UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed June 15, 2024, 12:00 a.m. through July 01, 2024, 11:59 p.m.

Number 2024-14
July 15, 2024

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

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

Office of Administrative Rules, Salt Lake City 84114

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Office of Administrative Rules.

KFU440.A73S7
348.792'025--DDC 85-643197

TABLE OF CONTENTS

NOTICES OF
PROPOSED RULES

A state agency may file a **Proposed Rule** when it determines the need for a substantive change to an existing rule. With a **Notice of Proposed Rule**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between June 15, 2024, 12:00 a.m., and July 01, 2024, 11:59 p.m. are included in this, the July 15, 2024, issue of the *Utah State Bulletin*.

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

Following the **Rule Analysis**, the text of the **Proposed Rule** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (**. . . . . . .**) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **Proposed Rule** is too long to print, the Office of Administrative Rules may include only the **Rule Analysis**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **Proposed Rules** published in this issue of the *Utah State Bulletin* until at least August 14, 2024. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **Rule Analysis**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **Proposed Rule**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through November 12, 2024, the agency may notify the Office of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* **Rule Analysis** *for each rule.*

Proposed Rules are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R58-18**	**Filing ID: 56605**

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services	
Building:	Taylorsville State Office Building, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	ambermbrown@utah.gov
Amanda Price	801-386-4189	amandaprice@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R58-18. Elk Farming

3. Purpose of the new rule or reason for the change:

During the 2024 General Session, H.B. 375 passed and amended the requirements for importing domesticated elk into Utah. H.B. 375 (2024) established the requirements for importing domesticated elk from East of the 100-degree meridian into Utah.

The amendments in this rule reflect those requirements and include technical changes to align this rule with the Rulewriting Manual for Utah.

4. Summary of the new rule or change:

The changes to this rule include:
1) adding additional definitions,
2) updating the application and licensing process,
3) adding a requirement to reconcile inventory and Chronic Wasting Disease (CWD) testing records,
4) updating the records kept to two years to match statute,
5) adding the calculation used to determine compliance with inventory requirements,
6) removing red deer genetic testing requirements,
7) adding the requirement that elk will be tagged with a RFID tag and visual tag before 12 months of age,
8) reorganizing the import requirements,
9) removing the restriction on elk East of the 100th meridian,
10) adding the requirement that elk coming from East of the 100th meridian be harvested or treated within 150 days and report that information to the Department of Agriculture and Food (Department),
11) requiring elk facilities hold elk for harvest until slaughter withdrawal times are complete, and
12) requiring elk farms to ensure slaughtered elk are tested for CWD.

Most of the changes to this rule are clarifying and technical changes to align with the Rulewriting Manual for Utah and be consistent with active voice and present tense terms.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

Per H.B. 375 (2024), the fiscal impact indicates that the state budget may incur additional expenses.

Specifically, the Department may require an additional $2,300 for staff to validate the revised import requirements and it plans to absorb these costs internally.

The revised Rule R58-20 accounts for the fiscal impact on the state budget because most verification procedures will take place on elk ranches, not elk farms. Therefore, the proposed modifications in this rule will not impact the state budget because the Department already reported the fiscal impact.

The other proposed changes are clarifying in nature, and the requirements themselves remain unchanged. The proposed rule amends the wording to use active voice and now specifies the parties responsible for the existing requirements.

B) Local governments:

Local governments are not expected to be impacted by the changes in this rule because local government does not administer the program and does not oversee elk farms that import elk into the state.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed changes may impact small businesses if they choose to purchase new or additional elk for an elk farm.

While the Department's requirement to deworm elk is not new, removing the restriction on importing elk east of the 100th meridian will allow elk farms to increase the number of elk in the state, potentially impacting them.

The Department estimates the cost of deworming to be approximately $4.50 per animal. On average, elk farms import about 4.2 elk per year, resulting in an estimated impact of $18.90 per elk farm. If an elk farm needs to conduct additional testing to comply with inventory controls, costs may increase by approximately $50 per elk.

However, the Department expects these costs to be minimal, as most elk farms already comply with the inventory requirements. At this time, there are 22 elk farms licensed with the Department.

In total, the Department anticipates the annual cost to small business elk farms to be approximately $2,640.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The changes in this rule would not impact non-small businesses because none of the elk farms licensed in the state have more than 50 employees.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed changes in this rule will not impact other persons because a person does not import elk.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The Department anticipates a minimal increase in compliance costs for small businesses that import elk into the state from east of the 100th meridian because of the cost to deworm elk that is not harvested within 150 days.

In addition, farms that do not meet the inventory compliance requirement in Subsection R58-18-6(5) may need to conduct additional testing on their elk.

The Department anticipates this cost to be around $50 per elk.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0

Local Governments	$0	$0	$0
Small Businesses	$2,640	$2,640	$2,640
Non-Small Businesses	$	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$2,640**	**$2,640**	**$2,640**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$(2,640)**	**$(2,640)**	**$(2,640)**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-39-106	Subsection 4-39-303(6)	

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Chronic Wasting Disease (CWD) Program Standards
Publisher	United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services
Issue Date	May 2019

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	**Date:**	06/21/2024

R58. Agriculture and Food, Animal Industry.
[~~R58-18. Elk Farming.~~
~~R58-18-1. Purpose and Authority.~~
~~(1) Promulgated under the authority of Section 4-39-106.~~
~~(2) This rule establishes procedures for the application, renewal of licenses, health requirements, and standards for operating a domesticated elk facility.~~

~~**R58-18-2. Definitions.**~~

~~In addition to the definitions found in Sections 4-1-109, 4-7-103, 4-24-102, 4-32-105, and 4-39-102, the following terms are defined for this rule:~~

~~(1) "Animal identification" means a device or means of individual animal identification.~~

~~(2) "Approved test" means diagnostic tests for Chronic Wasting Disease (CWD) surveillance accepted by the United States Department of Agriculture (USDA) and approved by the state veterinarian.~~

~~(3) "Commingle" means maintaining animals where physical contact among animals could occur, including keeping animals in the same pasture or enclosure. "Commingle" does not include holding animals at a sale, during transportation, during artificial insemination, or in other circumstances involving limited contact among animals for a short period.~~

~~(4) "Commissioner" means the commissioner of the Utah Department of Agriculture and Food.~~

~~(5) "CWD-exposed animal" means an animal that commingled with a CWD-positive animal within the previous 60 months.~~

~~(6) "CWD-exposed herd" means a herd in which a CWD-positive animal or a CWD-exposed animal has resided for any period within 60 months before that animal's diagnosis as CWD-positive or exposure to CWD.~~

~~(7) "CWD Herd Certification Program" means the Chronic Wasting Disease Herd Certification Program.~~

~~(8) "CWD-positive animal" means an animal that has had a diagnosis of CWD confirmed by an official CWD test.~~

~~(9) "CWD-positive herd" means a herd in which a CWD-positive animal resided within the previous 60 months.~~

~~(10) "CWD-suspect herd" means a herd in which a suspect domesticated elk resides.~~

~~(11) "Destination Herd" means the intended herd of residence that shall be occupied by the animal proposed for importation.~~

~~(12) "Department" means the Utah Department of Agriculture and Food.~~

~~(13) "Domesticated elk" means an animal of the genus and species Cervus Elaphus, born and held in captivity and domestically raised for commercial purposes.~~

~~(14) "Domesticated elk facility" means a facility where domesticated elk are raised or hunted and includes an elk ranch.~~

~~(15) "Domesticated elk farm" means a facility where domesticated elk are raised.~~

~~(16) "Elk ranch" means a facility where domesticated elk are harvested through typical hunting methods.~~

~~(17) "Herd of Origin" means the herd that an imported animal has resided in, or does reside in, before importation.~~

~~(18) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receives state or federal inspection.~~

~~(19) "Physical inventory" means an on-site inspection of every elk by a department employee where the RFID and visual tag number are collected and reconciled against department and producer records.~~

~~(20) "Quarantine Facility" means a confined area where selected elk can be secured, contained, and isolated from any other elk and livestock.~~

~~(21) "Raised" means possession of domesticated elk for any purpose other than hunting.~~

~~(22) "Separate location" in addition to the definition in Subsection 4-39-203(5), means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.~~

~~(23) "Suspect domesticated elk" means a domesticated elk for which the state veterinarian has determined that unofficial test results, laboratory evidence, or clinical signs suggest that the domesticated elk may be infected with a disease-spreading pathogen and official laboratory results are inconclusive or have not been conducted.~~

~~(24) "Trace Back Herd" or "Source Herd" means a herd of Cervidae where an animal affected with CWD has formerly resided.~~

~~(25) "Trace Forward Herd" means a herd of Cervidae that has received exposed animals that originated from a CWD-positive herd within five years before the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.~~

~~**R58-18-3. Application and Licensing Process.**~~

~~(1) Each applicant for a license to operate a domesticated elk facility shall submit a signed, complete, accurate, and legible application on a department issued form.~~

~~(2) In addition to the application, a general plot plan shall be submitted showing the location of the proposed facility in conjunction with roads, towns, and other points of interest in the immediate area.~~

~~(3) A premises identification number shall be assigned to an elk farm when a finished application is received by the department.~~

~~(4) A complete facility inspection shall be:~~

~~(a) conducted before the issuing of a license or entry of elk to any facility;~~

~~(b) made by an approved department employee and a Division of Wildlife Resources (DWR) employee; and~~

~~(c) the responsibility of the applicant to request at least three working days in advance.~~

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

~~(6) Each license expires on July 1st in the year following the year of issuance.~~

~~(7) Elk may enter the facility only after a license is issued by the department.~~

~~**R58-18-4. License Renewal.**~~

~~(1) Each elk farm shall apply for license renewal to the department no later than April 30th, indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee. Any license renewal application received after April 30th will have a late fee assessed.~~

~~(2) Any facility not applying for renewal before July 1st is delinquent.~~

~~(3) If the application and fee for renewal are not received on or before July 1, the license shall not be renewed, and a new license shall be required.~~

~~(4) Any animals on the premises shall be quarantined until a new license is acquired or due process of law has occurred.~~

~~(5) An operator of a domesticated elk facility that has had their license expire or had their license revoked shall remove any elk from the facility within 30 calendar days by:~~

~~(a) sending elk to an inspected facility for slaughter; or~~

~~(b) selling elk to another facility.~~

~~(6) The department shall sell any elk remaining on the facility at the end of 30 days during a special sale conducted for that purpose.~~

~~(7) Before license renewal, the facility shall be inspected by a department employee.~~

~~(8) The employee shall inspect the facility within 60 days of license renewal and document that each fencing and facility requirement in Sections 4-39-201 and R58-18-5 is met. The applicant is responsible for arranging an appointment with the department for inspection, giving the department ample time to respond to a request.~~

~~(9) Before renewal of the license, inventory, and other records provided by the licensee shall be reconciled with the records maintained by the department.~~

~~(10) A department employee shall perform a physical inventory of each elk on the premises at least every three years. The records maintained by the department and the physical inventory shall match by at least 95%.~~

~~(11) Annually, the department shall reconcile records received from the elk facility with those maintained by the department. Records from the elk facility include birth reports, death reports, harvest permits, and brand inspections.~~

~~(12) The inventory records provided by the facility and records maintained by the department shall have at least a 95% match.~~

~~(13) Failure to meet the 95% match may result in the revocation of the license.~~

~~(14) Failure to meet the 95% match for two consecutive years shall result in the revocation of the license.~~

~~(15) The facility shall meet the CWD testing requirements listed in Section R58-18-12.~~

~~R58-18-5. Facility Requirements.~~

~~(1) No cervids other than domesticated elk will be allowed to enter and be kept on any elk farm in Utah.~~

~~(2) Each perimeter fence and gate shall meet the minimum standard defined in Section 4-39-201. The perimeter fences and gates shall be constructed to prevent the movement of cervids, both captive and wild, into or out of the facility.~~

~~(3) Internal handling facilities shall be capable of humanely restraining an individual animal to apply or read animal identification, take blood or tissue samples, or conduct other required testing.~~

~~(a) The restraint shall be properly constructed to protect inspection personnel while handling the animals.~~

~~(b) Minimum requirements include a working pen, an alleyway, and a restraining chute.~~

~~(4) The licensee shall provide an isolation or quarantine holding facility that is adequate to contain the animals and provide proper feed, water, and other care necessary for the physical well being of the animal for the period required to separate the animal from other animals on the farm.~~

~~(5) The domesticated elk facility owner shall provide ample signage around the facility indicating that it is a domesticated elk facility so the public is notified that the animals are not wild elk.~~

~~(6) Each location of a licensed facility with separate perimeter fences shall have a separate loading facility. An exception to this section may be granted in cases where the same individual owns another licensed farm within 50 miles of the elk farm, that can be accessed in a reasonably short period.~~

~~R58-18-6. Records.~~

~~(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of each elk on the facility.~~

~~(2) The inventory record of each animal shall include:~~

~~(a) name and address of the agent which the elk was bought from;~~

~~(b) official RFID tag number;~~

~~(c) visual tag, "ranch" or "visible dangle tag number";~~

~~(d) age;~~

~~(e) sex;~~

~~(f) date of purchase or birth;~~

~~(g) date and method of death or change of ownership, with the name of new owner and address recorded and retained; and~~

~~(h) Certificate of Veterinary Inspection if bought out of state.~~

~~(3) A death record of any elk 12 months of age and over that dies or that is otherwise slaughtered, killed, or destroyed shall be submitted to the department within seven days of the discovery of the death of the animal.~~

~~R58-18-7. Genetic Purity.~~

~~(1) Elk entering Utah, except those going directly to an official slaughter facility, shall have written evidence of genetic purity.~~

~~(2) Written evidence of genetic purity shall include:~~

~~(a) test charts from an approved lab that has run a:~~

~~(i) blood genetic purity test; or~~

~~(ii) DNA genetic purity test.~~

~~(b) registration papers from the North American Elk Breeders Association; or~~

~~(c) herd purity certification papers issued by another state agency.~~

~~(3) Genetic purity records shall be kept on file and presented to the inspector upon request.~~
~~(4) Any elk identified as having red deer genetic factor shall be destroyed, or immediately removed from the state.~~

~~**R58-18-8. Slaughter of Elk.**~~
~~(1) Each licensed elk facility shall be required to submit both the obex portion of the brainstem and medial retropharyngeal lymph nodes of elk over 12 months of age that are slaughtered for testing for CWD by an official test at an approved laboratory. A slaughter establishment may collect and submit the CWD samples.~~
~~(2) Individual elk identification shall be maintained throughout slaughter and processing until CWD test results have been returned from the laboratory.~~
~~(3) Out of state elk shall be tested for Brucellosis when slaughtered.~~

~~**R58-18-9. Identification.**~~
~~(1) Each elk shall have two forms of identification including:~~
~~(a) a tamper-resistant RFID tag:~~
~~(i) placed in the right ear;~~
~~(ii) applied before arrival at the premises; and~~
~~(iii) applied before or at the time of physical inventory or before leaving the premises where the calf was born, if before physical inventory; and~~
~~(b) a visible dangle ear tag placed:~~
~~(i) before or at the time of physical inventory;~~
~~(ii) before leaving the premises where they were born, if before physical inventory; or~~
~~(iii) upon arrival to the premises.~~
~~(2) Replacement RFID tags and the visual tag number shall be reported to the department within seven days of application.~~

~~**R58-18-10. Brand Inspections.**~~
~~(1) Each elk shall be inspected when there is any change of ownership or movement out of state, when leaving the facility, or when slaughter occurs except as shown in Subsection R58-18-10(1)(e) or R658-18-10(1)(f).~~
~~(2) It is the responsibility of the licensee to arrange for any inspection with the department's Domesticated Elk Program Manager.~~
~~(3) At least 48 hours advance notice shall be given to the inspector.~~
~~(4) Elk to be inspected shall be properly contained in facilities adequate to confine each animal for proper inspection.~~
~~(5) Each elk shall have its RFID tag and visual dangle tag recorded on the brand inspection.~~
~~(6) Animals may move from one perimeter fence to another within the same facility without a brand inspection.~~
~~(7) Elk moving from a licensed facility to another licensed facility owned by the same person within the state may move directly from one site to another site without a brand inspection, but shall be reported to the department within seven days of movement.~~
~~(8) Any elk purchased or brought into the facility from an out of state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. Each requirement of Subsection R58-18-10(3) shall apply to the inspection of the animals.~~
~~(9) A Utah Brand Inspection Certificate shall accompany any elk shipment that is to be moved from a Utah elk farm. Shed antlers are excluded from needing an inspection.~~

~~**R58-18-11. Health Rules.**~~
~~(1) Before the importation of elk, whether by live animals, gametes, eggs, sperm, or other genetic material into Utah, the importing party shall obtain an import permit from the state veterinarian's office. The import permit shall be:~~
~~(a) issued only if the destination is a licensed elk facility or an official slaughter facility; or~~
~~(b) obtained from the department by the veterinarian conducting the official health inspection.~~
~~(2) Each elk imported into Utah shall be examined by an accredited veterinarian before importation and shall be accompanied by a valid Certificate of Veterinary Inspection that meets the following disease testing requirements.~~
~~(a) Disease testing results and health statements shall be included on the Certificate of Veterinary Inspection. Disease testing requirements may be waived on elk traveling directly to an official slaughter facility.~~
~~(b) Elk imported from a US herd have tested negative for tuberculosis within 90 days before entry unless enrolled in a tuberculosis herd monitoring accreditation program.~~
~~(c) Elk imported from Canada have tested negative for Tuberculosis within 90 days before entry and Brucellosis within 30 days before entry.~~
~~(d) Elk imported from a Brucellosis Designated Surveillance Area participate in their state's Brucellosis surveillance program or shave tested negative for Brucellosis within 30 days before entry as shown on a letter from their state veterinarian or the department stating their participation and their last herd test date.~~
~~(e) The Certificate of Veterinary Inspection shall include the signed statement: "To the best of my knowledge, the elk listed are not infected with Johne's Disease (Paratuberculosis), CWD or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."~~
~~(f) The Certificate of Veterinary Inspection shall also contain the name and address of the shipper and receiver, the number, sex, age, and any individual identification on each animal.~~
~~(3) Domesticated elk imported from an international herd shall be:~~
~~(a) male;~~
~~(b) imported to an elk ranch for use in the elk ranch; and~~

~~(c) harvested in the same season that the domesticated elk enters the state.~~
~~(4) Additional disease testing or quarantine may be required at the discretion of the state veterinarian when there is reason to believe other diseases, parasites, or other health concerns are present.~~
~~(5) Treatment of each elk for internal and external parasites is required within 30 days before entry, except for elk going directly to an official slaughter facility.~~
~~(6) Each elk imported into Utah shall originate from a state or province that requires that any CWD-suspect domesticated elk, or CWD-positive domesticated elk be reported to the state veterinarian or regulatory authority. The state or province of origin shall have the authority to quarantine source herds and herds affected with or exposed to CWD.~~
~~(7) Based on the state veterinarian's approval, each elk imported into Utah shall originate from states that have implemented a CWD Herd Certification Program.~~
~~(a) Each elk imported to Utah shall originate from herds that have been participating in a verified CWD Herd Certification Program for at least five years and are "certified" in that program.~~
~~(b) Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.~~
~~(8) No elk originating from a CWD-positive herd or involved in a trace for CWD may be imported to Utah.~~
~~(9) Elk semen, eggs, or gametes require a Certificate of Veterinary Inspection verifying that the individual source animal has genetic purity and certifying that it has never resided on a premises where CWD has been identified or traced. An import permit obtained by the issuing veterinarian shall be listed on the Certificate of Veterinary Inspection.~~

~~R58-18-12. CWD Surveillance and Investigation.~~
~~(1) Any person or laboratory who suspects or diagnosed CWD in a domesticated elk in Utah shall notify the state veterinarian immediately.~~
~~(2) The state veterinarian shall promptly investigate any animals reported as a CWD-positive domesticated elk or CWD-suspect domesticated elk.~~
~~(a) The state veterinarian may:~~
~~(i) conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect domesticated elk and exposed domesticated elk and that identifies animals to be traced;~~
~~(ii) conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out of state traces to the appropriate state promptly after receipt of notification of a CWD-positive animal; and~~
~~(iii) conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.~~
~~(b) Within 30 days of the date a suspect domesticated elk or positive domesticated elk is reported to the department, the state veterinarian shall provide written notice to an owner of a domesticated elk facility of:~~
~~(i) the status of the animal disease traceability investigation, including any findings; and~~
~~(ii) the owner's right to appeal.~~
~~(c) With the approval of the commissioner, the state veterinarian may place an elk facility under quarantine if a domesticated elk at the elk facility, within the previous 60 months:~~
~~(i) has tested positive for CWD;~~
~~(ii) is a suspect domesticated elk; or~~
~~(ii) has commingled with a CWD-positive elk in a quarantined domesticated elk facility.~~
~~(d) The state veterinarian may not place an elk facility under quarantine if there is no CWD-positive, CWD-suspect, or commingled domesticated elk residing at the domesticated elk facility.~~
~~(3) Each licensed elk farm shall be required to submit both the obex portion of the brainstem, and medial retropharyngeal lymph nodes of any elk over 12 months of age that die or are otherwise slaughtered or destroyed, for testing for CWD by an official test at an approved laboratory.~~
~~(4) The samples shall be collected by an approved laboratory, or a person approved by the state veterinarian. Approved personnel shall have training on collecting, storing, handling, shipping, and identifying specimens for submission.~~
~~(5) At least 90% of elk shall have at least one sample be testable by the laboratory.~~
~~(6) Samples designated as "location," "unsuitable," or "insufficient follicles," and missing samples are considered untestable.~~
~~(7) Individuals with less than 90% of testable samples may lose their approval to collect samples and may be required to undergo additional training before being re-approved.~~
~~(8) The department may deny, revoke, or suspend a domestic elk farm license if a farm fails to submit at least one testable sample for 90% of elk.~~
~~(9) The CWD surveillance samples from elk residing on licensed elk facilities shall be collected and preserved in formalin within 48 hours following the animals' death and submitted within seven days to a laboratory approved by the state veterinarian.~~
~~(10) Laboratory fees and expenses incurred for the collection and shipping of samples shall be the responsibility of the participating elk farm.~~
~~(11) The designation and disposition of CWD-exposed, positive, or suspect domesticated elk or herds in Utah shall be determined by the state veterinarian.~~

~~R58-18-13. CWD Herd Certification Program.~~
~~(1) Herds wishing to enroll in the Utah Herd Certification Program shall apply to the department.~~
~~(2) Participating herds shall indicate annually that they wish to continue to be enrolled in the Utah Herd Certification Program.~~

~~(3) Participating herds shall meet the requirements in the USDA Chronic Wasting Disease Program Standards, May 2019 edition, which is incorporated by reference.~~

~~(4) Participating herds who do not meet the CWD Program Standards for recordkeeping, surveillance, sampling, or herd additions may lose certification status.~~

~~(5) Participation in the Utah Herd Certification Program is voluntary.~~

~~**R58-18-14. Positive Herd Management.**~~

~~(1) Each elk facility with an elk that has tested positive for CWD or commingled with an elk that has tested positive for CWD shall receive a written herd plan developed by the state veterinarian with input from the herd owner, USDA, and other affected parties.~~

~~(2) The herd plan sets out the steps to manage CWD in a CWD-positive herd.~~

~~(3) A herd plan shall require:~~

~~(a) specified means of identification for each animal in the herd;~~

~~(b) regular examination of animals in the herd by a veterinarian for signs of disease;~~

~~(c) reporting to a state or USDA representative of any signs of central nervous system disease in herd animals; and~~

~~(d) maintaining records of the acquisition and disposition of any animals entering or leaving the herd, including the date of acquisition or removal, name, and address of the person from whom the animal was acquired or to whom it was disposed, and cause of death, if the animal died while in the herd.~~

~~(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular condition of the herd and its premises, including:~~

~~(a) specifying the time for which a premises shall not contain cervids after CWD-positive, exposed, or suspect animals are removed from the premises;~~

~~(b) fencing requirements;~~

~~(c) requirements related to depopulation or selective culling of animals;~~

~~(d) restrictions on sharing and movement of possibly contaminated livestock equipment; and~~

~~(e) cleaning and disinfection requirements, or other biosecurity requirements.~~

~~(5) The state veterinarian shall approve any movement of cervids onto or off the facility.~~

~~(a) Movement restriction of cervids shall remain in place until the requirements of the herd plan have been met.~~

~~(b) Elk from a positive farm may be moved to an elk ranch or official slaughter facility as follows:~~

~~(i) movements comply with Section R58-18-10;~~

~~(ii) elk going to an elk ranch shall be harvested within the same calendar year they move to the elk ranch; and~~

~~(iii) elk going to an elk ranch or official slaughter facility shall be tested for CWD.~~

~~(6) The state veterinarian may review and revise a herd plan at any time in response to changes in the herd or premises or improvements in understanding the nature of CWD epidemiology or techniques to prevent its spread.~~

~~**R58-18-15. Grounds for Denial, Suspension, or Revocation of Licenses for Domestic Elk Facilities.**~~

~~(1) The department shall deny, suspend, or revoke a license to operate a domestic elk facility if the licensee or applicant:~~

~~(a) fails, for two consecutive years, to:~~

~~(i) meet inventory requirements as required by the department;~~

~~(ii) submit testable CWD samples for at least 90% of mortalities over 12 months old; or~~

~~(iii) notify the department that there are wild cervids inside a domestic elk farm or elk ranch;~~

~~(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or~~

~~(c) violates the import requirements of Section 4-39-303.~~

~~(2) The department may deny, revoke, or suspend a license to operate a domestic elk facility if, after delivery of notice and an opportunity to correct, the licensee or applicant:~~

~~(a) provides:~~

~~(i) an unfinished application or incorrect application information; or~~

~~(ii) incorrect records or failure to maintain required records.~~

~~(b) fails to:~~

~~(i) notify the department of movement of elk onto or off from the facility;~~

~~(ii) identify elk as required;~~

~~(iii) notify the department concerning an escape of an animal from a domestic elk facility;~~

~~(iv) maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;~~

~~(v) participate with the department in a cooperative wild cervid removal program;~~

~~(vi) submit testable CWD samples for at least 90% of mortalities over 12 months old; or~~

~~(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility.~~

~~(c) moves imported elk onto a facility without getting a Certificate of Veterinary Inspection that has an import permit number from the department;~~

~~(d) imports animals that are prohibited or controlled by the Division of Wildlife Resources; or~~

~~(e) handles animals in a manner that violates acceptable animal husbandry practices.~~

~~(3) The department will provide the facility with a written notice if they do not meet the requirements listed in Subsections R58-18-15(1) and R58-18-15(2). The facility will be given 30 days to correct the deficiencies.~~

~~(4) Once the department has notified the operator of a domesticated elk facility of the denial, suspension, or revocation of a license to operate a domesticated elk facility, the operator has 15 calendar days to request an appeal with the commissioner.~~

~~(5) An operator of a domesticated elk facility that has had their license revoked shall remove any elk from the facility within 30 calendar days by:~~

~~(a) sending any elk to an inspected facility for slaughter; or~~

~~(b) selling elk to another facility.~~

~~(6) Any elk remaining on the facility at the end of 30 days shall be sold by the department during a special sale conducted for that purpose.~~]

R58-18. Domesticated Elk Farms.

