R746-365-4	AMD	06/01/99	99-5/42
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Administrative Services, Finance	21888	R25-7	NSC	03/05/99	Not Printed
Environmental Quality, Radiation Control	21686	R313-19	AMD	03/12/99	98-24/33
	21948	R313-19-30	AMD	06/11/99	99-9/30
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	21886	R510-111	NSC	02/27/99	Not Printed
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	21746	R994-405	AMD	02/17/99	99-2/72
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Crime Victim Reparations, Administration	21904	R270-1	AMD	04/15/99	99-6/7
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	21784	R315-303	AMD	see CPR	99-3/14
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	21439	R315-304	AMD	see CPR	98-19/50
	21439	R315-304	CPR	01/05/99	98-23/45
	21772	R315-304-1	NSC	01/05/99	Not Printed
	21785	R315-305-5	AMD	03/15/99	99-3/18
	21786	R315-315-6	AMD	03/15/99	99-3/19
	21919	R315-315-6	NSC	03/15/99	Not Printed
	21787	R315-317	AMD	03/15/99	99-3/20
	21788	R315-318	AMD	see CPR	99-3/22
	21788	R315-318	CPR	05/05/99	99-7/50
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	21938	R657-33	AMD	05/18/99	99-8/33
	22027	R657-37	5YR	05/03/99	99-11/75
	21939	R657-37	AMD	05/18/99	99-8/39
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	21682	R313-28	AMD	03/12/99	98-24/46
	21806	R313-30	5YR	01/25/99	99-4/66