R58-18-1. Purpose and Authority.

(1) Promulgated under the authority of Section 4-39-106 and Subsection 4-39-303(6).

(2) This rule establishes procedures for the application and renewal of licenses, health requirements, and standards for operating a domesticated elk facility.

R58-18-2. Definitions.

In addition to the definitions found in Sections 4-1-109, 4-7-103, 4-24-102, 4-32-105, and 4-39-102, the following terms are defined for this rule:

(1) "Animal identification" means a device or means of individual animal identification.

(2) "Approved test" means a diagnostic test for Chronic Wasting Disease (CWD) surveillance accepted by the United States Department of Agriculture (USDA) and approved by the state veterinarian.

(3) "Commingle" means maintaining animals where physical contact among animals could occur, including keeping animals in the same pasture or enclosure. "Commingle" does not include holding animals at a sale, during transportation, during artificial insemination, or in other circumstances involving limited contact among animals for a short period.

(4) "Commissioner" means the commissioner of the Utah Department of Agriculture and Food.

(5) "CWD-exposed animal" means an animal that commingled with a CWD-positive animal within the previous 60 months.

(6) "CWD-exposed herd" means a herd in which a CWD-positive animal or a CWD-exposed animal has resided for any period within 60 months before that animal's diagnosis as CWD-positive or exposure to CWD.

(7) "CWD Herd Certification Program" means the Chronic Wasting Disease Herd Certification Program.

(8) "CWD-positive animal" means an animal that has had a diagnosis of CWD confirmed by an official CWD test.

(9) "CWD-positive herd" means a herd in which a CWD-positive animal resided within the previous 60 months.

(10) "CWD-suspect herd" means a herd in which a suspect domesticated elk resides.

(11) "Dead tested" means an elk that dies of natural causes on an elk farm that has at least one sample that is testable for CWD.

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

(13) "Domesticated elk" means an animal of the genus and species Cervus elaphus, born and held in captivity and domestically raised for commercial purposes.

(14) "Domesticated elk facility" means a facility where domesticated elk are raised or hunted and includes an elk ranch.

(15) "Elk farm" means a facility where domesticated elk are raised.

(16) "Elk ranch" means a facility where domesticated elk are harvested through typical hunting methods.

(17) "Harvest" means to kill by hunting or slaughter. For this rule, "harvest" may include an elk that dies by means other than hunting or slaughter.

(18) "Herd of origin" means the herd that an imported animal has resided in, or does reside in, before importation.

(19) "Hunt killed" means any elk reported as harvested on a harvest permit.

(20) "Hunt killed tested" means any elk reported as harvested on a harvest permit for which at least one sample is testable for CWD.

(21) "Missing" means an elk that is on departmental records that is not present during physical inventory and is presumed dead and untested for inventory and testing compliance calculations.

(22) "Moved out" means any elk that is sold or sent from a farm to another elk farm or an elk ranch.

(23) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receives state or federal inspections.

(24) "Premises identification number" means a nationally unique number assigned by the department to a premises that is, in the judgment of the department, a geographically distinct location from other premises.

(25) "Quarantine Facility" means a confined area where selected elk can be secured, contained, and isolated from any other elk and livestock.

(26) "Raised" means possession of domesticated elk for any purpose other than hunting.

(27) "Slaughtered" means any elk harvested for meat on an elk farm or at a licensed slaughter establishment but does not include elk harvested through hunting and documented on a harvest permit.

(28) "Slaughtered tested" means any slaughtered elk for which at least one sample is testable for CWD.

(29) "Suspect domesticated elk" means a domesticated elk for which the state veterinarian has determined that unofficial test results, laboratory evidence, or clinical signs suggest that the domesticated elk may be infected with a disease-spreading pathogen and laboratory results are inconclusive or have not been conducted.

(30) "Trace Back Herd" or "Source Herd" means a herd of Cervidae where an animal affected with CWD has formerly resided.

(31) "Trace Forward Herd" means a herd of Cervidae that has received exposed animals that originated from a CWD-positive herd within five years before the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.

R58-18-3. Application and Licensing Process.

(1) Each applicant for a license to operate an elk farm shall submit a signed, complete, accurate, and legible application on a department issued form.

(2) In addition to the application, an applicant shall submit a general plot plan showing the location of the proposed elk farm in conjunction with roads, towns, and other points of interest in the immediate area.

(3) The department shall assign a premises identification number to an elk farm when the department approves a finished application.

(4) After the department receives an application, a complete domesticated elk facility inspection shall be:

(a) conducted before the issuing of a license or entry of elk to any elk farm;

(b) conducted by an approved department employee and a Division of Wildlife Resources (DWR) employee; and

(c) the responsibility of the applicant to request at least three working days in advance.

(5) The department shall issue a license upon receipt of an application, inspection of the domesticated elk facility, completion of the facility approval form, and receipt of the license fee.

(6) Each elk farm license shall expire at the beginning of the department's fiscal year, July 1st.

(7) The elk owner may only allow elk to enter a domesticated elk facility after the department has issued a license.

(8) An elk owner shall submit an application to have a license for each location that is:

(a) maintained for a different purpose such as raising elk vs. hunting elk; or

(b) separated by two distinct perimeter fences without a shared alleyway.

R58-18-4. License Renewal.

(1) Each elk farm shall submit a license renewal application and the application fee to the department by April 30 of each year.

(a) The department shall assess a late fee if the application is received after April 30th.

(b) The department shall consider an application submitted after July 1st as delinquent and will require the applicant to pay a new license fee.

(2) Before the department renews a license and within 60 days of license renewal, the applicant shall contact the department to schedule an inspection of the elk facility.

(3) The department employee conducting the facility inspection shall verify that the facility meets the fencing and facility requirements listed in this rule and Sections 4-39-201 and 4-39-202.

(4)(a) Before renewal of the license, the department shall reconcile inventory and CWD testing records with the records in the department database to determine if the facility is in compliance with inventory and testing requirements.

(b) Inventory and testing compliance calculations shall be:

(i) based on the period starting May 1 of the year before license renewal to April 30 of the year in which the license is renewed; and

(ii) found in Sections R58-18-6 and R58-18-12.

(5) The department shall provide each facility with a written notice of their inventory and testing reconciliation percentages no later than May 30 to allow the facility to correct any deficiencies in accordance with Section R58-18-15.

(6) The applicant shall quarantine any animals on the elk farm until they acquire a new license or due process of law has occurred.

(7) An elk farm that has had its license expire or had its license revoked shall remove any elk from the facility within 30 calendar days by:

(a) sending elk to an inspected facility for slaughter; or

(b) selling elk to another licensed facility.

(8) At the end of 30 days, the department shall sell any elk remaining on the facility during a special sale conducted for that purpose.

R58-18-5. Elk Farm Requirements.

(1) An elk farm may not allow cervids other than domesticated elk to enter and reside on any elk farm in Utah.

(2) The elk farm shall construct perimeter fences and gates to prevent the movement of cervids, both captive and wild, into or out of the facility and shall meet the minimum standards defined in Section 4-39-201.

(3) The elk farm owner shall:

(a) provide a quarantine holding facility that is adequate to quarantine animals and provide proper feed, water, and other care necessary for the physical wellbeing of the animals for the period of the quarantine; and

(b) provide ample signage around the facility indicating that it is a domesticated elk facility and notifying the public that the animals are not wild elk.

(4) Each location of a licensed elk farm with internal handling facilities shall:

(a) be capable of humanely restraining an individual animal to apply or read animal identification, take blood or tissue samples, or conduct other required testing;

(b) be capable of properly restraining animals to protect an inspector while handling the animals; and

(c) at a minimum, have a working pen, an alleyway, and a restraining chute.

(5) If a licensed elk farm has separate perimeter fences between locations, it shall have a separate handling facility.

(6) The department may grant an exception to Subsection R58-18-5(5) if the same individual:

(a) owns another licensed elk farm within the state; and

(b) may access the other licensed elk farm in a reasonably short period.

(7) Elk farms shall allow access to the facility and records for an inspection in accordance with Section 4-39-207, Inspection of Facilities.

R58-18-6. Records and Inventory.

(1) A licensed elk farm shall maintain accurate and legible records for each elk on the facility for the life of the elk plus at least two years.

(2) The inventory record of each elk shall include:

(a) name and address of the agent that sold the elk;

(b) Radio Frequency Identification (RFID) tag number;

(c) visual tag number, also known as the "ranch" or "visible dangle tag" number;

(d) date of birth;

(e) sex;

(f) date of purchase and a copy of the brand inspection, if purchased;

(g) date and cause of death or change of ownership, with the name of the new owner and address recorded and retained;

(h) Certificate of Veterinary Inspection, if imported from out of state; and

(i) CWD laboratory results.

(3) A licensed elk farm shall submit the death record of any elk 12 months of age or older that dies, is slaughtered, killed, or destroyed to the department within seven days of the discovery of the death of the animal.

(4) A department employee shall perform a physical inventory of each elk on the premises of each licensed elk farm at least every three years and reconcile that inventory with departmental records. The physical inventory shall consist of:

(a) recording the RFID tag, visual tag, and sex of each elk;

(b) the elk owner restraining each elk in a manner to record the information;

(c) at the department's discretion, using a manual count of the elk; and

(d) any elk not present shall be calculated as missing during reconciliation.

(5)(a) The department shall use the following calculation method to determine compliance with inventory requirements.

(b) Inventory compliance = (current inventory + Moved out + Dead + Slaughtered)/(Missing + current inventory + Moved out + Dead + Slaughtered).

(6) Inventory compliance shall be calculated using data from May 1 to April 30.

(7) The department will not renew the license of an elk farm that is less than 95% inventory compliant for two consecutive years.

R58-18-7. Elk Identification.

(1) Each elk shall have two forms of identification including:

(a) a tamper-resistant RFID tag placed in the right ear and applied:

(i) before arrival at the facility;

(ii) when the department performs physical inventory;

(iii) before leaving the facility where the calf was born; or

(iv) before the animal reaches 12 months of age, whichever comes first; and

(b) a visual ear tag applied:

(i) before arrival at the facility;

(ii) when the department performs physical inventory;

(ii) before leaving the premises where the calf was born; or

(iii) before the animal reaches 12 months of age, whichever comes first.

(2) A licensed elk farm shall report to the department any RFID tag number or visual tag number applied to an elk within seven days of applying the tags to the elk.

R58-18-8. Brand Inspections.

(1) Under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, the department shall inspect:

(a) each elk when there is a change of ownership, movement out of state, or before slaughter;

(b) any out-of-state sourced elk purchased or brought into a facility upon arrival at the licensed facility and before releasing the elk into an area inhabited by other elk; and

(c) elk movement to a premises not owned by the same individual.

(2) The brand inspector shall record the RFID tag and the visual tag numbers on the brand inspection certificate.

(3) Before the department conducts a brand inspection, an elk owner shall:

(a) arrange at least 48 hours in advance for an inspection with the department's Domesticated Elk Program Manager;

(b) properly confine elk that the department will inspect in a facility adequate to properly inspect each animal; and

(4) An elk owner shall ensure any elk shipments moving from a Utah elk farm are accompanied by a Utah Brand Inspection Certificate.

(5) The department does not require a brand inspection on the following:

(a) shed antlers;

(b) animals moving from one perimeter fence to another within the same facility; and

(c) elk moving from a licensed facility to another licensed facility owned by the same person within the state although the owner shall report the movement to the department within five days of movement.

R58-18-9. Health Standards and Requirements.

(1) The state veterinarian may require disease testing or quarantine when there is reason to believe diseases, parasites, or other health concerns are present.

(2) A licensed elk farm shall immediately destroy or remove any elk identified as having red deer genetic factor.

(3) Per Subsection 4-39-303(5), domesticated elk imported from an international herd shall be:

(a) only male;

(b) imported to an elk ranch for use in the elk ranch; and

(c) harvested in the same season in which the domesticated elk enter the state.

(4) The state veterinarian may approve an exception to Subsection R58-18-9(3), which may require quarantine.

(5) The department may not allow elk to be imported from a herd of origin that:

(a) is a CWD-positive, a Trace Back, or a Trace Forward Herd; or

(b) has any animals infected with or exposed to meningeal worm, Johne's disease (paratuberculosis), CWD, or malignant catarrhal fever.

(6) An elk facility importing live elk, eggs, or semen into Utah shall submit a complete Utah Domesticated Elk and Reindeer Import Application to the department.

(a) The state or provincial animal health official in the state or province of origin shall sign the application before the application is submitted.

(b) The state or provincial animal health official in the state or province of origin shall include a statement that accompanies the application that includes:

(i) the date of enrollment in a CWD herd certification program;

(ii) declaration that the herd of origin has CWD "certified" status;

(iii) explanation of any involvement in CWD epidemiologic investigations;

(iv) statement of CWD certification status of any source herds for herd imports or introductions during the 60 months before the application; and

(v) for herds originating in a brucellosis Designated Surveillance Area, the application shall include a statement indicating whether the herd participates in the state brucellosis surveillance program.

(c) The herd of origin shall provide the following documentation from the previous 60 months:

(i) a list of elk that died, were slaughtered, or hunted, and the CWD test results on those elk;

(ii) a list of each elk that is imported or introduced, other than natural additions; and

(iii) a disclosure statement indicating any non-compliances, CWD exposure, epidemiological investigations, escapes, or wildlife ingresses.

(d) The department may approve each import application that meets the requirements found in Subsections R58-18-9(3) through R58-18-9(6).

(e) The department shall deny an application if the destination is not a licensed elk facility or official slaughter facility.

(7) After the department approves the import application and before the elk facility imports elk, the owner of the herd of origin shall:

(a) apply an RFID tag and unique visual tag to each elk;

(b) treat each elk for internal and external parasites with a product effective against *Parelaphostrongylus tenuis* (meningeal worm) within 60 days before entering Utah;

(c) complete brucellosis testing within 30 days before entry, if:

(i) the elk is imported from Canada; or

(ii) the elk is imported from the brucellosis Designated Surveillance Areas of Idaho, Montana, or Wyoming or from a state not classified as brucellosis-free and the herd does not provide proof of participation in the state brucellosis surveillance program; and

(d) complete tuberculosis testing within 90 days before entry, unless:

(i) the elk is coming from a US herd that is accredited, qualified, or monitored;

(ii) the elk is under six months of age and accompanied by a negative testing dam; or

(iii) the elk is imported directly to an official slaughter facility.

(8) Elk imported from Canada shall originate from a herd that has performed a whole herd tuberculosis test and a whole herd brucellosis test within the previous five years.

(9) After the required testing is completed, the veterinarian inspecting the elk to be imported shall request an import permit from the department.

(a) The Canadian Food Inspection Agency shall endorse a Certificate of Veterinary Inspection for Canadian elk before the veterinarian requests the import permit.

(b) The veterinarian requesting the import permit shall submit the following documents to the department:

(i) a signed Certificate of Veterinary Inspection that includes the sex, age, visual tag number, and RFID tag number for each elk;

(ii) the signed statement "To the best of my knowledge, the elk listed are not infected with Johne's disease (Paratuberculosis), CWD, or Malignant Catarrhal Fever;"

(iii) test charts for brucellosis and tuberculosis, if required; and

(iv) a statement with the date of deworming and the name of the product used.

(c) An elk facility may not import elk into Utah until the department approves the import permit.

(10) A licensed elk facility that imports elk from east of the 100-degree meridian shall:

(a) harvest or treat the elk for internal and external parasites no later than 150 days after arrival in the state; and

(b) provide documentation of treatment or harvest to the department.

(11) A licensed elk facility shall hold any elk for harvest until the elk has completed any slaughter withdrawal periods for parasite treatments and other administered products.

R58-18-10. CWD Surveillance and Investigation.

(1) Any person or laboratory who suspects or diagnoses CWD in a domesticated elk in Utah shall notify the state veterinarian immediately.

(2) The state veterinarian shall promptly investigate any domesticated elk reported as CWD-positive or CWD-suspect by:

(a) conducting an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect domesticated elk and exposed domesticated elk and that identifies animals to be traced;

(b) performing tracebacks of CWD-positive animals and trace forwards of CWD-exposed animals; and

(c) reporting any out-of-state traces to the appropriate state promptly after receipt of notification of a CWD-positive animal.

(3) Within 30 days of the date that a CWD-suspect or CWD-positive domesticated elk is reported to the department, the state veterinarian shall provide written notice to an owner of a domesticated elk facility of:

(a) the status of the animal disease traceability investigation, including any findings; and

(b) the owner's right to appeal.

(4) With the approval of the commissioner, the state veterinarian may place an elk facility under quarantine if a domesticated elk at the elk facility, within the previous 60 months:

(a) has tested positive for CWD;

(b) is a suspect domesticated elk; or

(c) has commingled with a CWD-positive elk in a quarantined domesticated elk facility.

(5) The state veterinarian may not place an elk facility under quarantine for CWD if there is no CWD-positive, CWD-suspect, or commingled domesticated elk residing at the domesticated elk facility.

(6) The state veterinarian shall determine the designation and disposition of CWD-exposed, positive, or suspect domesticated elk or herds in Utah.

(7)(a) The department requires each licensed elk farm to submit both the obex portion of the brainstem and medial retropharyngeal lymph nodes of any elk over 12 months of age that dies or is slaughtered or destroyed for testing for CWD by an official test at an approved laboratory.

(b) The elk farm shall:

(i) collect and preserve the brainstem and lymph node samples in formalin within 48 hours following the animals' death;

(ii) submit the samples within seven days of collection to a laboratory approved by the state veterinarian; and

(iii) be responsible for laboratory fees and expenses incurred for the collection and shipping of samples.

(8) The state veterinarian authorized person or an approved laboratory shall collect the samples. An authorized person shall:

(a) have training on collecting, storing, handling, shipping, and identifying specimens for submission; and

(b) submit 90% testable samples.

(c) If a state veterinarian authorized person does not submit 90% testable samples, they may lose their approval to collect samples and may require additional training.

(9) The department considers samples designated as "location," "unsuitable," or "insufficient follicles," and missing samples as untestable.

(10) The department may deny, revoke, or suspend a domestic elk farm license if a farm fails to submit at least one testable sample for 90% of elk that the elk owner slaughters or harvests, or that dies on the elk farm.

(11) To determine compliance with the testing requirement listed in Subsection 4-39-503(1)(a)(ii), the department shall:

(a) use the following testing compliance calculation = (Dead Tested + Hunt Killed Tested + Slaughtered Tested) divided by (Missing + Dead + Hunt Killed Tested + Slaughtered);

(b) calculate the testing compliance listed in Subsection R58-18-11(11)(a) from May 1 to April 30: and

(c) provide each facility with their calculated testing compliance no later than May 30.

(12) An elk farm that does not have at least 90% testing compliance may conduct additional testing through slaughter or another protocol approved by the department to meet the testing compliance requirement before license renewal.

(13) An elk farm that slaughters an animal shall ensure that:

(a) CWD samples are collected and submitted in accordance with Section R58-18-12; and

(b) the slaughter facility maintains individual elk identification throughout slaughter and processing, and until the laboratory returns the CWD test results.

(14) A slaughter establishment may collect and submit the CWD samples.

R58-18-11. CWD Herd Certification Program.

(1) Herds wishing to enroll in the Utah CWD Herd Certification Program shall apply to the department.

(2) Participating herds shall state annually that they wish to continue enrollment in the Utah CWD Herd Certification Program.

(3) Participating herds shall meet the requirements of the USDA Chronic Wasting Disease Program Standards, May 2019 edition, which this rule incorporates by reference.

(4) Participating herds who do not meet the CWD Program Standards for recordkeeping, surveillance, sampling, or herd additions may lose certification status.

(5) Participation in the Utah CWD Herd Certification Program is voluntary.

R58-18-12. CWD Positive Herd Management.

(1) Each elk facility with an elk that has tested positive for CWD or commingled with an elk that has tested positive for CWD shall receive a written herd plan developed by the state veterinarian with input from the herd owner, USDA, and other affected parties.

(2) The herd plan outlines the steps to manage CWD in a CWD-positive herd.

(3) A herd plan shall require the herd owner to:

(a) maintain identification for each animal in the herd;

(b) regularly examine animals in the herd for signs of disease;

(c) immediately report any signs of central nervous system disease in herd animals to the state veterinarian; and

(d) maintain records of the acquisition and disposition of any animals entering or leaving the herd, including:

(i) the date of acquisition or removal;

(ii) the name and address of the person from whom the animal was acquired or to whom it was disposed; and

(iii) the cause of death, if the animal died while in the herd.

(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the herd's particular condition and its premises, including:

(a) specifying the time for which a premises may not contain cervids after CWD-positive, exposed, or suspect animals are removed from the premises;

(b) fencing requirements;

(c) requirements related to depopulation or selective culling of animals;

(d) restrictions on sharing and movement of possibly contaminated livestock equipment; and

(e) cleaning and disinfection requirements, or other biosecurity requirements.

(5) The state veterinarian shall approve any movement of cervids onto or off the facility and shall restrict movement of cervids until the herd owner meets the requirements of the herd plan.

(6) An elk owner may move elk from a positive farm to an elk ranch or official slaughter facility and the elk owner shall:

(a) ensure movements comply with Section R58-18-10; and

(b) ensure that elk moved to an official slaughter facility are tested for CWD.

(7) The state veterinarian may review and revise a herd plan at any time in response to changes in the herd or premises, or improvements in understanding the nature of CWD epidemiology or techniques to prevent its spread.

R58-18-13. Grounds for Denial, Suspension, or Revocation of Licenses for Domesticated Elk Facilities.

(1) The department shall deny, suspend, or revoke a license to operate a domesticated elk facility if the licensee or applicant:

(a) fails, for two consecutive years, to:

(i) meet inventory requirements as required by the department;

(ii) submit testable CWD samples for at least 90% of mortalities over 12 months old; or

(iii) notify the department that there are wild cervids inside a domesticated elk farm;

(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or

(c) violates the import requirements of Section 4-39-303.

(2) The department may deny, revoke, or suspend a license to operate a domesticated elk facility if, after delivery of notice and an opportunity to correct, the licensee or applicant:

(a) provides:

(i) an unfinished application or incorrect application information; or

(ii) incorrect records or failure to maintain required records;

(b) fails to:

(i) notify the department of movement of elk onto or off the facility;

(ii) identify elk as required;

(iii) notify the department concerning the escape of an animal from a domesticated elk facility;

(iv) maintain a perimeter fence that prevents the escape of domesticated elk or ingress of wild cervids into the facility;

(v) participate with the department in a cooperative wild cervid removal program;

(vi) submit testable CWD samples for at least 90% of mortalities over 12 months old; or

(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility;

(c) moves imported elk onto a facility without a Certificate of Veterinary Inspection that has an import permit number from the department;

(d) imports animals that the Division of Wildlife Resources prohibits or controls; or

(e) handles animals in a manner that violates acceptable animal husbandry practices.

(3) The department will notify the facility in writing if it does not meet the requirements listed in Subsections R58-18-13(1) and R58-18-13(2), and the facility will have 30 days to correct the deficiencies.

(4) Once the department has notified the owner of a domesticated elk facility of the denial, suspension, or revocation of a license to operate a domesticated elk facility, the owner shall have 15 calendar days to request an appeal with the commissioner.

(5) An operator of a domesticated elk facility that has had its license revoked shall remove any elk from the facility within 30 calendar days by:

(a) sending any elk to an inspected facility for slaughter; or

(b) selling elk to another facility.

(6) The department shall sell any elk remaining on the facility at the end of 30 days during a special sale conducted for that purpose.

R58-18-14. Liability.

In accordance with Sections 63G-7-101 and 63G-7-102, the granting of a domesticated elk facility license or the imposing of a requirement to gain an owner's permission does not attach any liability to the department for any accident, mishap, or injury that occurs on, adjacent to, or in connection with the domesticated elk facility.

KEY: chronic wasting disease, elk, inspections, domesticated elk farm
Date of Last Change: [~~June 13, 2023~~]2024
Notice of Continuation: December 28, 2021
Authorizing, and Implemented or Interpreted Law: 4-39-106; 4-39-303(6)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R58-20**	**Filing ID: 56607**

Agency Information

1. Title catchline:	Agriculture and Food, Animal Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO BOX 16500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Amanda Price	801-386-4189	Amandaprice@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R58-20. Elk Ranches
3. Purpose of the new rule or reason for the change:
During the 2024 General Session, H.B. 375 passed and amended the requirements for importing domesticated elk into Utah. H.B. 375 (2024) established the requirements for importing domesticated elk from East of the 100-degree meridian into Utah. The amendments in this rule reflect those requirements and include technical changes to align the rule with the Rulewriting Manual for Utah.
4. Summary of the new rule or change:
The changes to this rule include: 1) adding additional definitions, 2) updating the application and licensing process, 3) adding a requirement to reconcile inventory and Chronic Wasting Disease (CWD) testing records, 4) updating the records kept to two years to match statute, 5) adding the calculations used to determine compliance with inventory and testing requirements, 6) clarifying the process for the Domesticated Elk Advisory Council to review a ranch size before receiving a license, 7) removing red deer genetic testing requirements, 8) adding the requirement that elk will be tagged with a RFID tag and visual tag before 12 months of age, 9) reorganizing the import requirements, 10) removing the restriction on elk East of the 100th meridian,

11) adding the requirement that elk coming from East of the 100th meridian be harvested or treated within 150 days and report that information to the Department of Agriculture and Food (department), 12) requiring elk facilities hold elk for harvest until slaughter withdrawal times are complete, and 13) requiring elk ranches to ensure slaughtered elk are tested for CWD. Most of the changes to this rule are clarifying and technical changes to align with the Rulewriting Manual for Utah and be consistent with active voice and present tense terms.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department anticipates minimal costs to the state's budget because it will absorb the staff costs needed to verify that an elk ranch meets the importation requirements. The Department anticipates this cost to be about $2,300 starting in FY 2025.
B) Local governments:
Local governments are not expected to be impacted by the changes in this rule because local government does not administer the program and does not oversee elk ranches that import elk into the state.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The proposed changes will not impact small businesses because an elk ranch will harvest the elk within 150 days of importing per Section R58-18-9. Also, Subsection R58-20-10(10) requires harvesting elk by the end of the year so an elk ranch would not have any extra elk to test for non-compliance.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The changes in this rule would not impact non-small businesses because none of the elk ranches licensed in the state have more than 50 employees.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The proposed changes in this rule will not impact other persons because a person does not import elk.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The proposed changes do not impact compliance costs for an elk ranch because the changes to the requirements do not impact the compliance costs for elk ranches.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$2,500	$2,500	$2,500
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$2,500**	**$2,500**	**$2,500**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**

State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**($2,500)**	**($2,500)**	**($2,500)**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-39-106	Subsection 4-39-303(6)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	**Date:**	06/28/2024

R58. Agriculture and Food, Animal Industry.

[~~R58-20. Elk Ranches.~~

~~R58-20-1. Authority and Purpose.~~

~~Promulgated under the authority of Section 4-39-106 this rule establishes procedures for applying for and renewing licenses, health requirements, and standards for operating an elk ranch.~~

~~R58-20-2. Definitions.~~

~~In addition to terms used in Sections 4-39-102, and R58-18-2:~~

~~(1) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.~~

~~(2) "Elk ranch" means a facility where domesticated elk are harvested through normal or typical hunting methods.~~

~~R58-20-3. Application and Licensing Process.~~

~~(1) Each applicant for a license to operate an elk ranch shall submit a signed, complete, accurate, and legible application on a department issued form.~~

~~(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed elk ranch in conjunction with roads, town, and other points of interest in the immediate area.~~

~~(3) A premises identification number shall be assigned to an elk ranch when a finished application is received by the department.~~

~~(4) A complete facility inspection and approval shall be conducted before issuing a license or entry of elk to any facility. This inspection shall be made by an approved department employee and a Division of Wildlife Resources employee. It shall be the applicant's responsibility to request this inspection at least three business days in advance.~~

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

~~(6) Each license expires on July 1 in the year following the year of issuance.~~

~~(7) Elk may enter the facility only after the department issues a license.~~

~~**R58-20-4. License Renewal.**~~

~~(1) Each elk ranch shall apply for license renewal to the department no later than April 30th, indicating its desire to continue as an elk ranch. The required fee shall accompany this application. Any license renewal application received after April 30th will have a late fee assessed.~~

~~(2) Any facility that does not apply for renewal before July 1st is delinquent.~~

~~(3) If the application and fee for renewal are not received on or before July 1, the license shall not be renewed, and a new license shall be required.~~

~~(4) Any animals on the premises shall be quarantined until a new license is acquired or due process of law has occurred.~~

~~(5) An operator of an elk ranch that has had their license expire or had their license revoked shall remove any elk from the facility within 30 calendar days by:~~

~~(a) sending elk to an inspected facility for slaughter; or~~

~~(b) selling elk to another facility.~~

~~(6) Any elk remaining on the facility at the end of 30 days shall be sold by the department during a special sale conducted for that purpose.~~

~~(7) A department employee shall inspect the facility before license renewal.~~

~~(8) The employee shall inspect the facility and document that each fencing and facility requirement in Sections 4-39-201 and R58-18-5 is met.~~

~~(9) This inspection shall be held within 60 days of license renewal.~~

~~(10) The applicant is responsible for arranging an appointment with the department for inspection and giving the department reasonable time to respond to a request.~~

~~(11) The employee shall determine if any domesticated elk remain on the elk ranch.~~

~~(12) The department shall reconcile records received from the elk facility with those maintained by the department. Records obtained from the facility include death reports, harvest permits, and brand inspections.~~

~~(13) Inventory records provided by the facility and records maintained by the department shall have at least a 95% match.~~

~~(14) Failure to meet the 95% match may result in the revocation of the license.~~

~~(15) Failure to meet the 95% match for two consecutive years shall result in the revocation of the license.~~

~~(16) The facility shall meet chronic wasting disease (CWD) testing requirements described in Section R58-20-15.~~

~~**R58-20-5. Facilities.**~~

~~(1) No cervids other than domesticated elk are allowed to enter and be kept on any elk ranch.~~

~~(2) Each perimeter fence and gate shall meet the minimum standard defined in Section 4-39-201. The perimeter fences and gates shall be constructed to prevent the movement of cervids, both captive and wild, into or out of the facility.~~

~~(3) An elk ranch may be no smaller than 600 fenced contiguous acres, with sufficient trees, rocks, hills, and natural habitat, to provide cover for the animals. Elk ranch owners intending to operate facilities larger than 5,000 acres shall obtain written approval from the Elk Advisory Council, following studies, reviews, or assessments, which the Council may consider necessary to undertake, to make an informed decision.~~

~~(4) The elk ranch owner shall provide sufficient signage around the facility indicating that it is a domesticated elk facility, so the public is notified that the animals are not wild elk.~~

~~(5) Each location of a licensed facility with separate perimeter fences shall have a separate loading facility.~~

~~(6) To be licensed, the elk ranch shall include a handling facility that can be accessed and operated with reasonable ease for identification and disease control purposes. An exception to this section may be granted in cases where there is a licensed farm owned by the same individual within 50 miles of the elk ranch that can be accessed in a reasonably short period.~~

~~(7) Each requirement in Section 4-39-401 concerning the escape of domesticated elk applies to elk ranches.~~

~~(8) An elk ranch owner shall remove any wild big game animals before enclosing the elk ranch. If wild big game animals are found within the elk ranch after it has been licensed, the owner shall notify the department and Division of Wildlife Resources within 48 hours. The parties involved may design a cooperative removal program to remove the animals.~~

~~**R58-20-6. Records.**~~

~~(1) Licensed elk ranches shall maintain accurate and legible office records showing the inventory of each elk on the facility.~~

~~(2) The record of each animal shall include the following:~~

~~(a) name and address of the agent that the elk was bought from;~~

~~(b) official RFID tag number;~~

~~(c) visual tag number, "ranch" or "dangle" tag;~~

~~(d) age;~~

~~(e) sex;~~

~~(f) date of purchase;~~

~~(g) date and method of death;~~

~~(h) Certificate of Veterinary Inspection if bought out of state; and~~

~~(i) laboratory results.~~

~~(3) A death record of elk 12 months of age and over that die, are harvested, slaughtered, killed, or destroyed shall be submitted to the department within 30 days of discovering the animal's death. A harvest permit may serve as the death record.~~

~~**R58-20-7. Genetic Purity.**~~

~~(1) Elk entering Utah, except those going directly to an official slaughter facility, shall have written evidence of genetic purity.~~

~~(2) Written evidence of genetic purity shall include:~~

~~(a) test charts from an approved lab that has completed;~~

~~(i) a blood genetic purity test; or~~

~~(ii) a DNA genetic purity test;~~

~~(b) registration papers from the North American Elk Breeders Association; or~~

~~(c) herd purity certification papers issued by another state agency.~~

~~(3) Genetic purity records shall be kept on file and presented to the department upon request.~~

~~(4) Any elk identified as having red deer genetic factor shall be destroyed or immediately removed from the state.~~

~~**R58-20-8. Identification.**~~

~~(1) Each elk shall have two forms of identification that includes:~~

~~(a) a tamper-resistant RFID tag; and~~

~~(i) The RFID tag shall be placed in the right ear.~~

~~(ii) Purchased elk must have an RFID tag applied before arrival at the premises.~~

~~(iii) Replacement RFID tags and the visual tag number shall be reported to the department within seven days of application.~~

~~(b) a visible dangle ear tag before arriving at the premises.~~

~~**R58-20-9. Inspections.**~~

~~(1) Elk shall be removed from elk ranches by harvest or recapture by December 31 of each year.~~

~~(2) Any recaptured live domesticated elk going to different premises shall be reported to the department before leaving the elk ranch.~~

~~(3) Only US raised elk may be recaptured and moved. Elk imported from international herds must be harvested within the same season they are imported.~~

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

~~(5) The licensee is responsible for arranging any inspection with the domesticated elk program manager.~~

~~(6) A 48 hours notice shall be given to the inspector.~~

~~(7) Elk to be inspected shall be contained in facilities adequate to inspect each animal properly.~~

~~(8) Each elk shall have its RFID tag and visual dangle tag recorded on its brand inspection.~~

~~(9) Pursuant to Section 4-39-207, the department may, at any reasonable time during regular business hours, have free and unimpeded access to inspect any facilities, animals, and records where domesticated elk are kept.~~

~~**R58-20-10. Health Rules.**~~

~~(1) Before the importation of elk, whether by live animals, gametes, eggs, sperm, or other genetic material into Utah, the importing party shall obtain an import permit from the state veterinarian.~~

~~(2) An import permit number shall be issued only if the destination herd is a licensed elk facility or an official slaughter facility.~~

~~(3) The import permit number shall be obtained from the department by the veterinarian conducting the official health inspection.~~

~~(4) Each elk imported into Utah shall be examined by an accredited veterinarian before importation and shall be accompanied by a valid Certificate of Veterinary Inspection that meets the disease testing requirements listed in this rule.~~

~~(5) Disease testing results and health statements shall be included on the Certificate of Veterinary Inspection. Testing requirements may be waived on elk traveling directly to an official slaughter facility.~~

~~(6) Elk imported from a US herd shall test negative for tuberculosis within 90 days before entry unless enrolled in a tuberculosis herd monitoring accreditation program.~~

~~(7) Elk imported from Canada shall test negative for tuberculosis within 90 days before entry and brucellosis within 30 days before entry.~~

~~(8) Elk imported from a brucellosis Designated Surveillance Area shall participate in their state's brucellosis surveillance program or test negative for brucellosis within 30 days before entry. Herds participating in their state's surveillance program shall provide a letter from their state veterinarian or designee stating their participation and their last herd test date.~~

~~(9) The Certificate of Veterinary Inspection shall include the signed statement: "To the best of my knowledge, the elk listed herein are not infected with Johne's Disease (Paratuberculosis), CWD, or Malignant Catarrhal Fever and have never been east of the 100th meridian."~~

~~(10) The Certificate of Veterinary Inspection shall also contain the shipper's and receiver's name and address and the number, sex, age, and any individual identification on each animal.~~

~~(11) Domesticated elk being imported from an international herd shall be:~~

~~(a) male;~~

~~(b) imported to an elk ranch for use in the elk ranch;~~

~~(c) harvested in the same season in which the domesticated elk enter the state; and~~

~~(d) an exception to this rule if approved by the state veterinarian which may require quarantine.~~

~~(12) Additional disease testing or quarantine may be required at the discretion of the state veterinarian when there is reason to believe other diseases, parasites, or other health concerns are present.~~

~~(13) Treatment of each elk for internal and external parasites is required within 30 days before entry, except for elk going directly to an official slaughter facility.~~

~~(14) Each elk imported into Utah shall originate from a state or province that requires that any CWD-suspect domesticated elk or CWD-positive domesticated elk be reported to the state veterinarian or regulatory authority. The state or province of origin shall have the authority to quarantine source herds and herds affected with or exposed to CWD.~~

~~(15) Each elk imported into Utah shall originate from a state or province implementing a CWD Herd Certification Program.~~

~~(16) Each elk imported to Utah shall originate from herds participating in a verified CWD surveillance program for at least five years and are considered "certified" in that program.~~

~~(17) Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.~~

~~(18) No elk originating from a CWD-positive herd or involved in a trace for CWD may be imported to Utah.~~

~~(19) Elk semen, eggs, or gametes require a Certificate of Veterinary Inspection verifying the source animal has genetic purity and certifying that it has never resided on premises where CWD has been identified or traced. An import permit obtained by the issuing veterinarian shall be listed on the Certificate of Veterinary Inspection.~~

~~R58-20-11. Meat.~~

~~(1) The selling of domesticated elk meat obtained from a licensed elk ranch is not allowed. The meat may be:~~

~~(a) consumed by either the hunter or ranch owner or their immediate family members, employees or guests; or~~

~~(b) donated as a charitable food item in compliance with Section 4-34-103.~~

~~R58-20-12. Dissolution of an Elk Ranch.~~

~~(1) Before an elk ranch can be dissolved, any elk shall be removed from the premises.~~

~~(2) Any abandoned elk will be removed by the department or Division of Wildlife Resources using lethal means.~~

~~(a) Carcasses will be disposed of by either disposal in an approved landfill, incineration, or donated as a charitable food item in compliance with Section 4-34-103.~~

~~(b) Costs for the removal of abandoned elk shall be charged to the owner of the elk ranch.~~

~~R58-20-13. Liability.~~

~~In accordance with Section 63G-7-101, the granting of an elk ranch license or the imposing of a requirement to gain an owner's permission does not attach any liability to the department for any accident, mishap, or injury that occurs on, adjacent to, or in connection with the elk ranch.~~

~~R58-20-14. Domesticated Elk Harvest Permits.~~

~~(1) Harvest season for domesticated elk begins August 1 and ends December 31.~~

~~(2) Hunting hours shall be from 1/2 hour before sunrise to 1/2 hour after sunset.~~

~~(3) No persons may hunt elk in an approved elk ranch without first being issued a Domestic Elk Harvest Permit from the owner. The permit shall be in the hunter's possession during hunting times.~~

~~(4) The elk ranch owner shall fill out a Domestic Elk Harvest Permit at the time of harvest.~~

~~(5) One copy of the permit shall be sent to the department, one copy shall go to the hunter, and one copy shall be kept on file at the facility.~~

~~(6) Validated tags shall be attached to the carcass and the antlers before leaving the park and remain affixed during transportation to a residence, meat processor, taxidermist, or the destination.~~

~~(7) Permits shall be sent to the department within 30 days of harvest.~~

~~(8) An owner of a licensed elk ranch may purchase domesticated elk harvest permits from the department. Payment for harvest permits shall be received before issuance of any harvest permits.~~

~~(9) An owner of a licensed elk ranch may exchange a harvest permit issued to a hunter for a new permit without paying an additional fee if the owner provides to the department:~~

~~(a) an affidavit by the owner of the elk ranch stating that the person listed on the permit did not harvest a domesticated elk: and~~

~~(b) any unused harvest permits.~~

~~(10) A refund for an unused domesticated elk harvest permit may be issued to the owner of an elk ranch if the owner of the facility returns the unused harvest permit to the department.~~

~~R58-20-15. CWD Surveillance and Investigation.~~

~~(1) Any person or laboratory who suspects or diagnoses CWD in a domesticated elk in Utah shall notify the state veterinarian immediately.~~

~~(2) The state veterinarian shall promptly investigate any animals reported as CWD-positive domesticated elk or CWD-suspect domesticated elk.~~

~~(3) The state veterinarian may:~~

~~(a) conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect domesticated elk and exposed domesticated elk and that identifies animals to be traced;~~

~~(b) conduct tracebacks of CWD-positive animals and trace outs of CWD-exposed animals and report any out of state traces to the appropriate state promptly after receipt of notification of a CWD-positive animal; and~~

~~(c) conduct tracebacks based on slaughter or another sampling promptly after receipt of notification of a CWD-positive animal at slaughter.~~

~~(4) Within 30 days of the date a suspect domesticated elk or positive domesticated elk is reported to the department, the state veterinarian shall provide written notice to an owner of a domesticated elk facility of:~~

~~(a) the status of the animal disease traceability investigation, including any findings; and~~

~~(b) the owner's right to appeal.~~

~~(5) With the approval of the commissioner, the state veterinarian may place an elk facility under quarantine if a domesticated elk at the elk facility has, within the previous 60 months:~~

~~(a) tested positive for CWD; or~~

~~(b) commingled with a CWD-positive elk in a quarantined domesticated elk facility.~~

~~(6) The state veterinarian may not place an elk facility under quarantine if no CWD-positive, CWD-suspect, or commingled domesticated elk resided at the domesticated elk facility.~~

~~(7) Each licensed elk ranch shall be required to submit both the obex portion of the brainstem and medial retropharyngeal lymph nodes of any elk over 12 months of age that die or are otherwise harvested or destroyed for testing for CWD by an official test at an approved laboratory.~~

~~(8) The samples shall be collected by an approved laboratory or a person authorized by the state veterinarian. Approved personnel shall have training on collecting, storing, handling, shipping, and identifying specimens for submission.~~

~~(9) At least 90% of the elk shall have at least one sample be testable by the laboratory.~~

~~(10) Samples designated as "location," "unsuitable," or "insufficient follicles" and missing samples are considered untestable.~~

~~(11) Individuals with less than 90% testable samples may lose their approval to collect samples and may be required to undergo additional training before being re-approved.~~

~~(12) The department may deny, revoke, or suspend a domestic elk ranch license if the ranch fails to submit at least one testable sample for 90% of elk.~~

~~(13) The CWD surveillance samples from elk residing on elk ranches shall be collected and preserved in formalin within 48 hours following the animal's death and submitted within 30 days to a laboratory approved by the state veterinarian.~~

~~(14) Laboratory fees and expenses incurred for collecting and shipping samples shall be the responsibility of the participating elk ranch.~~

~~(15) The state veterinarian will determine the designation and disposition of CWD-exposed, positive, or suspect domesticated elk or herds in Utah.~~

~~R58-20-16. CWD-Positive Herd Management.~~

~~(1) Each domesticated elk ranch with an elk that tested positive for CWD or commingled with an elk that tested positive for CWD shall receive a written herd plan developed by the state veterinarian with input from the herd owner, USDA, and other affected parties.~~

~~(2) The herd plan identifies the steps to manage CWD in a CWD-positive herd.~~

~~(3) A herd plan shall require the following:~~

~~(a) specified means of identification for each animal in the herd;~~

~~(b) regular examination of animals in the herd by a veterinarian for signs of disease;~~

~~(c) reporting to a state or USDA representative of any signs of central nervous system disease in herd animals; and~~

~~(d) maintaining records of the acquisition and disposition of any animals entering or leaving the herd, including the date of purchase or removal, name and address of the person from whom the animal was acquired or to whom it was disposed of, and cause of death, if the animal died while in the herd.~~

~~(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the condition of the herd and its premises, including specifying:~~

~~(a) the time for which premises shall not contain cervids after CWD-positive, exposed, or suspect animals are removed from the premises;~~

~~(b) fencing requirements;~~

~~(c) depopulation or selective culling of animals;~~

~~(d) restrictions on sharing and movement of possibly contaminated livestock equipment; and~~

~~(e) cleaning and disinfection requirements, or other biosecurity requirements.~~

~~(5) The state veterinarian shall approve any movement of cervids onto or off the facility.~~

~~(6) Movement restriction of cervids shall remain in place until the requirements of the herd plan have been met.~~

~~(7) Requirements to move elk from a positive CWD elk ranch to an official slaughter facility are as follows:~~

~~(a) comply with Section R58-20-10; and~~

~~(b) each elk shall be tested for CWD.~~

~~(8) The state veterinarian may review and revise a herd plan at any time in response to changes in the herd or premises or improvements in understanding the nature of CWD epidemiology or techniques to prevent its spread.~~

~~R58-20-17. Grounds for Denial, Suspension, or Revocation of Licenses for Domestic Elk Facilities.~~

~~(1) The department shall deny, suspend, or revoke a license to operate an elk ranch if the licensee or applicant:~~

~~(a) fails, for two consecutive years, to:~~

~~(i) meet inventory requirements as required by the department;~~

~~(ii) submit at least one testable CWD sample for at least 90% of mortalities over 12 months old; or~~

~~(iii) notify the department that there are wild cervids inside an elk ranch;~~

~~(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or~~

~~(c) violates the import requirements of Section 4-39-303.~~

~~(2) The department may deny, revoke, or suspend a license to operate an elk ranch if, after delivery of notice and an opportunity to correct, the licensee or applicant:~~

~~(a) provides:~~

~~(i) an unfinished application or incorrect application information; or~~

~~(ii) incorrect records or failure to maintain required records.~~

~~(b) fails to:~~

~~(i) notify the department of the movement of elk onto or from the facility;~~

~~(ii) identify elk as required;~~

~~(iii) notify the department concerning an escape of an animal from a domesticated elk facility;~~

~~(iv) maintain a perimeter fence that prevents the escape of domesticated elk or ingress of wild cervids into the facility;~~

~~(v) participate with the department in a cooperative wild cervid removal program;~~

~~(vi) submit at least one testable CWD sample for at least 90% of mortalities over 12 months old; or~~

~~(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility;~~

~~(c) moves imported elk onto a facility without getting a Certificate of Veterinary Inspection that has an import permit number from the department;~~

~~(d) imports animals that are prohibited or controlled by the Division of Wildlife Resources; or~~

~~(e) handles animals in a manner that violates acceptable animal husbandry practices.~~

~~(3) The department will provide the facility with a written notice if they do not meet the requirements listed in Subsections R58-20-17(1) and R58-20-17(2). The facility will be given 30 days to correct the deficiencies.~~

~~(4) Once the department has notified the operator of an elk ranch of the denial, suspension, or revocation of a license to operate an elk ranch, the operator has 15 calendar days to request an appeal with the commissioner.~~

~~(5) An operator of an elk ranch that has had their license revoked shall remove any elk from the facility within 30 calendar days by:~~

~~(a) sending any elk to an inspected facility for slaughter; or~~

~~(b) selling elk to another facility.~~

~~(6) Any elk remaining on the facility at the end of 30 days shall be sold by the department during a special sale conducted for that purpose.~~]

R58-20. Domesticated Elk Ranch.

R58-20-1. Authority and Purpose.

(1) Promulgated under the authority of Section 4-39-106 and Subsection 4-39-303(6).

(2) This rule establishes procedures for the application and renewal of licenses, health requirements, and standards for operating a domesticated elk ranch.

R58-20-2. Definitions.

In addition to the definitions found in Sections 4-1-109, 4-7-103, 4-24-102, 4-32-105, 4-39-102, and R58-18-2, the following terms are defined for this rule:

(1) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.

(2) "Elk ranch" means a facility where domesticated elk are harvested through typical hunting methods.

(3) "Harvest" means to kill by hunting or slaughter. For this rule, "harvest" may include an elk that dies by means other than hunting or slaughter.

R58-20-3. Application and Licensing Process.

(1) Each applicant for a license to operate an elk ranch shall submit a signed, complete, accurate, and legible application on a department issued form.

(2) In addition to the application, an applicant shall submit a general plot plan showing the location of the proposed elk ranch in conjunction with roads, towns, and other points of interest in the immediate area.

(3) The department shall assign a premises identification number to an elk ranch when the department approves a finished application.

(4) After the department receives an application, a complete domesticated facility inspection shall be:

(a) conducted before the issuing of a license or entry of elk to the elk ranch;

(b) conducted by an approved department employee and a Division of Wildlife Resources (DWR) employee; and

(c) the responsibility of the applicant to request at least three working days in advance.

(5) The department shall issue a license upon receipt of an application, inspection of the domesticated elk facility, completion of the facility approval form, and receipt of the license fee.

(6) Each elk ranch license shall expire on July 1 in the year following the year of issuance.

(7) The elk owner may only allow elk to enter the domesticated elk facility after the department has issued a license.

(8) An elk owner shall submit an application to have a license for each location that is:

(a) maintained for a different purpose such as raising elk vs. hunting elk; or

(b) separated by two distinct perimeter fences without a shared alleyway.

R58-20-4. License Renewal.

(1) Each elk ranch shall submit a license renewal application and the application fee to the department by April 30 of each year.

(a) The department shall assess a late fee if the application is received after April 30.

(b) The department shall consider an application submitted after July 1 as delinquent and will require the applicant to pay a new license fee.

(2) Before the department renews a license and within 60 days of license renewal, the applicant shall contact the department to schedule an inspection of the elk facility.

(3) The department employee conducting the facility inspection shall verify that the facility meets all the fencing and facility requirements listed in this rule and Sections 4-39-201 and 4-39-202.

(4)(a) Before renewal of the license, the department shall reconcile inventory and Chronic Wasting Disease (CWD) testing records with the records in the department database to determine if the facility is in compliance with inventory and testing requirements.

(b) Inventory and testing compliance calculations shall be:

(i) based on the period May 1 of the year before license renewal to April 30 of the year in which the license is renewed; and

(ii) found in Sections R58-20-6 and R58-20-11.

(5) The department shall provide each facility a written notice of their inventory and testing reconciliation percentages no later than May 30 to allow the facility to correct any deficiencies in accordance with Section R58-20-13.

(6) The applicant shall quarantine any animals on the elk ranch until a new license is acquired or due process of law has occurred.

(7) An elk ranch that has had its license expire or had its license revoked shall remove any elk from the facility within 30 calendar days by:

(a) sending elk to an inspected facility for slaughter; or

(b) selling elk to another licensed facility.

(8) At the end of 30 days, the department shall sell any elk remaining on the facility during a special sale conducted for that purpose.

(9) A department employee shall determine if any domesticated elk remains on the elk ranch at the time of inspection.

R58-20-5. Elk Ranch Requirements.

(1) An elk ranch may not allow cervids other than domesticated elk to enter and reside on the elk ranch.

(2) The elk ranch shall construct perimeter fences and gates to prevent the movement of cervids, both captive and wild, into or out of the facility and shall meet the minimum standards defined in Section 4-39-201.

(3) The elk ranch shall contain sufficient trees, rocks, hills, and natural habitat to provide cover for the animals.

(4) Elk ranches shall be 600 to 5,000 contiguous acres.

(5) With written approval from the Domesticated Elk Advisory Council, an elk ranch may:

(a) be smaller than 600 fenced contiguous acres; or

(b) be larger than 5,000 acres.

(6) The elk ranch owner shall:

(a) provide ample signage around the facility indicating that it is a domesticated elk facility and notifying the public that the animals are not wild elk;

(b) meet each requirement in Section 4-39-401 concerning the escape of domesticated elk;

(c) remove any wild big game animals before enclosing the elk ranch; and

(d) notify the department and Division of Wildlife Resources within 48 hours if wild big game animals are found within the elk ranch. The parties involved may design a cooperative removal program to remove the animals.

(6) Elk ranches shall allow access to the facility and records for an inspection in accordance with Section 4-39-207, Inspection of Facilities.

R58-20-6. Records and Inventory.

(1) A licensed elk ranch shall maintain accurate and legible records for each elk on the facility for the life of the elk plus at least two years.

(2) The inventory record of each elk shall include:

(a) name and address of the agent that sold the elk;

(b) Radio Frequency Identification (RFID) tag number;

(c) visual tag number, also known as the "ranch" or "visible dangle tag" number;

(d) date of birth;

(e) sex;

(f) date of purchase and a copy of the brand inspection, if purchased;

(g) date and cause of death or change of ownership, with the name of the new owner and address recorded and retained;

(h) Certificate of Veterinary Inspection, if imported from out of state; and

(i) CWD laboratory results.

(3) A licensed elk ranch shall submit the death record of any elk 12 months of age or older that dies, is slaughtered, killed, or destroyed to the department within 30 days of the discovery of the death of the animal. A Domesticated Elk Harvest Permit may serve as the death record.

(4) The department shall use the following calculation method to determine compliance with inventory requirements.

(a) Inventory compliance = (Dead + Hunt Killed + Slaughtered) / (Missing + Dead + Hunt Killed + Slaughtered).

(b) Inventory compliance shall be calculated using data from May 1 to April 30.

(5) The department will not renew the license of an elk ranch that is less than 95% inventory compliant for two consecutive years.

R58-20-7. Elk Identification.

(1) Each elk shall have two forms of identification that are applied before arriving at the elk ranch, including:

(a) a tamper-resistant RFID tag placed in the right ear; and

(b) a visual ear tag.

(2) A licensed elk ranch shall report to the department any RFID tag number or visual tag number applied to an elk within seven days of applying the tags to the elk.

R58-20-8. Brand Inspections.

(1) Under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, the department shall inspect:

(a) each elk when there is a change of ownership, movement out of state, or before slaughter;

(b) any out-of-state sourced elk purchased or brought into the facility upon arrival at a licensed facility and before releasing the elk into an area inhabited by other elk; and

(c) elk movements to a premises not owned by the same individual.

(2) The brand inspector shall record the RFID tag and the visual tag numbers on the brand inspection certificate.

(3) Before the department conducts a brand inspection, an elk owner shall:

(a) arrange at least 48 hours in advance for an inspection with the department's Domesticated Elk Program Manager; and

(b) properly confine elk that the department will inspect in a facility adequate to properly inspect each animal.

(4) An elk owner shall ensure any elk shipments moving from a Utah elk ranch are accompanied by a Utah Brand Inspection Certificate.

(5) The department does not require a brand inspection on the following:

(a) shed antlers;

(b) animals moving from one perimeter fence to another within the same facility; and

(c) elk moving from a licensed facility to another licensed facility owned by the same person within the state although the owner shall report the movement to the department within five days of movement.

R58-20-9. Health Standards and Requirements.

(1) The state veterinarian may require disease testing or quarantine when there is reason to believe diseases, parasites, or other health concerns are present.

(2) A licensed elk ranch shall immediately destroy or remove any elk identified as having red deer genetic factor.

(3) Per Subsection 4-39-303(5), domesticated elk being imported from an international herd shall be:

(a) only male;

(b) imported to an elk ranch for use in the elk ranch; and

(c) harvested in the same season in which the domesticated elk enters the state.

(4) The state veterinarian may approve an exception to Subsection R58-20-9(3) which may require quarantine.

(5) The department may not allow elk to be imported from a herd of origin that:

(a) is a CWD-positive, a Trace Back, or a Trace Forward Herd; or

(b) has any animals infected with or exposed to meningeal worm, Johne's disease (paratuberculosis), CWD, or malignant catarrhal fever.

(6) An elk facility importing live elk, eggs, or semen into Utah shall submit a complete Utah Domesticated Elk and Reindeer Import Application to the department.

(a) The state or provincial animal health official in the state or province of origin shall sign the application before submitting the application.

(b) The state or provincial animal health official shall include a statement that accompanies the application that includes:

(i) the date of enrollment in a herd certification program;

(ii) declaration that the herd of origin has CWD "certified" status;

(iii) explanation of any involvement in CWD epidemiologic investigations;

(iv) statement of CWD certification status of any source herds for herd imports or introductions during the 60 months before the application; and

(v) for herds originating in a brucellosis-designated surveillance area, the application shall include a statement that the herd participates in the state brucellosis surveillance program.

(c) The herd of origin shall provide the following documentation from the previous 60 months in the application:

(i) a list of elk that died, were slaughtered or were hunted, and the CWD test results on those elk;

(ii) a list of each elk that is imported or introduced, other than natural additions; and

(iii) a disclosure statement indicating any non-compliances, CWD exposure, epidemiological investigations, escapes, or wildlife ingresses.

(d) The department may approve each import application that meets the requirements found in Subsections R58-20-9(3) through R58-20-9(6).

(e) The department shall deny an application if the destination is not a licensed elk facility or official slaughter facility.

(7) After the department approves the import application and before the elk facility imports elk, the owner of the herd of origin shall:

(a) apply an RFID tag and a unique visual tag to each elk;

(b) treat each elk for internal and external parasites with a product effective against *Parelaphostrongylus tenuis* (meningeal worm) within 60 days before entering Utah;

(c) complete brucellosis testing within 30 days before entry, if:
(i) the elk is imported from Canada; or
(ii) the elk is imported from the brucellosis Designated Surveillance Areas of Idaho, Montana, or Wyoming, or from a state not classified as brucellosis-free and the herd does not provide proof of participation in the state brucellosis surveillance program; and
(d) complete tuberculosis testing within 90 days before entry, unless:
(i) the elk is coming from a US herd that is accredited, qualified, or monitored;
(ii) the elk is under six months of age and accompanied by a negative testing dam; or
(iii) the elk is imported directly to an official slaughter facility.
(8) Elk imported from Canada shall originate from a herd that has performed a whole herd tuberculosis test and a whole herd brucellosis test within the previous five years.
(9) After the required testing is completed, the veterinarian inspecting the elk to be imported shall request an import permit from the department.
(a) The Canadian Food Inspection Agency shall endorse a Certificate of Veterinary Inspection for Canadian elk before the veterinarian requests the import permit.
(b) The veterinarian requesting the import permit shall submit the following documents to the department:
(i) a signed Certificate of Veterinary Inspection that includes the sex, age, visual tag number, and RFID tag number for each elk;
(ii) the signed statement "To the best of my knowledge, the elk listed are not infected with Johne's disease (Paratuberculosis), CWD, or Malignant Catarrhal Fever;"
(iii) test charts for brucellosis and tuberculosis, if required; and
(iv) a statement with the date of deworming and the name of the product used.
(c) An elk facility may not import elk into Utah until the department approves the import permit.
(10) A licensed elk facility that imports elk from east of the 100-degree meridian shall:
(a) harvest or treat the elk for internal and external parasites no later than 150 days after arrival in the state; and
(b) provide documentation of treatment or harvest to the department.
(11) A licensed elk ranch shall hold any elk for harvest until the elk has completed any slaughter withdrawal periods for parasite treatments and other administered products.

R58-20-10. Domesticated Elk Harvest Permits.

(1) Per Subsection 4-39-106(1)(e), an elk ranch owner may purchase an elk harvest permit by submitting an order form to the department. The department shall receive payment for harvest permits before issuing any harvest permits.
(2) An elk ranch owner shall harvest elk starting August 1 to December 31 of each year during the hours from 1/2 hour before sunrise to 1/2 hour after sunset.
(3) An elk ranch owner shall issue an elk harvest permit to each hunter on the ranch before they hunt, and the permit shall be in the hunter's possession during hunting times.
(4) The elk ranch owner shall complete an elk harvest permit at the time of harvest and shall provide a copy to each of the following:
(a) the department within 30 days of harvest;
(b) the hunter at the time of harvest; and
(c) the elk ranch for filing.
(5) After an elk is harvested and before the elk carcass leaves the ranch, an elk ranch owner shall attach validated tags to the carcass and the antlers. The tags shall remain affixed during transportation to a meat processor, taxidermist, or the final destination.
(6) An elk ranch owner may exchange a harvest permit issued to a hunter for a new permit without paying an additional fee if the owner provides to the department:
(a) an affidavit by the owner of the elk ranch stating that the person listed on the permit did not harvest a domesticated elk: and
(b) all copies of the unused harvest permits.
(7) The department may issue a refund for an unused elk harvest permit to the elk ranch owner after the harvest permit is returned to the department.
(8) An elk ranch may issue a domesticated elk harvest permit during a different hunting season if it was not utilized during the original season it was issued.
(9) An elk ranch may not sell domesticated elk meat. The domesticated elk meat may be:
(a) consumed by the hunter, ranch owner, or their immediate family members, employees, or guests; or
(b) donated as a charitable food item in compliance with Section 4-34-103.
(10) The elk ranch owner shall:
(a) harvest or recapture domesticated elk by December 31 of each year;
(b) harvest elk imported from international herds within the same season the elk owner imported them; and
(c) recapture only US-raised elk after December 31.

R58-20-11. CWD Surveillance and Investigation.

(1) Any person or laboratory who suspects or diagnoses CWD in a domesticated elk in Utah shall notify the state veterinarian immediately.
(2) The state veterinarian shall promptly investigate any domesticated elk reported as CWD-positive or CWD-suspect by:
(a) conducting an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect domesticated elk and exposed domesticated elk and that identifies animals to be traced;

(b) performing tracebacks of CWD-positive animals and trace forwards of CWD-exposed animals; and

(c) reporting any out-of-state traces to the appropriate state promptly after receipt of notification of a CWD-positive animal.

(3) Within 30 days of the date that a CWD-suspect or CWD-positive domesticated elk is reported to the department, the state veterinarian shall provide written notice to an owner of a domesticated elk facility of:

(a) the status of the animal disease traceability investigation, including any findings; and

(b) the owner's right to appeal.

(4) With the approval of the commissioner, the state veterinarian may place an elk facility under quarantine if a domesticated elk at the elk facility, within the previous 60 months:

(a) has tested positive for CWD;

(b) is a suspect domesticated elk; or

(c) has commingled with a CWD-positive elk in a quarantined domesticated elk facility.

(5) The state veterinarian may not place an elk facility under quarantine for CWD if there is no CWD-positive, CWD-suspect, or commingled domesticated elk residing at the domesticated elk facility.

(6) The state veterinarian shall determine the designation and disposition of CWD-exposed, positive, or suspect domesticated elk or herds in Utah.

(7)(a) The department requires each licensed elk ranch to submit both the obex portion of the brainstem, and medial retropharyngeal lymph nodes of any elk 12 months of age or older that is harvested, dies, or is slaughtered for testing for CWD by an official test at an approved laboratory.

(b) The elk ranch shall:

(i) collect and preserve the brainstem and lymph node samples in formalin within 48 hours following the animals' death;

(ii) submit the samples within 30 days of collection to a laboratory approved by the state veterinarian; and

(iii) be responsible for laboratory fees and expenses incurred for the collection and shipping of samples.

(8) The state veterinarian authorized person or an approved laboratory shall collect the samples. An authorized person shall:

(a) have training on collecting, storing, handling, shipping, and identifying specimens for submission; and

(b) submit 90% testable samples.

(c) If a state veterinarian authorized person does not submit 90% testable samples, they may lose their approval to collect samples and may require additional training.

(9) The department considers samples designated as "location," "unsuitable," or "insufficient follicles," and missing samples as untestable.

(10) The department may deny, revoke, or suspend a domestic elk ranch license if a ranch fails to submit at least one testable sample for 90% of elk that the elk owner slaughters or harvests, or that dies on the elk ranch.

(11) To determine compliance with the testing requirement listed in Subsection 4-39-503(1)(a)(ii), the department shall:

(a) use the following testing compliance calculation = (Dead Tested + Hunt Killed Tested + Slaughtered Tested) /(Missing + Dead + Hunt Killed + Slaughtered);

(b) calculate the testing compliance listed in Subsection R58-20-11(11)(a) from May 1 to April 30: and

(c) provide each facility with its calculated testing compliance no later than May 30.

(12) An elk ranch that does not have at least 90% testing compliance may conduct additional testing through slaughter or another protocol approved by the department to meet the testing compliance requirement before license renewal.

(13) An elk ranch that sends an animal to a slaughter facility shall ensure:

(a) CWD samples are collected and submitted in accordance with Section R58-20-11; and

(b) the slaughter facility maintains individual elk identification throughout slaughter and processing, and until the laboratory returns the CWD test results.

(14) A slaughter establishment may collect and submit the CWD samples on behalf of the elk ranch.

R58-20-12. CWD-Positive Herd Management.

(1) Each elk ranch with an elk that has tested positive for CWD or commingled with an elk that has tested positive for CWD shall receive a written herd plan developed by the state veterinarian with input from the herd owner, the USDA, and other affected parties.

(2) The herd plan outlines the steps to manage CWD in a CWD-positive herd.

(3) A herd plan shall require the herd owner to:

(a) maintain identification for each animal in the herd;

(b) regularly examine animals in the herd for signs of disease;

(c) immediately report any signs of central nervous system disease in herd animals to the state veterinarian; and

(d) maintain records of the acquisition and disposition of any animals entering or leaving the herd, including:

(i) the date of acquisition or removal;

(ii) name, and address of the person from whom the animal was acquired or to whom it was disposed; and

(iii) cause of death, if the animal died while in the herd.

(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the herd's particular condition and its premises, including:

(a) specifying the time for which premises may not contain cervids after CWD-positive, exposed, or suspect animals are removed from the premises;

(b) fencing requirements;

(c) requirements related to depopulation or selective culling of animals;

(d) restrictions on sharing and movement of possibly contaminated livestock equipment; and

(e) cleaning and disinfection requirements, or other biosecurity requirements.

(5) The state veterinarian shall approve any movement of cervids onto or off the facility and shall restrict the movement of cervids until the herd owner meets the requirements of the herd plan.

(6) The state veterinarian may review and revise a herd plan at any time in response to changes in the herd or premises or improvements in understanding the nature of CWD epidemiology or techniques to prevent its spread.

R58-20-13. Grounds for Denial, Suspension, or Revocation of Licenses for Domesticated Elk Facilities.

(1) The department shall deny, suspend, or revoke a license to operate a domesticated elk facility if the licensee or applicant:

(a) fails, for two consecutive years, to:

(i) meet inventory requirements as required by the department;

(ii) submit testable CWD samples for at least 90% of mortalities over 12 months old; or

(iii) notify the department that there are wild cervids inside a domesticated elk facility;

(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or

(c) violates the import requirements of Section 4-39-303.

(2) The department may deny, revoke, or suspend a license to operate a domesticated elk facility if, after delivery of notice and an opportunity to correct, the licensee or applicant:

(a) provides:

(i) an unfinished application or incorrect application information; or

(ii) incorrect records or failure to maintain required records;

(b) fails to:

(i) notify the department of movement of elk onto or off the facility;

(ii) identify elk as required;

(iii) notify the department concerning the escape of an animal from a domesticated elk facility;

(iv) maintain a perimeter fence that prevents the escape of domesticated elk or ingress of wild cervids into the facility;

(v) participate with the department in a cooperative wild cervid removal program;

(vi) submit testable CWD samples for at least 90% of mortalities over 12 months old; or

(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility;

(c) moves imported elk onto a facility without a Certificate of Veterinary Inspection that has an import permit number from the department;

(d) imports animals that the Division of Wildlife Resources prohibits or controls; or

(e) handles animals in a manner that violates acceptable animal husbandry practices.

(3) The department will provide the facility with a written notice if it does not meet the requirements listed in Subsections R58-20-13(1) and R58-20-13(2) and the facility will have 30 days to correct the deficiencies.

(4) Once the department has notified the owner of a domesticated elk facility of the denial, suspension, or revocation of a license to operate a domesticated elk facility, the owner shall have 15 calendar days to request an appeal with the commissioner.

(5) An operator of a domesticated elk facility that has had its license revoked shall remove any elk from the facility within 30 calendar days by:

(a) sending any elk to an inspected facility for slaughter; or

(b) selling elk to another facility.

(6) The department shall sell any elk remaining on the facility at the end of 30 days during a special sale conducted for that purpose.

R58-20-14. Dissolution of an Elk Ranch.

(1) Before an elk ranch owner dissolves an elk ranch, they shall remove any elk from the premises.

(2) The department or Division of Wildlife Resources shall remove any abandoned elk using lethal means.

(a) Elk ranch owners shall dispose of carcasses by disposal in an approved landfill, incineration, or a donation as a charitable food item in compliance with Section 4-34-103.

(b) The elk owner is responsible for any costs associated with removing abandoned elk.

R58-20-15. Liability.

In accordance with Sections 63G-7-101 and 63G-7-102, the granting of a domesticated elk facility license or the imposing of a requirement to gain an owner's permission does not attach any liability to the department for any accident, mishap, or injury that occurs on, adjacent to, or in connection with the domesticated elk facility.

KEY: elk, hunting permits, [~~hunting parks~~], inspections, elk ranches, domesticated elk, elk importation
Date of Last Change: [~~June 13, 2023~~]2024
Notice of Continuation: October 20, 2023
Authorizing, and Implemented or Interpreted Law: 4-39-106; 4-39-303(6)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R70-101**	**Filing ID: 56603**

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 16500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Travis Waller	801-982-2200	Twaller@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R70-101. Bedding, Upholstered Furniture, and Quilted Clothing

3. Purpose of the new rule or reason for the change:

Over the past few years, the Department of Agriculture and Food (Department) has received an increase in consumer complaints regarding articles purchased online that fail to meet the labeling requirements specified in this rule.

In April 2023, the Department filed a revised rule to include labeling requirements for online sales. Following receipt of comments and feedback from industry partners, the Department filed an emergency rule to temporarily remove the online sales requirements.

During the emergency rule period, the Department engaged with various stakeholders to discuss the online sales requirements and addressed the concerns expressed.

As part of the proposed changes and requirements, the Department seeks to protect businesses from unfair practices and bolster consumer protection through the online sales requirements listed in Section R70-101-13.

Based on consumers reporting complaints and concerns to the Department, the updated requirements will help inform the consumer about their online purchases to help ease the burden of returning items that may not meet the consumer's expectations.

4. Summary of the new rule or change:

Many of the revisions in this rule clarify and align it with the Rulewriting Manual for Utah.

Section R70-101-13 specifies the online sales criteria for bedding and upholstered furniture, and quilted clothing to post either a digital law label or a digital textile label, respectively. The Department adds additional definitions to clarify which articles require the applicable filling material, URN, and sterilization number on the appropriate article landing page.

To further clarify, the Department updates the terms "law label" and "textile label" throughout this rule to differentiate between the different industry articles.

The sections that provide general requirements for articles regulated under this rule remain general but include some revisions for alignment with the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Department anticipates the fiscal impact on the state's budget to be minimal during FY2025, as the online requirements do not become effective until 04/01/2025. The Department plans to educate retailers during FY2025 of the requirements and will absorb about $10,000 in costs by utilizing current resources. In FY2026, the Department expects an increase in inspections and estimates the continued cost of approximately $10,000 for educating retailers and ensuring compliance. In the subsequent years, the Department projects that these requirements will deter non-compliant sellers from the online marketplace and bolster consumer confidence by providing clear and reliable product information.
B) Local governments:
The changes will not impact local governments because they do not participate in or administer the program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The Department anticipates a minimal fiscal impact on small businesses because most small businesses that sell these articles online or through an online retailer typically receive the necessary law or textile label information from their suppliers and can integrate these expenses into their current online article marketing expenditures. A small business owner may maintain their online listings and absorb these costs by utilizing existing resources. Assuming an average digital content creator salary of $25 per hour and estimating that these tasks comprise about 25% of their duties and potentially take an hour per article to complete, the Department estimates that a small business selling an average of 100 items online would incur a monthly cost of $625 or an annual expense of $7,500 to meet and maintain the requirements in Section R70-101-13. Although the updated rule includes a new requirement for online retailers, the Department does not require online retailers to register with the Department. Currently, the Department cannot estimate the total impact for small business retailers in Utah.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The fiscal impact on non-small businesses may be larger due to the higher volume of articles sold. A non-small business employing a digital content creator with a salary of $25 per hour and estimating that these tasks constitute 25% of their duties, spending an hour for each article and would need to complete 1,000 articles, would incur a monthly cost of $6,250. Additionally, non-small businesses may consult with legal teams and other professionals to ensure ADA compliance on their website and to correctly state the appropriate terms. The Department anticipates this initial consultation cost to be approximately $5,000. The Department anticipates a fiscal impact of $5,000 for FY2024, due to the consulting fees and once the online requirements become effective, the Department anticipates those costs increasing to an average of $75,000 each year based on the ongoing 1,000 article, $6250 per month cost. Although the updated rule includes a new requirement for online retailers, the Department does not require online retailers to register with the department. Currently, the Department cannot estimate the total impact for non-small business retailers in Utah.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**	
Other persons will not be impacted by the changes because the updated requirements apply to small and non-small businesses that post articles online to be sold to the final consumer.	
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**	
As mentioned above, the compliance costs vary depending on the entity, the person responsible for the article information online, the experience of the employee in completing the task, and the number of articles an entity may sell. The Department estimates a digital content creator salary of $25 per hour that would dedicate 25% of job duties to this requirement, approximate an hour per article to post and maintain online information, and the number of online articles a retailer chooses to post online, the compliance costs may vary from $3,750 to $75,000 annually.	
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)	

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$10,000	$10,000	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$10,000**	**$10,000**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$(10,000)**	**$(10,000)**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Commissioner of the Utah Department of Agriculture and Food, Craig Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-10-103		

Incorporations by Reference Information

7. Incorporations by Reference :	
A) This rule adds or updates the following title of materials incorporated by references :	
Official Title of Materials Incorporated (from title page)	16 CFR Parts 300, 301, and 303, RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT
Publisher	Federal Trade Commission
Issue Date	March 2024

B) This rule adds or updates the following title of materials incorporated by references :	
Official Title of Materials Incorporated (from title page)	2024 Manual of Labeling Laws
Publisher	International Sleep Products Association
Issue or Version	2024

C) This rule adds or updates the following title of materials incorporated by references :	
Official Title of Materials Incorporated (from title page)	USA-2000 Labeling Standards - Down & Feather Products (Jan. 2009) Bedding and Apparel
Publisher	IDFL Laboratory Institute
Issue or Version	January 2009

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	**Date:**	06/24/2024

R70. Agriculture and Food, Regulatory Services.
R70-101. Bedding, Upholstered Furniture, and Quilted Clothing.
[~~R70-101-1. Authority and Purpose.~~
~~Pursuant to Section 4-10-103, this rule establishes the standards, practices, and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.~~

~~R70-101-2. Definitions.~~
~~(1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects, insect eggs, insect carcasses, contamination, hazardous materials, or residual or objectionable substances or odors.~~
~~(2) "Department" means the Utah Department of Agriculture and Food.~~
~~(3) "Law Label or Label" means a tag attached to bedding or upholstered furniture that provides information about the product to the consumer.~~
~~(4) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.~~
~~(5) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part.~~
~~(6) "Non-resident" means a person permitted under this rule who does not have premises in Utah.~~
~~(7) "Online Retailer" means any person who advertises and markets via the internet and another electronic network.~~
~~(8) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation.~~
~~(9) "Premises" means any place where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated, or manufactured, and the delivery vehicle used in their transportation.~~
~~(10) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other fillings, loose in a bag, in a bale or a container, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.~~
~~(11) "Second Hand Law Tag or Tag" means a tag attached to a product or filling material that has previously been used.~~
~~(12) "Sterilization Permit Number" means the number issued by a state to be used on any filling material or on the label for bedding, upholstered furniture, or quilted clothing to identify the sterilizing facility, person, or company.~~
~~(13) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or any other living microorganism.~~
~~(14) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.~~

~~(15) "Textile Label or Label" means a tag attached to a quilted clothing product that provides information required in 16 CFR Parts 300, 301, 303 and this rule.~~

~~(16) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or filling material to identify the manufacturing facility, person, or company.~~

~~**R70-101-3. Application of Rule.**~~

~~This rule shall apply to any person engaged in the business of manufacturing, retailing, online retailing, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing, and filling material, regardless of their point of origin.~~

~~**R70-101-4. Permit Requirements for Manufacturers, Repairers, and Wholesalers.**~~

~~(1) Any person who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, or filling material shall secure a permit from the department before the product is offered for sale in Utah.~~

~~(2) Any person who advertises, solicits, or contracts to manufacture quilted clothing shall secure a permit from the department before the product is offered for sale in Utah.~~

~~(3) Any person seeking a permit shall provide the following to the department:~~

~~(a) a completed registration form; and~~

~~(b) a sample of the label that will be used.~~

~~(4) A wholesale bedding, upholstered furniture dealer, are exempted from providing a label to the department.~~

~~(5) A registration fee shall be assessed annually. This fee shall be paid before January 1 or a late fee shall be assessed. Each fee is listed in the department's fee schedule that is approved by the Legislature.~~

~~**R70-101-5. Sterilization Permit Requirements for Sterilizers.**~~

~~(1) A person who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department before sterilized products are offered for sale in Utah.~~

~~(2) A person seeking a sterilization permit shall provide the department with a sterilization permit application completed by a department authorized third party inspector.~~

~~(3) A permit fee shall be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. Each fee is listed in the department's fee schedule that is approved by the Legislature.~~

~~(4) The inspection for a sterilization permit shall be conducted every three years.~~

~~(5) A copy of the inspection report shall be submitted to the department with the renewal form for that year.~~

~~**R70-101-6. Revocation of Permit.**~~

~~(1) The department shall have the authority to suspend or revoke a permit for any violation of these provisions.~~

~~(2) A suspension or revocation shall be in accordance with Section 4-1-106.~~

~~**R70-101-7. Sanitation Requirements.**~~

~~(1) The premises, delivery equipment, machinery, and any appliances, article, and devices shall be kept free from refuse, dirt, contamination, or insects.~~

~~(2) No person shall use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:~~

~~(a) contains any insect, vermin, or filth;~~

~~(b) is not clean; or~~

~~(c) contains burlap or other material that has been used for baling.~~

~~(3) Bedding, quilted clothing, and filling material shall be stored four inches off the floor.~~

~~(4) New and used products shall be stored separately.~~

~~**R70-101-8. Sterilization Requirements for New Fill Material.**~~

~~(1) Any wool, feathers, down, shoddy, and hair shall be cleaned and sterilized before being used as new filling material.~~

~~(2) Methods for Sterilization.~~

~~(a) Pressure Steam. The material shall be subjected to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes. The gauge for registering steam pressure must be visible from the outside of the room or chamber.~~

~~(b) Streaming Steam. Two applications of streaming steam maintained for a period of one hour each, applied at intervals of not less than six nor more than 24 hours, may be used. Valved outlets shall be provided near the bottom and the top of the room or chamber when streaming steam is employed.~~

~~(c) Heat. A temperature of 235 degrees F held for a period of two hours, within a closed container is considered satisfactory for proper sterilization.~~

~~(d) Other methods of sterilization may be approved by the department upon petition.~~

~~**R70-101-9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Labeling Requirements for Quilted Clothing.**~~

~~(1) The department incorporates by reference the October 19, 2017 version of the 16 CFR Parts 300 and 301, and the November 5, 2020 version of 16 CFR Part 303.~~

~~(2) Articles of plumage-filled clothing shall meet the following label requirements.~~

~~(a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in parentheses the minimum percentage of down in the product which shall be 75% or greater.~~

~~(b) "Down and Waterfowl Feathers" may be used to designate any plumage product containing between 50% minimum and 74% down and plumules. The percentage of both shall be stated on the sewn-in label and hang tags.~~

~~(c) "Waterfowl Feathers and Down" may be used to designate any plumage product containing between 5% minimum and 49% down and plumules. The percentage of both shall be stated on the sewn-in label and hang tags.~~

~~(d) "Waterfowl Feathers" may be used to designate any plumage product containing less than 5% down and plumules.~~

~~(e) Quill feathers are not permitted unless disclosed.~~

~~(f) Other plumage products that do not meet the requirements for any of the listed categories from Subsection R70-101-9(2) shall be labeled accurately with each component listed separately in order of predominance.~~

~~(3) The sterilization permit number "PER. NO. " shall be listed on the textile label.~~

~~(4) The form of identification used on a label and a tag shall be the same as those supplied to the department with the registration application.~~

~~(5) The textile label shall be easily accessible to the consumer for examination before purchase.~~

~~R70-101-10. Filling Material.~~

~~(1) Each term or definition of a filling material shall be the term that has been submitted and approved by the International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.~~

~~(2) Notwithstanding Subsection R70-101-10(1), the term "recycled" may be used if the manufacturing facility:~~

~~(a) is Global Recycled Standard (GRS) certified;~~

~~(b) provides proof of GRS certification to the department on the registration form; and~~

~~(c) provides a copy of the certificate or the certification number on the invoice to the retailer for each lot or batch of filling material.~~

~~(3) The manufacturing facility shall provide a copy of the certificate or the certification numbers for each batch or lot to the department upon request.~~

~~(4) Plumage material shall follow the standards as outlined in the "USA-2000 Labeling Standards- Down and Feather Products" and ASTM D-4522, which are incorporated by reference.~~

~~(5) Any other filling material shall be clean.~~

~~(6) "Imperfect, irregular foam" means any foam product that shows a major imperfection or that falls below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.~~

~~(7) "Imperfect, irregular fibers" shall mean any fiber that has an imperfection or that falls below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.~~

~~(8) The terms "Prime," "Super," "Northern," and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.~~

~~R70-101-11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.~~

~~(1) Filling material shall be described on the label and the tag using the:~~

~~(a) true generic name;~~

~~(b) grade;~~

~~(c) description terms; or~~

~~(d) definition of the filling material that has been approved by the department.~~

~~(2) When more than one kind of filling material is used in a mixture, the percentage by weight shall be listed in order of predominance.~~

~~(a) Federal fiber tolerance standards are applicable, except as pertains to a plumage product.~~

~~(b) Blends may be described in accordance with Section R70-101-10.~~

~~(3) When a different filling material is used in different parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area.~~

~~R70-101-12. Manufacturer Identification and Law Label Requirements for Bedding and Upholstered Furniture.~~

~~(1) The form of identification used on a law label and tag shall be the same as those supplied to the department with the registration.~~

~~(2) For any article of bedding and upholstered furniture, the law label shall use the format adopted by the IABFLO, as listed in the "Manual of Labeling Laws" of the International Sleep Products Association, 2021 edition, which is incorporated by reference. A copy of the incorporated edition of the "Manual of Labeling Laws" is available for public inspection at the department.~~

~~(3) The law label for a newly manufactured product shall meet the following requirements:~~

~~(a) white on each side of the label;~~

~~(b) made of material that cannot be easily torn;~~

~~(c) printed in black ink;~~

~~(d) printed in English;~~

~~(e) printed clearly and legibly; and~~

~~(f) firmly attached to the article.~~

~~(4) Required information shall be printed on one side of the label with the opposite side remaining blank.~~

~~(5) Each law label shall state the following, in order:~~

~~(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters no less than 1/8 inches in height;~~

~~(b) the phrase "ALL NEW MATERIAL" in bold, capital letters no less than 1/8 inch in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height;~~

~~(c) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height;~~

~~(d) the URN issued by the state in which the firm is first registered;~~

~~(e) the sterilization permit number of the sterilization facility from which the material was obtained, in bold capital letters no less than 1/8 inch in height;~~

~~(f) the phrase, "Certification is made by the manufacturer that the materials in this article are described in accordance with law"; and~~

~~(g) the name and complete address of the manufacturer, importer, or vendor of the article.~~

~~(6) The law label shall be easily accessible to the consumer for examination before purchase.~~

~~(a) A product that is offered for sale in a box or in other packaging that makes a law label inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.~~

~~(7) No mark, label, printed matter, illustration, sticker, or other device shall be placed upon the label.~~

~~(8) The firm's license or permit with the state that issued the URN must be kept current for the number to be valid in Utah.~~

~~(9) Each firm doing business under more than one state-issued URN or permit shall obtain a permit for each number used on a product that is offered for sale in Utah.~~

~~R70-101-13. Second Hand Law Tags and Tagging Requirements.~~

~~(1) A tag for second hand material shall be:~~

~~(a) a minimum of two inches by three inches;~~

~~(b) yellow on both sides of the tag;~~

~~(c) made of material that cannot be easily torn;~~

~~(d) printed in English;~~

~~(e) printed in black ink;~~

~~(f) printed clearly and legibly; and~~

~~(g) firmly attached to the article.~~

~~(2) Required information shall be printed on one side of the tag with the opposite side remaining blank.~~

~~(3) A second hand tag shall contain the following information, in order:~~

~~(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;~~

~~(b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN". The words "SECONDHAND MATERIAL" and "CONTENTS UNKNOWN" shall be in capital letters, size not less than 1/8 inches in height;~~

~~(c) the phrase, "Certification is made that the materials in this article are described in accordance with law"; and~~

~~(d) the store name and complete corporate address.~~

~~(4) The tag shall be easily accessible to the consumer for examination.~~

~~(5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.~~

~~R70-101-14. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.~~

~~(1) A tag for a repaired, reupholstered, and renovated product shall be:~~

~~(a) a minimum of two inches by three inches;~~

~~(b) yellow on both sides of the tag;~~

~~(c) made of material that cannot be easily torn;~~

~~(d) have the required information printed on one side of the tag with the opposite side remaining blank;~~

~~(e) printed in English;~~

~~(f) printed in black ink;~~

~~(g) printed clearly and legibly; and~~

~~(h) firmly attached to the article.~~

~~(2) A second hand tag shall contain the following information, in order:~~

~~(a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;~~

~~(b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" in bold in capital letters, no less than 1/8 inch in height;~~

~~(c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling material;~~

~~(d) a description of the work that was done on the product;~~

~~(e) the URN number;~~

~~(f) the name and address of the renovator or repairer; and~~

~~(g) the date of pick-up, owner's name, and address.~~

~~**R70-101-15. Used Mattresses.**~~

~~(1) A retailer selling a customer returned, refurbished, or used mattress shall follow the second hand law tag requirements as set out in Section R70-101-13.~~

~~(2) In addition, a retailer shall also display on the mattress a tag stating "USED" in bold capital letters.~~

~~(3) The USED tag shall be:~~

~~(a) a minimum of three inches by six inches;~~

~~(b) yellow on both sides of the tag;~~

~~(c) the font shall be a minimum of one inch in height;~~

~~(d) printed in black ink; and~~

~~(e) printed in English.~~

~~(4) Required information shall be printed on one side of the tag with the opposite side remaining blank.~~

~~(5) The USED tag shall be clearly visible to the consumer.~~

~~**R70-101-16. Variance.**~~

~~(1) The department may issue a variance on label and tag requirements.~~

~~(2) A request for a variance shall be made to the department in writing and shall contain the following information:~~

~~(a) the product associated with the variance request;~~

~~(b) where the variance will be used;~~

~~(c) an explanation of the need for a variance;~~

~~(d) a description of how the variance will be used in practice; and~~

~~(e) an example of the label or tag that will be used in place of the required label or tag.~~

~~(3) Approval of a variance shall be given from the department in writing.~~

~~(4) A variance shall be subject to a period of review.~~

~~**R70-101-17. Making or Selling Material or Parts.**~~

~~A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is appropriately tagged.~~

~~**R70-101-18. Retailer Responsibilities.**~~

~~(1) A retailer, including online retailers, shall:~~

~~(a) ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material sold is labeled and tagged correctly;~~

~~(b) ensure the label is easily accessible to the consumer for examination before purchase;~~

~~(c) comply with state law and the department's rules governing false and misleading advertisement;~~

~~(d) ensure that the manufacturer from whom a retailer purchases a product has a valid permit with the department; and~~

~~(e) ensure that the importer from whom a retailer purchases a product has a valid permit with the department.~~

~~(2) Upon request of the department, a retailer shall provide the identity of the manufacturer or wholesaler of an article of bedding, upholstered furniture, quilted clothing, or filling material sold.~~

~~(3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.~~

~~(4) A retailer shall ensure that bedding or filling material using the term "recycled":~~

~~(a) is from a GRS certified facility; and~~

~~(b) has a certificate or certification number.~~

~~**R70-101-19. Violations.**~~

~~(1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.~~

~~(2) No person shall be in violation if that person received, from the manufacturer or supplier of the article, a guarantee in good faith that the article is not contrary to this rule in the form prescribed by the Textile Fiber Products Identification Act,15 U.S.C. 70, Wool Products Labeling Act, 15 U.S.C. 68, and related Federal Trade Commission rules.~~

~~(3) No person shall remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.~~

~~(4) No person may remove an article that has been condemned and ordered held on inspection notice.~~

~~(5) No person shall interfere with, obstruct, or hinder any inspector of the department in the performance of the inspector's duties.~~

~~(6) Any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by a manufacturer or wholesaler who is not registered or permitted may be withheld from sale until the manufacturer or wholesaler registers or obtains a permit.~~

~~(7) No person shall use the term "recycled" for bedding or filling material unless they meet the requirements of Subsection R701-101-10(2).~~

~~**R70-101-20. Products Not Intended for Use Subject to This Rule.**~~

~~(1) The Commissioner may exclude from this rule a textile fiber product:~~

~~(a) that has an insignificant or inconsequential textile fiber content; or~~

~~(b) if the disclosure of the textile fiber content is not necessary for the protection of the consumer.~~]

R70-101-1. Authority and Purpose.

Pursuant to Section 4-10-103, this rule establishes the standards, practices, and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

This rule defines the following terms in addition to the terms in Section 4-10-102:

(1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects, insect eggs, insect carcasses, contamination, hazardous materials, or residual or objectionable substances or odors.

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

(3) "Digital Law Label "or "Digital Textile Label" means an electronic copy of the applicable law label or textile label that mirrors the label attached to the article.

(4) "Law Label" means a tag attached to bedding or upholstered furniture that provides specific information about the product to the consumer and meets the requirements of this rule.

(5) "Made to Order" or "MTO" means a manufacturing process of upholstered furniture in which the production of an item begins after a consumer or retailer places an order and includes articles with consumer options that could impact the final law label.

(6) "Made to Stock" or "MTS" means a traditional production method used to produce articles either before or after the consumer places the order that the retailer may stock as inventory or display through an online retailer until the consumer purchases them and includes articles produced with consumer options that do not impact the final law or textile label.

(7) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.

(8) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part.

(9) "Non-resident" means a person permitted under this rule who does not have premises in Utah.

(10) "Online Retailer" means a person or a company that sells articles to a consumer via the Internet or another electronic network.

(11) "Online sales" means the process of selling articles through the Internet, where customers can browse products, make purchases, and complete transactions using digital platforms or an online marketplace.

(12) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation.

(13) "Premises" means a place that sells bedding, upholstered furniture, quilted clothing, or filling material, or offers for sale, exposes for sale, stores, renovates, or manufactures, and includes the delivery vehicle used to transport articles.

(14) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other fillings, loose in a bag, in a bale or a container, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

(15) "Second Hand Law Tag" or " Tag" means a tag attached to a product or filling material that has previously been used.

(16) "Sterilization Permit Number" means the number a state may issue to identify the sterilizing facility, person, or company and certifies that the filling material is safe for consumer use.

(17) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or any other living microorganism.

(18) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.

(19) "Textile Label" means a tag attached to a quilted clothing product that provides information required in 16 CFR Parts 300, 301, 303, and this rule.

(20) "Uniform Registry Number" or "URN" means the number issued by a state to be used on the law label of bedding, upholstered furniture, or filling material to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

This rule shall apply to any person engaged in the business of manufacturing, retailing, online retailing, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing, and filling material, regardless of their point of origin.

R70-101-4. Permit Requirements for Manufacturers, Repairers, and Wholesalers.

(1) A person who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, or filling material shall secure a permit from the department before offering to sell the product in Utah.

(2) A person who advertises, solicits, or contracts to manufacture quilted clothing shall secure a permit from the department before the person offers articles for sale in Utah.

(3) A person seeking a permit shall provide the following to the department:

(a) a completed permit form; and

(b) a sample of the law label that will be used.

(4) The department may exempt a wholesaler dealer of bedding, upholstered furniture, or a manufacturer of quilted clothing from providing a sample law label or sample textile label, respectably.

(5)(a) The department shall assess an annual permit fee.

(b) The applicant shall pay the fee before January 1, or the department shall include a late fee with the permit fee.

(6) Each person who conducts business under multiple state-issued URNs or permits shall obtain a permit for each number used on articles for sale in Utah.

(7) A person's license or permit shall be current with the state that issues the URN for the number to be valid in Utah.

R70-101-5. Sterilization Permit Requirements for Sterilizers.

(1) A person who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department before offering to sell sterilized products in Utah.

(2) A person applying for a sterilization permit shall provide the department with a sterilization permit application completed by a department authorized third party inspector.

(3)(a) The department shall assess an annual sterilization permit fee.

(b) Each applicant shall pay the fee before January 1, or the department shall charge a late fee with the sterilization permit fee.

(4)(a) Each sterilization permittee's facility shall be inspected every three years.

(b) A permittee shall submit a copy of the inspection report to the department with the renewal form for that year.

R70-101-6. Revocation of Permit.

(1) The department shall have the authority to suspend or revoke a permit for any violation of this rule.

(2) A suspension or revocation shall be in accordance with Section 4-1-106.

R70-101-7. Sanitation Requirements.

(1) A permittee or retailer shall keep the premises, delivery equipment, machinery, and any appliances, articles, and devices free from refuse, dirt, contamination, or insects.

(2) A permittee may not use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:

(a) contains any insect, vermin, or filth;

(b) is not clean; or

(c) contains burlap or other material used for baling.

(3) A permittee or retailer shall store bedding, quilted clothing, and filling material four inches off the floor on the premises.

(4) A permittee or retailer shall store new and used articles separately.

R70-101-8. Sterilization Requirements for New Fill Material.

(1) A sterilizer shall clean and sterilize any wool, feathers, down, shoddy, and hair before using it as a new filling material.

(2) The department allows the following methods for sterilization.

(a)(i) Pressure Steam.

(ii) Expose the material to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes.

(iii) The gauge for registering steam pressure shall be visible from the outside of the room or chamber.

(b)(i) Streaming Steam.

(ii) Two applications of streaming steam maintained for one hour each, applied at intervals using not less than six nor more than 24 hours.

(iii) When streaming steam is employed, the valved outlets shall be provided near the bottom and the top of the room or chamber.

(c)(i) Heat.

(ii) A temperature of 235 degrees F held for two hours within a closed container.

(3) Upon request, the department may approve other methods of sterilization.

R70-101-9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Textile Labeling Requirements for Quilted Clothing.

(1) The department incorporates by reference the March 8, 2024, version of 16 CFR Parts 300, 301, and 303.

(2) Articles of plumage-filled clothing shall meet the following textile label requirements.

(a)(i) Any label stating that an article of clothing contains down, Goose Down, or Duck Down shall also state the minimum percentage of down, Goose Down, or Duck Down contained in the article.

(ii) The down label is a general label and shall include in parentheses the minimum percentage of down in the product, which shall be 75% or greater.

(b)(i) "Down and Waterfowl Feathers" text may designate any plumage product containing between 50% minimum and 74% down and plumules.

(ii) The sewn in label and hang tags shall state both percentages.

(c)(i) "Waterfowl Feathers and Down" may designate any plumage product containing between 5% minimum and 49% down and plumules.

(ii) The sewn in label and hang tags shall state both percentages.

(d) "Waterfowl Feathers" may designate any plumage product containing less than 5% down and plumules.

(e) The department may not permit the use of quill feathers unless disclosed on the textile label.

(f) The textile label shall separately list each component, in order of predominance, any other plumage products that do not meet the requirements for any of the listed categories from Subsection R70-101-9(2).

(3) The textile label shall list the sterilization permit number as "PER. NO. ".

(4) The form of identification used on a textile label shall be the same as those supplied to the department with the permit application.

(5) The textile label shall be easily accessible to the consumer for examination.

R70-101-10. Filling Material.

(1) A permittee shall use the terms or definitions of a filling material approved by the International Association of Bedding Law Officials except as otherwise required by this rule.

(2) Pursuant to Subsection 4-10-107(6)(a), a manufacturing facility may use the term "recycled" for items containing down or feather if the facility:

(a)(i) is Global Recycled Standard (GRS) or Recycled Claim Standard (RCS) certified, and provides:

(ii) proof of GRS or RCS certification to the department on the permit form; and

(iii) a copy of the certificate or the certification number on the invoice to the retailer for each lot or batch of filling material;

(b) certifies under another industry accepted standard consistent with the International Organization for Standardization ISO 17065 and provides documentation to the department.

(3) Upon request, a manufacturing facility shall provide a copy of the certificate or the certification numbers for each batch or lot to the department.

(4) Plumage material shall follow the standards that the "USA-2000 Labeling Standards- Down and Feather Products" outlines and this rule incorporates by reference.

(5) Any other filling material shall be clean.

(6) The tag must state "Imperfect, irregular foam" which means any foam product that shows a major imperfection or that falls below the foam manufacturer's usual standards or specifications as "imperfect" or "irregular" along with the generic name of the foam.

(7) The tag must state "Imperfect, irregular fibers" which means any fiber that has an imperfection or that falls below the fiber manufacturer's usual standards or specifications as "imperfect" or "irregular" along with the generic name of the fiber.

(8) The qualifying statement may not use the terms "Prime," "Super," "Northern," and similar terms unless the fill can prove to be of superior quality and meet the terms of the qualifying statement.

R70-101-11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

(1) The law label or textile label shall describe the filling material using the following:

(a) true generic name;

(b) grade;

(c) description terms; or

(d) definition of the filling material approved by the department.

(2)(a) When a mixture uses more than one kind of filling material, the label shall list the percentage by weight in order of predominance.

(b) Federal fiber tolerance standards are applicable, except as pertains to a plumage product.

(c) In accordance with Section R70-101-10, describe any blends used in the filling material.

(d)(i) Quilted clothing articles may use different filling materials for different parts of the article.

(ii) The textile label shall name the areas of the article followed by the name of the filling material used in that specific area.

R70-101-12. Law Label Requirements for Bedding and Upholstered Furniture.

(1)(a) Any article of bedding or upholstered furniture shall have a law label that uses the format adopted by the International Association of Bedding and Furniture Law Officials (IABFLO), as listed in the Manual of Labeling Laws of the International Sleep Products Association, 2024 edition, which this rule incorporates by reference.

(2) The law label for a newly manufactured product, including an article that is MTS or MTO, shall meet the following requirements:

(a) white on each side of the law label;

(b) made of material that cannot be easily torn;

(c) printed in black ink;

(d) printed in English;

(e) printed clearly and legibly; and

(f) firmly attached to the article.

(3) Required information shall be printed on one side of the law label with the opposite side remaining blank.

(4) Each law label shall include the following, in order:

(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the law label in capital letters no less than 1/8 inches in height;

(b) the phrase "ALL NEW MATERIAL" in bold, capital letters no less than 1/8 inch in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height;

(c) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height;

(d)(i) The URN of the final assembler of the article;

(ii) The department only allows one URN on the attached law label although a digital law label may display multiple URNs;

(e) the sterilization permit number of the sterilization facility that obtained the material, in bold capital letters no less than 1/8 inch in height;

(f) the phrase, "Certification is made by the manufacturer that the materials in this article are described in accordance with law"; and

(g) the name and complete address of the manufacturer, importer, or distributor of the article.

(5)(a) The law label shall be easily accessible to the consumer for examination.

(b) A product for sale in a box or in other packaging that makes a law label inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

(6) A person may not place any other mark, label, printed matter, illustration, sticker, or device placed on the law label.
(7) The form of identification used on a law label shall be the same as those supplied to the department in a permit application.

R70-101-13. Online Sales Requirements.
The following requirements apply beginning on April 1, 2025.
(1) Online retailers of quilted clothing shall post information that satisfies the requirements of Section R70-101-9 for each article, so it is easily accessible for the consumer to examine before purchase.
(a) Quilted clothing articles may have the digital textile label or equivalent information displayed or hyperlinked on each article landing page in:
(i) the product description or its equivalent;
(ii) the product specifications or its equivalent;
(iii) an image gallery or carousel; or
(iv) another specific location approved by the department.
(b) The department may approve displaying multiple textile labels on one document.
(2) If an online retailer of quilted clothing elects not to display a digital textile label in accordance with Subsection R70-101-13(1), they shall provide a hyperlink to the following information in a format determined by the online retailer for each article: (a) applicable filling material as required in Section R70-101-9;
(b) the form of identification used on a textile label shall be the same as supplied to the department in a permit application; and
(c) any applicable sterilization permit number.
(3) Online retailers of bedding and upholstered furniture shall display information that satisfies the requirements of Section R70-101-12 for each article, so it is easily accessible for the consumer to examine before purchase.
(a) Bedding and upholstered furniture articles may have the digital law label or equivalent information displayed or hyperlinked on each article landing page in:
(i) the product description or its equivalent;
(ii) the product specifications or its equivalent;
(iii) an image gallery or carousel; or
(iv) another specific location approved by the department.
(b) The department may approve displaying multiple law labels on one document.
(4) If an online retailer of bedding or upholstered furniture elects not to display a digital law label or equivalent in accordance with Subsection R70-101-13(2), they shall provide a hyperlink to the following information in a format determined by the online retailer for each article:
(a) applicable filling material as required in Section R70-101-10 and Section R70-101-11;
(b) any applicable URN; and
(c) any applicable sterilization permit number.
(5) MTO articles ordered in a brick and mortar location are exempt from digital law label requirements under this section.

R70-101-14. Second Hand Law Label, Textile Labels, Tags, and Tagging Requirements.
(1) A tag for a second hand article shall be:
(a) a minimum of two inches by three inches;
(b) yellow on both sides of the tag;
(c) made of material that cannot be easily torn;
(d) printed in English;
(e) printed in black ink;
(f) printed clearly and legibly; and
(g) comply with Subsection 4-10-110(2)(b).
(2) The required information shall be printed on one side of the tag, with the opposite side remaining blank.
(3) A second hand tag shall contain the following information, in order:
(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;
(b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN". The words "SECONDHAND MATERIAL" and "CONTENTS UNKNOWN" shall be in capital letters, size not less than 1/8 inches in height;
(c) the phrase, "Certification is made that the materials in this article are described in accordance with law"; and
(d) the store name and complete corporate address.
(4) A tag shall be easily accessible to the consumer for examination.
(5) A tag shall not contain marks, labels, printed matter, illustrations, stickers, or any other device.

R70-101-15. Tagging Requirements for Repaired, Reupholstered, and Renovated Products.
(1) A tag for a repaired, reupholstered, or renovated product shall:
(a) be a minimum of two inches by three inches;
(b) be yellow on both sides of the tag;
(c) be made of material that cannot be easily torn;
(d) have the required information printed on one side of the tag with the opposite side remaining blank;

(e) be printed in English;
(f) be printed in black ink;
(g) be printed clearly and legibly; and
(h) be firmly attached to the article.
(2) A tag for a repaired, reupholstered, or renovated product shall contain the following information, in order:
(a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;
(b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" in bold in capital letters, no less than 1/8 inch in height;
(c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling material;
(d) a description of the work that was done on the product;
(e) the URN number;
(f) the name and address of the renovator or repairer; and
(g) the date of pick-up, owner's name, and address.

R70-101-16. Used Mattresses.
(1) A retailer selling a customer returned, refurbished, or used mattress shall follow the second hand law tag requirements in Section R70-101-14.
(2) In addition, a retailer shall also display a tag on the mattress stating "USED" in bold capital letters.
(3) The USED tag shall :
(a) be a minimum of three inches by six inches;
(b) be yellow on both sides of the tag;
(c) use a font that is a minimum of one inch in height;
(d) be printed in black ink; and
(e) be printed in English.
(4) The tag with the required information shall be printed on one side of the tag, with the opposite side remaining blank.
(5) The USED tag shall be clearly visible to the consumer.
(6) A retailer selling used bedding, including used mattresses shall comply with Subsection 4-10-110(2).

R70-101-17. Variance.
(1) The department may issue a variance on law or textile label and tag requirements.
(2)(a) A permittee may request a variance to the department in writing.
(b) The variance shall contain the following information:
(i) the product associated with the variance request;
(ii) where the variance will be used;
(iii) an explanation of the need for a variance;
(iv) a description of the application of the variance in practice; and
(v) an example of the substitute law or textile label or tag that will be used instead of the required label or tag.
(3) The department shall give approval of a variance in writing.
(4) A variance shall be subject to a period of review.

R70-101-18. Making or Selling Material or Parts.
A permittee may not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing without appropriately tagging the material.

R70-101-19. Retailer Responsibilities.
(1) A retailer, including online retailers, shall ensure the following:
(a) any article of bedding, upholstered furniture, quilted clothing, or filling material sold by the retailer is labeled and tagged correctly;
(b) the label complies with state law and the department's rules governing false and misleading advertisements;
(c) the manufacturer from whom a retailer purchases a product has a valid permit with the department;
(d) the importer from whom a retailer purchases a product has a valid permit with the department; and
(e) the law label or textile label is easily accessible to the consumer for examination before purchase.
(2) Upon request of the department, a retailer shall provide the identity of the manufacturer or wholesaler of an article of bedding, upholstered furniture, quilted clothing, or filling material sold.
(3) A retailer may apply for a permit in lieu of a manufacturer or wholesaler if the department has not permitted the manufacturer or wholesaler.
(4) A retailer shall ensure that bedding or filling material using the term "recycled" meets the requirement listed in Subsection R70-101-10(2)

R70-101-20. Violations.

(1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

(2) No permittee shall be in violation if that permittee received, from the manufacturer or supplier of an article, a guarantee in good faith that the article is not contrary to this rule in the form prescribed by the Textile Fiber Products Identification Act,15 U.S.C. 70, Wool Products Labeling Act, 15 U.S.C. 68, and related Federal Trade Commission rules.

(3) A permittee may not remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.

(4) A permittee may not remove condemned articles that the department has ordered held on an inspection notice.

(5) A permittee may not interfere with, obstruct, or hinder the performance of the department inspector's duties.

(6) The department may withhold from sale any article of bedding, upholstered furniture, quilted clothing, or filling material that a manufacturer or wholesaler produces or wholesales with a permit until the manufacturer or wholesaler obtains the required permit.

(7) No permittee may use the term "recycled" for bedding or filling material unless the product meets the requirements of Subsection R70-101-10(2).

R70-101-21. Products Not Intended for Use Subject to This Rule.

The Commissioner may exclude from this rule a textile fiber product:

(1) that has an insignificant or inconsequential textile fiber content; or

(2) if the disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: inspections, labeling, quality control, registration
Date of Last Change: 2024[~~April 4, 2023~~]
Notice of Continuation: March 12, 2020
Authorizing, and Implemented or Interpreted Law: 4-10-103

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R614-1-6**	**Filing ID: 56604**

Agency Information

1. Title catchline:	Labor Commission, Occupational Safety and Health	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 3rd Floor	
City, state:	Salt Lake City UT	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City UT 84114-6600	
Contact persons:		
Name:	**Phone:**	**Email:**
Floyd Johnson	801-530-68989	fjohnson@utah.gov
Holly Lawrence	801-530-6494	hlawrence@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R614-1-6. Inspections, Citations, and Proposed Penalties
3. Purpose of the new rule or reason for the change:
The purpose of this amendment to Utah's Occupational Safety and Health (UOSH) rules is to update this rule to ensure UOSH remains at least as effective as the Federal Occupational Safety and Health Administration (OSHA).
4. Summary of the new rule or change:
In Subsection R614-1-6(H)(3), Representative of Employers and Employees. UOSH is amending its Representatives of Employers and Employees rule to clarify that the representatives authorized by employees may be an employee of the employer

or a third party; such third-party employee representatives may accompany the UOSH Compliance Safety and Health Officer (CSHO) when, in the judgment of the CSHO, good cause has been shown why they are reasonably necessary to aid in the inspection.

UOSH also clarified that a third party may be reasonably necessary because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills.

These clarifications aid UOSH's workplace inspections by better enabling employees to select representatives of their choice to accompany the CSHO during a physical workplace inspection.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The proposed amendment will not result in additional costs or savings to the state budget.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection and is not a citable rule since an employer cannot "violate" this rule.

B) Local governments:

The proposed amendment will not result in additional costs or savings to local governments.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply. This rule does not require or prohibit any employer conduct, and an employer cannot "violate" this rule.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed amendment will have no anticipated cost or savings to small businesses.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply.

This rule does not require or prohibit any employer conduct, and an employer cannot "violate" this rule.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The proposed amendment will have no anticipated cost or savings to non-small businesses.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply.

This rule does not require or prohibit any employer conduct, and an employer cannot "violate" this rule.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed amendment will have no anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply.

This rule does not require or prohibit any employer conduct, and an employer cannot "violate" this rule.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The proposed amendment will have no anticipated compliance costs for affected persons.

This rule imposes no new direct cost burden on employers and does not require them to take any action to comply.

This rule does not require or prohibit any employer conduct, and an employer cannot "violate" this rule.

This rule merely clarifies who can be an authorized employee representative during UOSH's walkaround inspection.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Utah Labor Commission, Jaceson Maughan, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Title 34, Chapter 6		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	**Date:**	06/28/2024

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
R614-1-6. Inspections, Citations, and Proposed Penalties.

A. The purpose of Section R614-1-6 is to prescribe rules and general policies for enforcement of the inspection, citation, and proposed penalty provisions of the Utah OSH Act. Where Section R614-1-6 sets forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the administrator or its designee determines that an alternative course of action would better serve the objectives of the Utah OSH Act.

B. Posting of Notices; Availability of the Utah OSH Act, Regulations and Applicable Standards.

1. Each employer shall post and keep posted notices, to be furnished by UOSH, informing employees of the protections and obligations provided for in the Utah OSH Act, and that for assistance and information, including copies of the Utah OSH Act and of specific safety and health standards, employees should contact their employer or the UOSH office. Such notices shall be posted by the employer in each establishment in a conspicuous place where notices to employees are customarily posted. Each employer shall take steps to ensure that such notices are not altered, defaced, or covered by other material.

2. Where employers are engaged in activities which are physically dispersed, such as agriculture, construction, transportation communications, and electric, gas and sanitary services, the notices required shall be posted at the location where employees report each day. In the case of employees who do not usually work at, or report to, a single establishment, such as traveling salesperson, technicians, engineers, etc., such notices shall be posted in accordance with the requirements of Subsection R614-1-6(Q).

3. Copies of the Utah OSH Act, all regulations published under authority of Section 34A-6-202 of the Utah OSH Act and all applicable standards will be available at the UOSH office. If an employer has obtained copies of these materials, it shall make them available upon request to any employee or its authorized representative.

4. Any employer failing to comply with this rule shall be subject to citation and penalty in accordance with Sections 34A-6-302 and 34A-6-307 of the Utah OSH Act.

C. Authority for Inspection.

1. CSHOs are authorized to conduct inspections and investigations of any workplace covered under the Utah OSH Act, in accordance with Subsection 34A-6-301(1) of the Utah OSH Act, and to review records required by the Utah OSH Act, regulations published in Title R614, federal standards incorporated by Section R614-1-4, and other records which are directly related to the purpose of the inspection.

2. Before inspecting areas containing information which has been classified by an agency of the United States Government in the interest of national security, CSHOs shall obtain the appropriate security clearance.

D. Objection to Inspection.

1. Upon a refusal to permit the CSHO, in exercise of the CSHO's official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with Subsection R614-1-6(C)(1), or to permit a representative of employees to accompany the CSHO during the physical inspection of any workplace in accordance with Subsection R614-1-6(H), the CSHO shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised.

2. The CSHO shall try to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the administrator. The administrator shall take appropriate action, including compulsory process, if necessary.

3. Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the administrator, circumstances exist which make such pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include:

a. When the employer's past practice either implicitly or explicitly puts the administrator on notice that a warrantless inspection will not be allowed;

b. When an inspection is scheduled far from the UOSH office and procuring a warrant before leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the worksite;

c. When an inspection includes the use of special equipment or when the presence of an expert or experts is needed to properly conduct the inspection, and procuring a warrant before an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

4. For purposes of this section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this section.

E. Entry not a Waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply a waiver of any cause of action, citation, or penalty under the Utah OSH Act. CSHOs are not authorized to grant such waivers.

F. Advance Notice of Inspections.

1. Advance notice of inspections may not be given, except in the following situations:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

c. Where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid the inspection; and

d. In other circumstances where the administrator determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

2. In the situations described in Subsection R614-1-6(F)(1), advance notice of inspections may be given only if authorized by the administrator, except that in cases of imminent danger, advance notice may be given by the CSHO without such authorization if the administrator is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. See Subsection R614-1-6(H)(2) as to instances where there is no authorized representative of employees. Upon the request of the employer, the CSHO will inform the authorized representative of employees of the inspection, provided that the employer furnishes the CSHO with the identity of such representative and with such other information as is necessary to enable the CSHO promptly to inform such representative of the inspection. An employer who fails to comply with its obligation under this subsection promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the CSHO promptly to inform such representative of the inspection, may be subject to citation and penalty under Sections 34A-6-302 and 34A-6-307 of the Utah OSH Act. Advance notice in any of the situations described in Subsection R614-1-6(F)(1) shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in cases of imminent danger situations and other unusual circumstances.

3. Subsection 34A-6-307(5)(b) of the Utah OSH Act provides for criminal penalties where any person gives advance notice of any inspection conducted under the Utah OSH Act without authority from the administrator or administrator's representatives.

G. Conduct of Inspections.

1. Subject to Subsection R614-1-6(C), inspections shall take place at such times and in such places of employment as the administrator or the CSHO may direct. At the beginning of an inspection, CSHOs shall present their credentials to the owner, operator, or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records which they wish to review as specified in Subsection R614-1-6(C)(1). However, such designations of records shall not preclude access to additional records that may be related to the purpose of the inspection.

2. CSHOs shall have authority to take environmental samples and to take or obtain photographs or video recordings related to the purpose of the inspection, use other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. See Subsection R614-1-6(I) on trade secrets. As used in this rule, the term "use other reasonable investigative techniques" includes, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges, and other similar devices to employees to monitor their exposures.

3. In taking photographs and samples, CSHOs shall take reasonable precautions to ensure that such actions with flash, spark-producing, or other equipment will not be hazardous. CSHOs shall comply with all employer safety and health rules and practices at the establishment being inspected, and shall wear and use appropriate protective clothing and equipment.

4. The conduct of inspections shall preclude unreasonable disruption of operations of the employer's establishment.

5. At the conclusion of an inspection, the CSHO shall confer with the employer or its representative and informally advise such of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be given an opportunity to bring to the attention of the CSHO any pertinent information regarding conditions in the workplace.

6. Inspections shall be conducted in accordance with the requirements of Rule R614-1-6.

H. Representative of Employers and Employees.

1. CSHOs shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by its employees shall be given an opportunity to accompany the CSHO during the physical inspection of any workplace to aid such inspection. A CSHO may permit additional employer representatives and additional representatives authorized by employees to accompany the CSHO where the CSHO determines that such additional representatives will further aid the inspection. A different employer and employee representative may accompany the CSHO during each phase of an inspection if this will not interfere with the conduct of the inspection.

2. CSHOs shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for this rule. If there is no authorized representative of employees, or if the CSHO cannot determine with reasonable certainty who is such representative, the CSHO shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3. <u>The representative(s) authorized by employees may be an employee of the employer or a third party. When the representative(s) authorized by employees is not an employee of the employer, they may accompany the CSHO during the inspection if, in the judgment of the CSHO, good cause has been shown why accompaniment by a third party is reasonably necessary to the conduct of an effective and through physical inspection of the workplace (including but not limited to because of their relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language or communication skills).</u>[~~The representatives authorized by employees shall be an employees of the employer. However, if in the judgment of the CSHO, good cause has been shown why accompaniment by a third party who is not an employee of the employer, such as an industrial hygienist or safety engineer, is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the CSHO during the inspection.~~]

4. CSHOs are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to Subsection R614-1-6(I)(3). With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany a CSHO in areas containing such information.

I. Trade secrets.

1. Section 34A-6-306 of the Utah OSH Act provides provisions for trade secrets.

2. At the commencement of an inspection, the employer may identify areas in the establishment which contain or which might reveal a trade secret. If the CSHO has no clear reason to question such identification, information obtained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled "confidential-trade secret" and shall not be disclosed except in accordance with Section 34A-6-306 of the Utah OSH Act.

3. Upon the request of an employer, any authorized representative of employees under Subsection R614-1-6(H) in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no such

representative or employee, the CSHO shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

J. Consultation with Employees.

CSHOs may consult with employees concerning matters of occupational safety and health to the extent they consider necessary for the conduct of an effective and thorough inspection. During the inspection, any employee who believes a violation of the Utah OSH Act exists in the workplace shall be given an opportunity to bring such violation to the attention of the CSHO.

K. Complaints by Employees.

1. Any employee or representative of employees who believes a violation of the Utah OSH Act exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the alleged violation to the administrator or to a CSHO. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy of the notice shall be provided to the employer or its agent by the administrator or CSHO no later than at the time of inspection, except that, upon the request of the person giving such notice, the person's name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the administrator.

2. If upon receipt of such notification the administrator determines that the complaint meets the requirements set forth in Subsection R614-1-6(K)(1), and that there are reasonable grounds to believe that the alleged violation exists, the administrator shall cause an inspection to be made as soon as practicable. Inspections under this rule shall not be limited to matters referred to in the complaint.

3. Before or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the CSHO, in writing, of any violation of the Utah OSH Act which they have reason to believe exists in such workplace. Any such notice shall comply with requirements of Subsection R614-1-6(K)(1).

L. Inspection not Warranted; Informal Review.

1. If the administrator determines an inspection is not warranted because there are no reasonable grounds to believe a violation or danger exists with respect to a complaint filed under Subsection R614-1-6(K), the administrator shall notify the complaining party in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the administrator. The administrator, at its discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral view presented, the administrator shall affirm, modify, or reverse the determination of the previous decision and again furnish the complaining party and the employer written notification of its decision and the reasons therefor.

2. If the administrator determines that an inspection is not warranted because the requirements of Subsection R614-1-6(K)(1) have not been met, the administrator shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of Subsection R614-1-6(K)(1).

M. Imminent Danger.

Section 34A-6-305 of the Utah OSH Act contains provisions for addressing imminent danger conditions and practices in any place of employment.

N. Citations.

1. The administrator shall review the inspection report of the CSHO. If, on the basis of the report the administrator believes the employer has violated a requirement of Section 34A-6-201 of the Utah OSH Act, of any standard, rule, or order promulgated pursuant to Section 34A-6-202 of the Utah OSH Act, or of any substantive rule published in this chapter, the administrator shall issue to the employer a citation. A citation shall be issued even though after being informed of an alleged violation by the CSHO, the employer immediately abates or initiates steps to abate such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued after the expiration of 6 months following the occurrence of any violation.

2. Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provisions of the Utah OSH Act, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violations.

3. If a citation is issued for a violation alleged in a request for inspection under Subsection R614-1-6(K)(1) or a notification of violation under Subsection R614-1-6(K)(3), a copy of the citation shall be sent to the employee or representative of employees who made such request or notification.

4. Following an inspection, if the administrator determines a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under Subsection R614-1-6(K)(1) or a notification of violation under Subsection R614-1-6(K)(3), the informal review procedures prescribed in Subsection R614-1-6(L)(1) shall be applicable. After considering all views presented, the administrator shall affirm the determination, order a re-inspection, or issue a citation if it believes the inspection disclosed a violation. The administrator shall furnish the complaining party and the employer with written notification of its determination and the reasons therefor.

5. Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Utah OSH Act has occurred unless there is a failure to contest as provided for in the Utah OSH Act or, if contested, unless the citation is affirmed by the Commission.

O. Petitions for Modification of Abatement Date.

1. An employer may file a petition for modification of abatement date when it has made a good faith effort to comply with the abatement requirements of the citation, but such abatement has not been completed because of factors beyond its reasonable control.

2. A petition for modification of abatement date shall be in writing and shall include the following information:

a. All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period;

b. The specific additional abatement time necessary to achieve compliance;

c. The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date;

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period; and

e. A certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with Subsection R614-1-6(O)(3)(a) and a certification of the date upon which such posting and service was made.

3. A petition for modification of abatement date shall be filed with the administrator no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

a. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of ten working days. Where affected employees are represented by an authorized representative, said representative shall be served with a copy of such petition.

b. Affected employees or their representatives may file an objection in writing to such petition with the administrator. Failure to file such objection within ten working days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to said petition.

c. The administrator or its authorized representative shall have authority to approve any petition for modification of abatement date filed pursuant to Subsection R614-1-6(O)(2) and (3) Such uncontested petitions shall become final orders pursuant to Subsection 34A-6-303(1) of the Utah OSH Act.

d. The administrator or its authorized representative shall not exercise its approval power until the expiration of ten working days from the date the petition was posted or served by the employer pursuant to Subsection R614-1-6(O)(3)(a).

4. Where any petition is objected to by the affected employees, the petition, citation, and any objections shall be forwarded to the administrator per Subsection R614-1-6(O)(3)(b).

P. Proposed Penalties.

1. After, or concurrent with, the issuance of a citation and within a reasonable time after the termination of the inspection, the administrator shall notify the employer by certified mail or by personal service of the proposed penalty under Section 34A-6-307 of the Utah OSH Act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be the final order of the Commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notice, the employer notifies the Adjudication Division (Adjudication) within the Commission in writing that it intends to contest the citation or the notification of proposed penalty before the Commission.

2. The administrator shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with Section 34A-6-307 of the Utah OSH Act.

3. Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of such alleged violation by the CSHO, the employer immediately abates, or initiates steps to abate, such alleged violation. Penalties shall not be proposed for violations which have no direct or immediate relationship to safety or health.

Q. Posting of Citations.

1. Upon receipt of any citation under the Utah OSH Act, the employer shall immediately post such citation, or copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employees are engaged in activities which are physically dispersed (see Subsection R614-1-6(B)(2)), the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation must be posted at the location from which the employees commence their activities. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

2. Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a notice of intention to contest under Subsection R614-1-6(R) shall not affect its posting responsibility until the Commission issues a final order vacating the citation.

3. An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Commission, and such notice may explain the reasons for such contest. The employer may also indicate that specified steps have been taken to abate the violation.

4. Any employer failing to comply with Subsections R614-1-6(Q)(1) and (2) shall be subject to citation and penalty in accordance with Section 34A-6-307 of the Utah OSH Act.

R. Employer and Employee Contests before the Commission.

1. Any employer to whom a citation or notice of proposed penalty has been issued, may under Section 34A-6-303 of the Utah OSH Act, notify Adjudication in writing that the employer intends to contest such citation or proposed penalty before the Commission. Such notice of intention to contest must be received by Adjudication within 30 days of the receipt by the employer of the citation and notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. Adjudication shall handle such notice in accordance with the rules of procedures prescribed by the Commission.

2. An employee or representative of employee of an employer to whom a citation has been issued may, under Subsection 34A-6-303(3) of the Utah OSH Act, file a written notice with Adjudication alleging that the period fixed in the citation for the abatement of the violation is unreasonable. Such notice must be received by Adjudication within 30 days of the issuance of the citation by UOSH. Adjudication shall handle such notice in accordance with the rules of procedure prescribed by the Commission.

S. Failure to Correct a Violation for which a Citation has been Issued.

1. If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the administrator shall notify the employer by certified mail or by personal service by the CSHO of such failure and of the additional penalty proposed under Section 34A-6-307 of the Utah OSH Act by reason of such failure. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Commission in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

2. Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under Subsection 34A-6-303(3) of the Utah OSH Act, notify Adjudication in writing that it intends to contest such notification or proposed additional penalty before the Commission. Such notice of intention to contest shall be received by Adjudication within 30 days of receipt by the employer of the notification of failure to correct a violation and of proposed additional penalty. Adjudication shall handle such notice in accordance with the rules of procedures prescribed by the Commission.

3. Each notification of failure to correct a violation and of proposed additional penalty shall state that it shall be the final order of the Commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notification, the employer notifies Adjudication in writing that it intends to contest the notification or the proposed additional penalty before the Commission.

T. Informal Conferences.

At the request of an affected employer, employee, or representative of employees, the administrator may hold an informal conference to discuss any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The administrator shall provide in writing the reasons for any settlement of issues at such conferences. If the conference is requested by the employer, an affected employee or employee representative shall be given an opportunity to participate, at the discretion of the administrator. If the conference is requested by an employee or representative of employees, the employer shall be given an opportunity to participate, at the discretion of the administrator. Any party may be represented by counsel at such conference. No such conference or request for such conference shall operate as a stay of any 30-day period for filing a notice of intention to contest as prescribed in Subsection R614-1-6(R).

U. Multi-Employer Worksites.

1. Pursuant to Section 34A-6-201 of the Utah OSH Act, violation of an applicable standard adopted under Section 34A-6-202 of the Utah OSH Act at a multi-employer worksite may result in a citation issued to more than one employer.

2. An employer on a multi-employer worksite may be considered a creating, exposing, correcting, or controlling employer. An employer may be cited should:

a. it meet the definition of a creating employer and be found to have failed to exercise the duty of care required by this rule for a creating employer;

b. it meet the definition of an exposing, correcting, or controlling employer and be found to have failed to exercise the duty of care required by this rule for that category of employer; or

c. even if an employer meets its duty of reasonable care applicable to one category of employer, it may still be cited should it meet the definition of another category of employer and be found to have failed to exercise the duty of care required by this rule for that category of employer. No employer will be cited for the same violation under multiple categories of employers.

3. Creating Employer. A creating employer is one that created a hazardous condition on the worksite. A creating employer may be cited if:

a. Its own employees are exposed or if the employees of another employer at the site are exposed to this hazard; and

b. The employer did not exercise reasonable care by taking prompt and effective steps to alert employees of other employers of the hazard and to correct or remove the hazard or, if the creating employer does not have the ability or authority to correct or remove the hazard, to notify the controlling or correcting employer of the hazard.

4. Exposing Employer. An exposing employer is one that exposed its own employees to a hazard. If the exposing employer created the hazard, it is citable as the creating employer, not the exposing employer.

a. If the exposing employer did not create the hazard, it may be cited as the exposing employer if:

i. It knew of the hazard or failed to exercise reasonable care to discover the hazard; and

ii. Upon obtaining knowledge of the hazard, it failed to take prompt and reasonable precautions, consistent with its authority on the worksite, to protect its employees.

b. An exposing employer will be deemed to have exercised reasonable care to discover a hazard if it demonstrates that it has regularly and diligently inspected the worksite.

c. If the exposing employer has the authority to correct or remove the hazard, it must correct or remove the hazard with reasonable diligence. If the exposing employer lacks such authority, it may still be cited if:

i. It failed to make a good faith effort to ask the creating or controlling employer to correct the hazard;

ii. It failed to inform its employees of the hazard; and

iii. It failed to take reasonable alternative measures, consistent with its authority on the worksite, to protect its employees.

5. Correcting Employer. A correcting employer is one responsible for correcting a hazardous condition, such as installing or maintaining safety and health devices or equipment, or implementing appropriate health and safety procedures. A correcting employer must exercise reasonable care in preventing and discovering hazards and ensure such hazards are corrected in a prompt manner, which shall be determined in light of the scale, nature and pace of the work, and the amount of activity of the worksite.

6. Controlling Employer. A controlling employer is one with general supervisory authority over a worksite. This authority may be established either through contract or practice and includes the authority to correct safety and health violations or require others to do so, but it is separate from the responsibilities and care to be exercised by a correcting employer.

a. A controlling employer will not be cited if it has exercised reasonable care to prevent and detect violations on the worksite. The extent of the measures used by a controlling employer to satisfy this duty, however, is less than the extent required of an employer when protecting its own employees. A controlling employer is not required to inspect for hazards or violations as frequently or to demonstrate the same knowledge of applicable standards or specific trade expertise as the employer under its control.

b. When determining the duty of reasonable care applicable to a controlling employer on a multi-employer worksite, the factors that may be considered include:

i. The nature of the worksite and industry in which the work is being performed;

ii. The scale, nature and pace of the work, including the pace and frequency at which the worksite hazards change as the work progresses;

iii. The amount of activity at the worksite, including the number of employers under its control and the number of employees working on the worksite;

iv. The implementation and monitoring of safety and health precautions for the entire worksite requiring that other employers on the worksite comply with their respective obligations and standards of care for the safety of employees, a graduated system of discipline for non-compliant employees and employers, regular worksite safety meetings, and when appropriate for atypical hazards, the providing of adequate safety training by employers for atypical hazards present on the worksite; and

v. The frequency of worksite inspections, particularly at the commencement of a project or the commencement of work on the project by other employers that come under its control. As work progresses, the frequency and sufficiency of such inspections shall be determined in relation to other employers' compliance with their respective obligations and standards of care as required by this rule.

c. When evaluating whether a controlling employer has demonstrated reasonable care in preventing and discovering violations, the following factors, though not inclusive, shall be considered;

i. Whether the controlling employer conducted worksite inspections with sufficient frequency as contemplated by Subsection 6(b);

ii. The controlling employer's implementation and monitoring of an effective system for identifying a hazardous condition and promptly notifying employers under its control of the hazard so as to ensure compliance with their respective duties of care under this rule;

iii. Whether the controlling employer implements a graduated system of discipline for non-compliant employees or employers with their respective safety and health requirements;

iv. Whether the controlling employer performs follow-up inspections to ensure hazards are corrected; and

v. Other actions demonstrating the implementation and monitoring of safety and health precautions for the entire worksite.

7. In accordance with Section 34A-6-110 of the Utah OSH Act, nothing in this rule shall be:

a. Deemed to limit or repeal requirements imposed by statute or otherwise recognized by law; or

b. Construed or held to supersede or in any manner affect workers' compensation or enlarge or diminish or affect the common-law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of employment.

KEY: safety
Date of Last Change: 2024[~~June 21, 2024~~]
Notice of Continuation: June 24, 2022
Authorizing, and Implemented or Interpreted Law: 34A-6

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	**R649-12**	**Filing ID: 56606**

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Oil and Gas	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R649-12. Certification of Pollution Control Facility or Freestanding Pollution Control Property

3. Purpose of the new rule or reason for the change:
H.B. 373 of the 2024 General Session directs the Division of Oil, Gas and Mining (Division) to administer a program of issuing tax certificates to qualifying purchases of pollution control facilities. Within the bill, rulemaking authority is granted to the Board of Oil, Gas and Mining to establish procedures relating to the processing and evaluation of an application for a certificate and the issuance or revocation of a certificate.
4. Summary of the new rule or change:
This new rule will establish the processes for applying for the certification, issuing a certification, exemptions, and appeals or revocations. This rule will cover the authorization, purpose, scope, and applicable definitions of this new process the Division has been tasked with by the legislature.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is a total of one state agency, the Division, that will be associated with this proposed rule. H.B. 373 (2024) appropriated funding to implement this program, so no additional money will be needed.
B) Local governments:
This rule does not apply to local governments as the tax incentive can only be granted by the Division, the Division of Air Quality, and the Division of Water Quality. Additionally, this new rule is only applicable to operators who are permitted with the Division's Oil and Gas program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
There are 303 small businesses, oil and gas operators, (for a complete listing of North American Industry Classification System (NAICS) codes used in this analysis, please contact the agency) in the state of Utah. There will be an estimated fiscal savings to oil and gas operators who receive a certificate, as they can be submitted to the Tax Commission for a sales and use incentive, however, it cannot be estimated how many oil and gas operators will apply and receive a certificate from the Division.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
There are a total of 4 non-small businesses, oil and gas operators, (for a complete listing of NAICS codes used in this analysis, please contact the agency) in the state of Utah. There will be an estimated fiscal savings to oil and gas operators who receive a certificate, as they can be submitted to the Tax Commission for a sales and use incentive, however, it cannot be estimated how many oil and gas operators will apply and receive a certificate from the Division.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This rule change will not affect persons other than small businesses, businesses, or one state government agency as this rule change will only affect oil and gas operators who are currently permitted with the oil and gas program within the Division.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There will be no compliance costs since updating pollution control facilities isn't a requirement and applying for the tax certificate is free.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 40-6-1	Subsection 19-12-305(3)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/15/2024

9. This rule change MAY become effective on:	08/28/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Mick Thomas, Director	**Date:**	06/27/2024

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.
R649-12. Certification of Pollution Control Facility or Freestanding Pollution Control Property.
R649-12-1. Authority, Purpose, and Scope.

(1) Authorization. This rule is administered by the division authorized by Title 19, Chapter 12, Pollution Control Act.

(2) Purpose. The purpose of this rule is to protect public health and the environment by encouraging industries to install Pollution Control Facilities and Freestanding Pollution Control Properties through sales and use tax incentives.

(3) Scope. This rule shall apply to purchases described in Section 19-12-201.

R649-12-2. Definitions.

(1) The following definitions apply to Rule R649-12:

(2) "Freestanding pollution control property" means freestanding pollution control property as defined in Section 19-12-102.

(3) "Pollution control facility" means pollution control facility as defined in Section 19-12-102.

R649-12-3. Application for Certification.

(1) An application for certification shall be made on the form provided on the division's website.

(2) The application shall include any information requested thereon and such additional information as is requested by the director. At a minimum, the application shall contain:

(a) a description of the pollution control facility or the freestanding pollution control property;

(b) a description of the property, part, product, or service for a purchase or lease of property, a part, a product or service for which a person seeks to claim a sales and use tax exemption under Section 19-12-201;

(c) the existing or proposed operation procedure for the pollution control facility or freestanding pollution control property; and

(d) a statement of the purpose. served or to be served by the pollution control facility or freestanding pollution control property.

(3) Applications for certification may include:

(a) a reference to the approval order issued by the Utah Division of Air Quality that requires the pollution control facility or the freestanding pollution control property;

(b) a reference to the section of the State Implementation Plan that requires the pollution control facility or the freestanding pollution control property; or

(c) an estimate of emission reductions, in tons per year, resulting from the use of the pollution control facility or the freestanding pollution control property.

(4) The director may require an application to contain additional information that the director finds necessary to determine whether to grant certification under Section 19-12-303.

R649-12-4. Issuance of Certification.

(1) The application's filing date shall be the date the director receives a complete application with the required information as described in Section R649-12-3. Within 120 days of the filing date of the application, the director will:

(a) issue a written certification of the pollution control facility or the freestanding pollution control property; or

(b) provide a written statement of the reason for the denial of certification.

(2) The director shall issue a certification of a pollution control facility or a freestanding pollution control property to the applicant if the director determines that:

(a) the application meets the requirements of Subsection 19-12-301(3) or 19-12-302(2);

(b) the facility or property that is the subject of the application is a pollution control facility or a freestanding pollution control property.

(c) the person who files the application is a person described in Subsection 19-12-301(1) or 19-12-302(1); and

(d) the purchases or leases for which the person seeks to claim a sales and use tax exemption are exempt under Section 19-12-201.

(3) The director may issue one certification for one or more pollution control facilities or freestanding pollution control properties that constitute an operational unit.

(4) If the director does not issue or deny a certification within 120 days after the date a person files an application, the director shall issue a certification to the person at the person's request.

R649-12-5. Exemptions from Certification.

(1) The director may not require the certification of:

(a) a replacement of freestanding pollution control property; or

(b) property, a part, a product, or a service described in Subsections 19-12-201(1)(b) through (e) used or performed in a repair or replacement related to:

(i) a pollution control facility; or

(ii) a freestanding pollution control property.

R649-12-6. Appeal and Revocation.

(1) A decision of the director may be reviewed by filing a Request for Agency Action as provided in Section R649-10-1.

(2) The director may revoke a certification issued under Section 19-12-303 if the director makes a determination as contained in Section 19-12-304.

KEY: oil and gas law
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-4**	**Filing ID: 56602**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources

Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84414-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-4. Possession and Release of Pen-reared Gamebirds
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking protected wildlife.
4. Summary of the new rule or change:
The proposed amendments to this rule update a rule reference.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-4 are administrative in nature, the DWR determines that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The proposed rule amendments will not directly impact small businesses because a service is not required of them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The proposed rule amendments do not have the potential to impact other persons that pen raise gamebirds in Utah, nor is a service required of them.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The DWR has determined that this amendment may not create additional costs for those individuals wishing to raise pen reared gamebirds in Utah because it simply updates a rule reference.

G) **Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-5-302	Section 23A-2-305	Section 23A-2-304

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-4. Possession and Release of Pen-reared Gamebirds.
R657-4-1. Purpose and Authority.

(1) Under authority of Sections 23A-5-302, 23A-2-305, and 23A-2-304, the Wildlife Board has established this rule for the possession, importation, purchase, propagation, sale, barter, trade, release or disposal of live pen-reared gamebirds and their eggs.

(2) The provisions of Rule R657-3b do not apply to activities conducted by holders of a valid Wildlife Document to the extent those activities are covered by this rule.

R657-4-16. Commercial Gamebird Facility.

(1) A Commercial Gamebird Facility License required if:

(a) more than 1,000 total birds and viable eggs are held in possession; and

(b) for importation, propagation, sale, barter, trade of gamebirds.

(2) A Commercial Gamebird Facility must be licensed by the Department of Agriculture and Food under Rule [~~R657-6~~]R58-6, Poultry and Captive-Raised Gamebirds.

(3) Commercial Gamebird Facilities shall comply with Division pen-reared gamebird facility guidelines available at https://wildlife.utah.gov in addition to Department of Agriculture and Food Requirements.

(a) Commercial Gamebird Facilities shall be constructed so as to prevent escape of birds.

(b) Commercial Gamebird Facilities shall prevent access to native waterways.

(4) Any person in possession of pen-reared gamebirds must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live pen-reared gamebirds.

KEY: wildlife, birds, game laws, aviculture
Date of Last Change: 2024[~~October 5, 2023~~]
Notice of Continuation: April 4, 2022
Authorizing, and Implemented or Interpreted Law: 23A-5-302; 23A-2-305; 23A-2-304

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-5**	**Filing ID: 56596**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-5. Taking Big Game
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking Big Game.
4. Summary of the new rule or change:
The proposed amendments to this rule place this rule in line with H.B. 382, Wildlife Amendments, passed in the 2024 General Session which clarifies a voided license/permit.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-5 are administrative in nature, DWE has determines that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:			
Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons)**:**			
The proposed rule amendments will not directly impact small businesses because a service is not required of them.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**			
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**			
The proposed rule amendments do not have the potential to impact other persons that hunt big game in Utah, nor is a service required of them.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**			
The DWR has determined that this amendment may not create additional costs for those individuals wishing to hunt big game in Utah because it simply clarifies what an invalid license/permit is.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

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

(1) Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established:

(a) this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(b) appropriate weapons or devices to take big game and restrictions to weapons or devices to take big game.

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

R657-5-5. Duplicate License and Permit.

(1) When any unexpired license, permit, tag or certificate of registration is destroyed, lost or stolen, a person may obtain a duplicate from a division office or online license agent, for ten dollars or half of the price of the original license, permit, or certificate of registration, whichever is less.

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

(3) Upon issuance of a duplicate license, permit, tag, or certificate of registration, the original license, permit, tag, or certificate of registration is invalid.

KEY: wildlife, game laws, big game seasons
Date of Last Change: [~~February 7,~~] 2024
Notice of Continuation: September 8, 2020
Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305; 23A-11-201; 23A-11-202

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-13**	**Filing ID: 56597**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-13. Taking Fish and Crayfish
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking Fish and Crayfish.
4. Summary of the new rule or change:
The proposed amendments to this rule place this rule in line with H.B. 382, Wildlife Amendments, passed in the 2024 General Session which amends a statutory reference.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Ruel R657-13 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The proposed rule amendments will not directly impact small businesses because a service is not required of them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The proposed rule amendments do not have the potential to impact other persons that fish in Utah, nor is a service required of them.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The DWR has determined that this amendment may not create additional costs for those individuals wishing to fish in Utah because it simply updates a statutory teference.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0

Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-305	Section 23A-2-304	Section 23A-4-201
Section 23A-2-403		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-13. Taking Fish and Crayfish.
R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-305 and 23A-2-304, the Wildlife Board has established this rule for taking fish and crayfish.

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

R657-13-2. Definitions.

(1) Terms used in this rule are defined in Section 23A-1-101.

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight, not to exceed 100 feet, of the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(d) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(e) "Daily limit" means the maximum limit, in number or amount, of protected aquatic wildlife that one person may legally take during one day.

(f) "Bait" means a digestible substance, including corn, worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(g) "Camp" means, for the purposes of this rule, any place providing temporary overnight accommodation for anglers including a camper, campground, tent, trailer, cabin, houseboat, boat, or hotel.

(h) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(i) "Commercially prepared and chemically treated baitfish" means any fish species or fish parts which have been processed using a chemical or physical preservation technique other than freezing including irradiation, salting, cooking, or oiling and are marketed, sold or traded for financial gain as bait.

(j) "Dipnet" means a small bag net with a handle that is used to scoop fish or crayfish from the water.

(k) "Filleting" means the processing of fish for human consumption typically done by cutting away flesh from bones, skin, and body.

(l) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(m) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(n) "Free Shafting" means to release a pointed shaft that is not tethered or attached by physical means to the diver in an attempt to take fish while engaged in underwater spearfishing.

(o) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(p) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout including rainbow, albino, cutthroat, brown, golden, brook, lake or mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing; tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(q) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(r) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(s) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(t) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(u) "Liftnet" means a small net that is drawn vertically through the water column to take fish or crayfish.

(v) "Motor" means an electric or internal combustion engine.

(w) "Nongame fish" means species of fish not listed as game fish.

(x) "Permanent residence" means, for the purposes of this rule only, the domicile an individual claims pursuant to Subsection 23A-1-101([~~13~~]15).

(y) "Possession limit" means, for purposes of this rule only, two daily limits, including fish in a cooler, camper, tent, freezer, livewell or any other place of storage, excluding fish stored in an individual's permanent residence.

(z) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(aa) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(bb) "Seine" means a small mesh net with a weighted line on the bottom and float line on the top that is drawn through the water. This type of net is used to enclose fish when its ends are brought together.

(cc) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(dd) "Single hook" means a hook or multiple hooks having a common shank.

(ee) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(ff) "Spear" means a long-shafted, sharply pointed, hand held instrument with or without barbs used to spear fish from above the surface of the water.

(gg) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

(hh)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake or mackinaw, splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

(ii) "Underwater spearfishing" means fishing by a person swimming, snorkeling, or SCUBA diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other device to propel a pointed shaft to take fish from under the surface of the water.

KEY: fish, fishing, wildlife, wildlife law
Date of Last Change: [~~March 13,~~] 2024
Notice of Continuation: August 24, 2022
Authorizing, and Implemented or Interpreted Law: 23A-2-305; 23A-24-304; 23A-4-201; 23A-2-403

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-14**	**Filing ID: 56598**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R657-14. Commercial Harvesting of Protected Aquatic Wildlife

3. Purpose of the new rule or reason for the change:

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking protected wildlife.

4. Summary of the new rule or change:

The proposed amendments to this rule update a scientific name for leatherside chub.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendments to Rule R657-14 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed rule amendments do not have the potential to impact other persons that fish in Utah, nor is a service required of them.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The DWR has determined that this amendment may not create additional costs for those individuals wishing to fish in Utah because it simply updates a scientific name.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 23A-2-102	Section 23A-2-304	Section 23A-2-305
Section 23A-5-304	Section 23A-9-305	Section 23A-9-304

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-14. Commercial Harvesting of Protected Aquatic Wildlife.

R657-14-1. Purpose and Authority.

(1)(a) Under authority of Sections 23A-2-102, 23A-2-304, and 23A-2-305, and Sections 23A-9-304 through 23A-9-305, this rule provides the procedures, standards, and requirements for:

(i) harvesting protected aquatic wildlife for use as fish bait; and

(ii) seining protected aquatic wildlife.

(b) The commercial harvesting of brine shrimp and brine shrimp eggs is regulated under Rule R657-52.

R657-14-8. Prohibited Nongame Species.

The following species of protected aquatic wildlife may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which it was taken:

(1) bonytail (Gila elegans);

(2) bluehead sucker (Catostomus discobolus);

(3) Colorado pikeminnow (Ptychocheilus lucius);

(4) flannelmouth sucker (Catostomus latipinnis);

(5) gizzard shad (Dorosoma cepedianum);

(6) grass carp (Ctenopharyngodon idella);

(7) humpback chub (Gila cypha);

(8) June sucker (Chasmistes liorus);

(9) least chub (Iotichthys phlegethontis);

(10) leatherside chub ([~~Gila cypha~~]<u>Lepidomeda copei and Lepidomeda aliciae</u>);

(11) razorback sucker (Xyrauchen texanus);

(12) Virgin River chub (Gila robusta seminuda);

(13) Virgin spinedace (Lepidomeda mollispinis); and

(14) woundfin (Plagopterus argentissimus).

KEY: game laws, bait dealers, commercialization of aquatic wildlife
Date of Last Change: <u>2024</u>[~~October 1, 2023~~]
Notice of Continuation: May 17, 2022
Authorizing, and Implemented or Interpreted Law: 23A-2-102; 23A-2-304; 23A-2-305; 23A-5-304; 23A-9-305; 23A-9-304

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-37**	**Filing ID: 56609**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-37. Cooperative Wildlife Management Units for Big Game or Turkey
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule regulating the operations of Cooperative Wildlife Management Units (CWMUs).

4. Summary of the new rule or change:

The proposed amendments to this rule:
1) eliminate acreage variances and allow for under acreage applications if the CWMU is within 90% of the acreage requirements and agree to allocate an additional permit for each species to be awarded in the public draw;
2) create strategies and tools to help with CWMUs that are over objective on management units;
3) allow for the addition of non-contiguous lands to a CWMU under certain circumstances;
4) provide guidelines for the administration of trade lands;
5) clarify the purpose of the CWMU Advisory Committee; and
6) make technical corrections.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendments to Rule R657-37 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in operating a CWMU because the rule amendments clarify processes currently in place and allow additional management tools to be used by operators that will be beneficial to the operation of all CWMUs. These additional tools will not create a cost impact to those wishing to employ them.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The DWR has determined that this amendment will not create additional costs for those participating in hunting in Utah on a CWMU because the rule amendments clarify processes currently in place and allow additional management tools to be used by operators that will be beneficial to the operation of all CWMUs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**

Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-7-102		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	07/01/2024

R657. Natural Resources, Wildlife Resources.
R657-37. Cooperative Wildlife Management Units for Big Game or Turkey.
R657-37-1. Purpose and Authority.

(1) Under authority of Section 23A-7-102, this rule provides the standards and procedures applicable to Cooperative Wildlife Management Units organized for the hunting of big game or turkey.

(2) Cooperative Wildlife Management Units are established to:

(a) increase wildlife resources;

(b) provide income to landowners;

(c) provide the general public access to private and public lands for hunting big game or turkey within a Cooperative Wildlife Management Unit;

(d) create satisfying hunting opportunities;

(e) provide adequate protection to landowners who open their lands for hunting; and

(f) provide landowners an incentive to manage lands to protect and sustain wildlife habitat and benefit wildlife.

R657-37-2. Definitions.

(1) Terms used in this rule are defined in Sections 23A-1-101 and 23A-7-[~~101~~]102.

(2) In addition:

(a) "CWMU" means Cooperative Wildlife Management Unit.

(b) "CWMU agent" means a person appointed by a landowner association member to protect private property within the CWMU.

(c) "General public" means all persons except landowner association members and their spouse or dependent children.

[~~(d)~~] (d) "Geospatial file" refers to a digital file submission that accurately portrays information about the location and shape of geographic features, such as the interior and exterior boundaries of the CWMU. Acceptable formats include a zipped, compressed, Esri shapefile or .kml or .kmz file.

(e) "CWMU Harvest Objective" means the minimum number of antlerless animals a CWMU needs to harvest to help contribute to achieving a unit wide species population objective.

(f) "Landowner association" means a landowner or group of landowners of private land organized as a single entity for [~~the purpose of~~]applying for, becoming and operating a CWMU.

([~~e~~]g) "Landowner association member" means:

(i) an individual landowner or the managing members of a legal entity holding a fee interest in private property enrolled in a CWMU;

(ii) a landowner association president;

(iii) a landowner association operator; and

(iv) employees, agents, and volunteers operating under the authority of or at the direction of a landowner association president or operator.

([~~f~~]h) "Landowner association operator" means a person designated by the landowner association to operate the CWMU and handle day-to-day interactions of the landowner association with the public.

([~~g~~]i) "Landowner association president" means a representative of the landowner association who is responsible for all internal operations of the landowner association and is ultimately responsible for the CWMU.

[~~(h)~~] (j) "Trade lands" means private lands opened up for big game hunting to compensate for public land included in the CWMU.

(k) "Voucher" means a document issued by the division to a landowner association member, allowing a landowner association member to designate who may purchase a CWMU big game or turkey hunting permit from a division office.

R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.

(1) A CWMU may be established for the purposes of hunting one or more of the following:

(a) mule deer;

(b) elk;

(c) moose;

(d) pronghorn; and

(e) turkey.

(2) The Wildlife Board may approve the issuance of a certificate of registration for a CWMU, provided:

(a) the property is capable of independently maintaining the presence of the respective species and harboring them during the established hunting season;

(b) the property is capable of accommodating the anticipated number of hunters and providing a reasonable hunting opportunity;

(c) the property exhibits enforceable boundaries clearly identifiable to both the public and private hunters;

(d) the CWMU contributes to meeting division wildlife management objectives;

(e) as needed, the CWMU provides reasonable assistance to the division in minimizing and addressing damage to agricultural interests within and adjacent to the CWMU caused by wildlife; and

(f) the CWMU meets the technical specifications provided in this rule.

(3) A CWMU shall satisfy the following criteria:

(a) a CWMU for elk or moose must contain at least 10,000 contiguous acres;

(b) a CWMU for deer, pronghorn, or turkey must contain at least 5,000 contiguous acres;

([~~b~~]c) the CWMU shall consist of private land to the extent practicable;

([~~c~~]d) only private lands may be included in calculating minimum acreage requirements;

([~~d~~]e) land parcels adjoining corner-to-corner may not be included for the purposes of meeting minimum contiguous acreage requirements; and

([~~e~~]f) all lands counting toward[~~s~~] the minimum acreage requirements shall provide quality hunting opportunity and form a quality hunting unit[~~; or~~].

([~~f)~~]4) If a CWMU does not satisfy the [~~CWMU must receive approval for~~]criteria contained in Subsection (3) the CWMU can apply to be a CWMU if:

(a) the CWMU meets 90% of the acreage requirements; and

(b) the CWMU gives one extra permit each year to the public draw.

(5) A CWMU currently operating below the required minimum acreage that was previously granted a variance [~~as described in R657-37-5(4).~~]for not meeting the minimum acreage requirement will continue to receive that acreage variance unless enrolled acreage is further reduced below the required minimum acreage.

[~~(4)~~] (6) A CWMU may include public land only if:

(a) the public land is surrounded by private land or is otherwise publicly inaccessible;

(b) the public land is necessary to establish an enforceable and identifiable hunt boundary; or

(c) inclusion of the public land is necessary to achieve statewide and unit management objectives.

([~~5~~]7) A CWMU may not include:

(a) any lands comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in [~~Section~~]Subsection 4-39-102(2) and Rules R58-18 and R58-20;

(b) any lands already included in another active CWMU; or

(c) differing hunt boundaries for multiple species approved on a single CWMU.

([~~6~~]8) The Wildlife Board may deny a CWMU that meets technical requirements of this rule but does not otherwise fulfill the purposes of the CWMU program.

R657-37-4. Cooperative Wildlife Management Unit Management Plan.

(1)(a) [~~The~~]A landowner association shall manage the CWMU in compliance with a CWMU Management Plan approved by the division.

(b) The CWMU [~~m~~]Management [~~p~~]Plan shall be consistent with statewide and unit management objectives for the respective species hunted on the CWMU.

(c) CWMUs that occur within a general season unit may be managed for higher buck to doe ratios and older age class animals, consistent within a limited entry unit.

(2)(a) The CWMU Management Plan shall be completed as part of the certificate of registration application and renewal processes.

(b) If approved by the Wildlife Board, the CWMU [~~m~~]Management [~~p~~]Plan is incorporated into the CWMU's certificate of registration.

(c) Amendments to the CWMU Management Plan may be requested by the Wildlife Board, the division, or the CWMU landowner association operator or president, and may result in an amendment to the certificate of registration, consistent with Section R657-37-5.5.

(3)(a) The CWMU Management Plan must include:

(i) species management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game or turkey management unit;

(ii) antlerless harvest objectives;

(iii) dates that the general public with buck or bull CWMU permits will be allowed to hunt;

(iv) a detailed explanation of how comparable hunting opportunities will be provided to both the private and public permit holders on the CWMU [~~as required in Section 23A-7-205~~]including an equal ability to use atvs/utvs, horses, track machines, or other means of transportation;

(v) an explanation of the purpose for including public land within the CWMU boundaries, if public land is included;

(vi) an explanation of how the public is compensated by the CWMU when public land is included;

(vii) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;

(viii) [~~County Recorder Plat Maps or equivalent maps~~]submission of a digital geospatial boundary file depicting parcel boundaries and ownership information for each parcel of real property included within the CWMU;

[~~(ix) two original 1:100,000 USGS maps~~] (A) parcel data should be sourced from the most recent County Recorders Plat records;

(B) if the CWMU requires tradelands, an additional geospatial file should be submitted depicting each additional parcel of real property to be considered in trade for public land included with the CWMU boundary;

(ix) submission of a digital geospatial boundary file that accurately depicts an enforceable interior and exterior boundary of the [~~proposed~~]CWMU.

(A) any sections of the CWMU unit closed to hunting for both public and private hunters should be clearly identified and excluded from the mapped boundary;

(B) geospatial boundary files must be submitted to the division for approval at the time of initial application and again with any renewal or variance applications;

(x) strategies and methods that avoid, mitigate, and if necessary compensate for adverse impacts to adjacent landowners and lessees resulting from the operation of the CWMU;

(xi) strategies and methods that avoid, mitigate, and if necessary compensate for adverse impacts to agricultural lessees within and adjacent to the CWMU;

(xii) identification of areas within the CWMU that are closed to hunting by both public and private hunters;

(xiii) any request for reciprocal agreements.

[~~(b~~] (b) Noncontiguous lands can be added to the CWMU if:

(i) there are at least 640 contiguous acres;

(ii) it is owned by a landowner already in the CWMU; and

(iii) it is within four miles of the contiguous minimum acreage;

(c) A CWMU cannot incorporate noncontiguous lands containing any public land into the CWMU.

(d) The division shall review each CWMU Management Plan and make recommendations to the Wildlife Board.

(4)(a) CWMU operators are required to complete a CWMU training session provided by the division on an annual basis.

(b) Failure to complete the CWMU training session may result in the CWMU operator being referred to the CWMU Advisory Committee described in Section R657-37-[~~15~~]17 or may result in administrative action taken against a certificate of registration as described in Section R657-37-[~~14~~]15.

R657-37-5. Application for Certificate of Registration[~~; Variance Process~~].

(1) An application for a CWMU certificate of registration satisfying the acreage and parcel configuration requirements in Section R657-37-3 must be completed and returned to the regional division office where the proposed CWMU is located no later than August [~~1~~]10.

(2) The application must be accompanied by:

(a) the CWMU Management Plan, including all maps and a [~~GIS shapefile in NAD 83 depicting~~]geospatial file of the CWMU boundary;

(b)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23A, Chapter 7[~~ of the~~], Cooperative Wildlife [~~Resources Code~~]Management Units; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU landowner association;

(c) a signed waiver from each landowner or lessee holding agricultural interests within the boundaries of the proposed CWMU releasing all claims for any assistance pertaining to [~~those~~]any lands that may otherwise be available from the division under Rule R657-44 during the term of the certificate of registration;

(d) the name of the landowner association operator;

(e) the name of the landowner association president; and

(f) the nonrefundable handling fee.

(3)(a) The division may reject any application that is incomplete or completed incorrectly.

(b) Applicants must update the division regarding any changes to the substance of their application while it is under consideration or it may be considered incomplete or incorrect.

[~~(4)(a) An application for a new CWMU that fails to meet the acreage or parcel configuration requirements in R657-37-3 must submit a written variance request to the division by February 1st prior to the annual August 1st application deadline.~~

~~(b) Upon receipt of a completed variance request, the division will forward the variance request to the CWMU Advisory Committee for review and recommendations.~~

~~(c) The division will review the variance request and make recommendations to the CWMU Advisory Committee.~~

~~(d) The CWMU Advisory Committee will consider the variance request and the division's recommendations and make recommendations to the Wildlife Board on the advisability of granting the CWMU application.~~

~~(5~~](4) In analyzing an application for a CWMU, the Wildlife Board shall consider:

(a) the application materials;

(b) the division's recommendation; and

(c) any [~~recommendation from the CWMU Advisory Committee regarding~~]conviction of, a [~~variance request; and~~

~~(d) any violation of the provisions~~]plea of no contest to, or a plea held in abeyance to a crime under Title 23A, the Wildlife Resources [~~Code~~]Act or a crime of moral turpitude by the CWMU operator, president, or landowner association member that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship [~~on whether~~]to the [~~applicant should be approved to participate in the program~~]applicant's ability to responsibly operate a CWMU.

(6) Upon receiving the application and recommendation from the division, the Wildlife Board may:

(a) authorize the issuance of a certificate of registration allowing the landowner association to operate a CWMU; or

(b) deny the application and provide the landowner association with reasons for the decision.

(7) A certificate of registration is issued on a three-year basis and shall expire on January 31.

(8) The CWMU application and the management plan agreement are binding upon the landowner association members and all successors in interest to the CWMU property or the hunting rights thereon as it pertains to allowing public permit holders reasonable access to all CWMU property during the applicable hunting seasons for purposes of filling the permit.

R657-37-5.5. Amendment to a Certificate of Registration; Termination of Certificate of Registration.

[~~(1)(a) A~~] (1)(a) Amendments to a certificate of registration can take place between June 1 and Aug 10 and a CWMU must notify the division in writing regarding any requested change in:

(i) permit numbers or allocation;

(ii) season dates;

(iii) landowner association membership;

(iv) acreage of the CWMU;

(v) operator;

(vi) the CWMU Management Plan; or

(vii) any other matter related to the management and operation of the CWMU not originally included in the certificate of registration.

(b) Written notification of a requested change must be submitted to the appropriate regional division office where the CWMU is located.

(c) The division must be notified of all changes in landowner association membership, acreage, and operator within 30 days of such changes occurring.

(d) The CWMU must provide the division with the written release identified in Subsection R657-37-5(2)(c) from new agricultural lessees within the boundaries of the proposed CWMU that are not participating members of the landowner association within 30 days of any changes occurring.

(e) Changes in the CWMU described in Subsection R657-37-5.5(1)(a) require an amendment to the certificate of registration.

(2) Requests to amend buck and bull permit numbers, permit allocation, or season dates:

(a) may be initiated by the CWMU or the division;

(b) are due on August [~~1~~]10 of the year prior to when hunting is to occur, unless requested changes are in response to an ecological event or condition occurring after the August 1 deadline and beyond the control of the CWMU;

(c) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration; and

(d) upon approval by the Wildlife Board, an amendment to the original certificate of registration shall be issued in writing.

(3) Requests to amend antlerless permit numbers or season dates:

(a) may be initiated by the CWMU or the division;

(b) must be submitted to the division by the last day of February;

(c) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration; and

(d) upon approval by the Wildlife Board, an amendment to the original certificate of registration may be issued in writing.

(4)(a) If acreage totals in the CWMU decrease by more than 33% over the term of the certificate of registration, the certificate of registration shall:

(i) remain effective for the hunting season beginning in that calendar year; and

(ii) following completion of that hunting season, the certificate of registration shall terminate.

(b) A CWMU whose certificate of registration is terminated under this section may reapply consistent with Section R657-37-5.

(c) If a reduction in acreage occurs on a CWMU that does not trigger the 33% threshold identified in [~~subsection~~]Subsection 4(a) and the resulting acreage total is below the standard totals generally required by Section R657-37-3:

(i) the certificate of registration will remain effective for the current hunt year; or

(ii) if the CWMU [~~will be reported to the CWMU Advisory Committee for a variance request using the process described~~]is not within 90% of acreage requirement in Subsection R657-37-[~~5~~](4)[~~; and~~

~~(iii) the Wildlife Board shall make a determination regarding variance approval and amendment of~~](i), the certificate of registration shall terminate.

(5)(a) All other requests for amendments shall be reviewed by the division.

(b) If the division recommends approval of the amendment, the division will submit that recommendation to the director.

(c) Upon approval by the director, an amendment to the original certificate of registration shall be issued in writing.

R657-37-6. Renewal of a Certificate of Registration.

(1)(a) At the end of a certificate of registration term, the certificate of registration may be renewed, consistent with this section.

(b) A certificate of registration terminated pursuant to Section R657-37-5.5 or Section R657-37-[~~14~~]15 is not eligible for renewal, but may reapply consistent with Section R657-37-5.

(2) An application for renewal of a certificate of registration must be completed [~~and returned to the regional division office where the CWMU is established~~]no later than August [~~1~~]10 of the year preceding the expiration of the certificate of registration term.

(3)(a) The renewal application must identify all changes from the previous certificate of registration and CWMU Management Plan.

[~~(b) A CWMU renewal application that, due to its acreage totals or parcel configuration would otherwise require variance approval, may proceed without completing the variance process, provided:~~

~~(i) the CWMU legally possessed a CWMU certificate of registration during the previous year that allowed for corner-to-corner land parcels or noncontiguous land parcels;~~

~~(ii) the CWMU's renewal application does not add additional corner-to-corner or noncontiguous parcels from the previously approved CWMU certificate of registration; and~~

~~(iii) the CWMU renewal application at a minimum maintains the equivalent acreage totals and configuration from its previously approved certificate of registration.~~

~~(c)~~] (b) A CWMU renewal application that includes a request for modified season dates is not required to obtain an additional variance upon renewal if those dates are identical to what was previously approved in their current certificate of registration.

(4) The renewal application must be accompanied by:

(a) the CWMU Management Plan as described in [~~Section~~]Subsection R657-37-4(3);[~~ and~~]

(b) all maps as described in [~~Section~~]Subsection R657-37-4(3) if the CWMU boundaries have changed;[~~ and~~]

(c)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23A, Chapter 7[~~ of the~~], Cooperative Wildlife [~~Resources Code~~]Management Units; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(d) a signed waiver from each landowner or lessee holding agricultural interests within the boundaries of the proposed CWMU releasing all claims for any assistance pertaining to [~~those~~]any lands that may otherwise be available from the division under Rule R657-44 during the term of the certificate of registration;

(e) the name of the designated landowner association operator; and

(f) the nonrefundable handling fee.

(6) The division may reject any application that is incomplete or completed incorrectly.

(7) The division shall consider:

(a) the contents of the renewal application;

(b) the past performance by a CWMU in fulfilling management responsibilities identified in the CWMU Management Plan;

(c) hunter satisfaction ratings; and

(d) any [~~violation~~]conviction of, a plea of no contest to, or a plea held in abeyance to a crime under Title 23A, the Wildlife Resources Act or a crime of moral turpitude by the CWMU operator, [~~CWMU~~]president, or [~~any~~]landowner association member [~~of Title 23A, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration~~]that when considered with the functions and [~~all other relevant information provided from any source related to participation in the CWMU program~~]responsibilities of a CWMU operator bears a reasonable relationship to the applicant's ability to responsibly operate a CWMU.

(8) After evaluating a complete renewal application, the division shall:

(a) recommend approving renewal of the certificate of registration and forward the permit recommendations to the Regional Advisory Councils and Wildlife Board; or

(b) recommend denying the renewal certificate of registration and state the reasons for denial in writing to the applicant; and

(c) forward the application, reason for denial and recommendation to the Regional Advisory Councils and Wildlife Board.

(9) Upon receiving the division's recommendation as provided in Subsections (7) and (8), the Wildlife Board may consider:

(a) the contents of the renewal application;

(b) the past performance by a CWMU in fulfilling management responsibilities identified in the CWMU Management Plan;

(c) hunter satisfaction ratings;

(d) any [~~violation~~]conviction of, a plea of no contest to, or a plea held in abeyance to a crime under Title 23A, the Wildlife Resources Act or a crime of moral turpitude by the CWMU operator, [~~CWMU~~]president, or [~~any~~]landowner association member [~~of Title 23A, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided from any source related to the applicant's participation in~~]that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship to the applicant's ability to responsibly operate a CWMU[~~ program~~];

(e) any probationary status or recommendation provided by the CWMU Advisory Committee if the landowner association has been referred to the CWMU Advisory Committee during the term of the certificate of registration; and

(f) the recommendations of the division and Regional Advisory Councils.

(10) A certificate of registration approved for renewal is authorized for three years and shall expire on January 31, providing the certificate of registration is not revoked, suspended, or terminated [~~prior to~~]before the expiration date.

R657-37-7. Operation by Landowner Association.

(1)(a) A CWMU must be operated by a landowner association who is represented by a president or a landowner association operator.

(b) A landowner association president or landowner association operator may appoint CWMU agents to protect private property within the CWMU; however, the landowner association president, or landowner association operator must assume ultimate responsibility for the operation of the CWMU.

(2)(a) A landowner association [~~president or landowner association operator may enter into reciprocal agreements with other landowner association presidents or landowner association operators to allow hunters who have obtained a CWMU permit to hunt within each other's CWMUs as provided in Subsection R657-37-4(3)(a)(xii).~~

~~(b) Reciprocal hunting agreements may be approved only to:~~

~~(i) raise funds to address joint habitat improvement projects;~~

~~(ii) address emergency situations limiting hunting opportunity on a CWMU;~~

~~(iii) raise funds to aid in essential management practices for the benefit of CWMU species, including obtaining age or species population data as recommended by regional division personnel and approved by the division's wildlife section chief;~~

~~(iv) be used with unused vouchers as provided in Subsection R657-37-9(12)(a); or~~

~~(v) be used to achieve antlerless harvest objectives for big game populations that may migrate across different CWMUs.~~

~~(c) If a person is authorized to hunt in one or more CWMUs as provided in Subsection (a), written permission from the landowner association member or landowner association operator and written authorization from the division must be in the person's possession while hunting.~~

~~(d) The division may identify an individual to administer and coordinate reciprocal agreements and each expenditure of funds generated therefrom.~~

~~(e) The division must provide written approval prior to any expenditure of funds generated from reciprocal agreement permits.~~

~~(f) The administrator of the reciprocal agreement program must provide an annual accounting of proceeds generated from reciprocal agreement permits and how those funds were spent or administered.~~]

~~(3)(a) A landowner association~~]member or landowner association operator must provide general public CWMU permittees a minimum of:

(i) five full days, each of which beginning 30 minutes before shooting hours, to be in the area the public permittee wants to hunt with their buck, bull or turkey permits; and

[~~(ii) three days~~] (ii) three full days, each of which beginning 30 minutes before shooting hours, to be in the area the public permittee wants to hunt with antlerless permits.

(b) Sunday hunt days may not be included in minimum hunt days except by mutual agreement of the permittee and the operator.

(c) General public CWMU permittees shall be allowed to hunt the entire CWMU during their established season dates, unless areas are deemed closed to both public and private hunters and described in the CWMU Management Plan as closed.

(d) A person who has obtained a CWMU permit may hunt only in the CWMU for which the permit is issued, except as provided under Subsection (2).

(4)(a) Each landowner association member or landowner association operator must:

(i) clearly post each boundary of the CWMU at all [~~corner, fishing stream~~]corners, streams crossing property lines, [~~road, gate~~]roads, gates, and [~~right~~]rights-of-way entering the land with signs that are a minimum of 8 1/2 by 11 inches on a bright yellow background with black lettering, and that contain the language provided in Subsection (b); and

(ii) if a CWMU uses public land for [~~the purpose of~~]making a definable boundary for the CWMU then that boundary shall be posted every three hundred yards.

(b) Only persons with a valid CWMU permit for the CWMU may hunt moose, deer, elk, pronghorn or turkey within the boundaries of the CWMU.

(c) The general public may use accessible public land portions of the CWMU for legal purposes, other than hunting big game or turkey for which the CWMU is authorized.

(5) A landowner association member or landowner association operator must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the CWMU to each permit holder.

(6)(a) A CWMU and the division shall cooperatively address the needs of landowners who are negatively impacted by big game animals or turkeys associated with the CWMU.

(b) The CWMU and the division shall cooperatively seek methods to prevent or mitigate agricultural depredation caused by big game animals or turkeys associated with the CWMU.

(7) A landowner association member may not harass or haze wildlife in an effort to retain animals on the CWMU or herd animals onto the CWMU unless:

(a) the division determines that such actions are necessary to mitigate agricultural damage on neighboring lands;

(b) the CWMU is fulfilling their obligations described in their CWMU Management Plan regarding agricultural damage to neighboring landowners; and

(c) the division provides prior written authorization approving the actions of the CMWU.

(8) A landowner association member may not receive depredation payments from the division if any land owned by a landowner association member is enrolled in a CWMU regardless of species.

R657-37-8. Cooperative Wildlife Management Unit Agents.

(1) A landowner association member may appoint a CWMU agent to monitor access and protect the private property of the CWMU.

(2) Each CWMU agent must wear or have in possession a form of identification prescribed by the Wildlife Board which indicates the agent is a CWMU agent.

(3) A CWMU agent may refuse entry to or remove from a CWMU any person who:

(a) does not possess a valid CWMU permit;

(b) endangers or has endangered human safety;

(c) damages or has damaged property within a CWMU;

(d) fails or has failed to comply with reasonable rules of a landowner association; or

(e) does not have the legal right to be on lands within a CWMU.

(4) A CWMU agent may not refuse entry to the general public onto any public land within the boundaries of a CWMU that is otherwise accessible to the public for purposes other than hunting big game or turkey for which the CWMU is authorized.

(5) In performing the functions described in this section, a CWMU agent must comply with the relevant laws of this state.

R657-37-9. Permit Allocation.

(1) The division shall issue CWMU permits for hunting big game or turkey to permittees:

(a) qualifying through a drawing conducted for the general public as defined in Subsection R657-37-2(2)(c); or

(b) named by the landowner association member or landowner association operator.

(2) CWMU landowners, presidents, operators, and their spouses and dependent children cannot apply for CWMU permits specific to their CWMU that are offered in the public drawing.

(3) A landowner association member or landowner association operator shall be issued vouchers that may be used to purchase hunting permits from division offices.

(4)(a) The Wildlife Board may establish the maximum number of permits that may be issued per acre, [~~excepted~~]except as provided in Subsection (4)(b).

(b) In accordance with [~~Subsection~~]Section 23A-7-204[~~ (5),~~], a CWMU unit shall issue one buck deer permit or less per every 320 acres to be eligible to receive buck deer permits.

(c) The division and the landowner association operator must, in accordance with Subsection (4), determine:

(i) the total number of permits to be issued for the CWMU; and

(ii) the number of permits that may be offered by the landowner association to the general public as defined in Subsection R657-37-2(2)(c).

(d) In determining the total number of permits allocated under Subsection (4)(a), the division will consider:

(i) acreage and habitat conditions on the CWMU;

(ii) management objectives of the CWMU and surrounding wildlife management units;

(iii) classification and survey data;

(iv) depredation and nuisance conflicts; and

(v) other factors that may influence hunt quality and the division's ability to meet wildlife management objectives.

(e) A CWMU may only offer a management buck permit for a public hunter if that CWMU lies entirely within a wildlife management unit that also offers management buck hunts.

(5) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportion of public lands to private lands within the CWMU.

(a) Trade lands may be used to provide additional hunting opportunities to the general public.

(b) Proposed trade lands will be evaluated by a division biologist and another division employee to verify comparable habitat and equity compared to the public land in the CWMU.

(c) Proposed trade lands will be presented to the CWMU advisory committee before they are included in the CWMU and at each renewal.

(d) The CWMU advisory committee's recommendation will be presented to the Wildlife Board.

(e) Trade lands will be made open for big game hunting and for no other purposes.

(f) Trade lands must be posted as trade lands open to the public for big game hunting.

(g) Distance from the CWMU should be considered when recommending trade lands.

(h) CWMUs will ensure the DWR trade lands map is accurate.

(i) Trade lands will have clear boundaries.

(j) Justifications for the trade lands will be published before CWMU Advisory Committee Meetings and RAC meetings.

(k) Trade lands cannot be used to get additional landowner permits based on species.

(l) Trade lands must be owned by a landowner in the CWMU.

(6)(a) Big game permits may be allocated using an option from:

(i) Table 1 for moose and pronghorn; or

(ii) Table 2 for elk and deer.

(b)(i) Over the term of the certificate of registration, and at all times during [~~the~~]its term, at least 40% of the total permits for bull moose and buck pronghorn and at least 60% of the antlerless moose and antlerless pronghorn permits will be allocated to the public and distributed via the public drawing.

(ii) Notwithstanding Subsection (b)(i) and Tables 1 and 2, if the proportion of permits allocated to the public over consecutive certificate of registration terms substantially deviates from that identified in Subsection (b)(i), the Wildlife Board may approve a modified permit distribution scheme that fairly allocates public and private permits.

(c) At least one buck deer or bull elk permit or at least 10% of the bucks or bulls permits, whichever is greater, must be made available to the general public through the big game drawing process.

[~~(d)~~] (d) If a CWMU is under acreage but greater than 90% of the acreage required, and is formed after July 1, 2024 the CWMU will give an additional permit for each species to the public draw.

(e) Permits [~~shall~~]may not be issued for spike bull elk.

([~~e~~]f) Turkey permits shall be allocated in a ratio of 50% to the CWMU and 50% to the general public, with the public receiving the extra permit when there is an odd number of total permits.

Table 1 Moose and Pronghorn		
Cooperative Wildlife Management Unit's Share	Bucks/Bulls	Does/Antlerless
Option 1	60%	40%
Public's Share	Bucks/Bulls	Does/Antlerless
Option 1	40%	60%

Table 2 Elk and Deer		
Cooperative Wildlife Management Unit's share	Bucks/Bulls	Antlerless
Option 1	90%	0%
Option 2	85%	25%
Option 3	80%	40%
Option 4	75%	[~~501~~]50%
Public's Share		
Option 1	10%	100%
Option 2	15%	75%
Option 3	20%	60%
Option4	25%	50%

(7)(a) The landowner association member or landowner association operator must meet antlerless harvest objectives established in the CWMU [~~m~~]Management [~~p~~]Plan under Subsection R657-37-4(3)(a)(ii).

(b) Failure to meet antlerless harvest objectives based on a three-year average may result in discipline under Section R657-37-[~~14~~]15.

(8)(a) A landowner association member or landowner association operator must provide access free of charge to any person who has received a CWMU permit through the general public big game or turkey drawings and at least one companion, except as provided in Section 23A-7-209.

(b) If the CWMU does not provide guiding services, the CWMU will provide free access for up to four guests, provided the guests stay at a distance where visual and verbal communication are maintained with the permit holder.

(9) If the division and the landowner association member disagree on the number of permits to be issued, the number of permits allocated, or the method of take, the Wildlife Board shall make the determination based on the biological needs of the big game or turkey populations, including available forage, depredation, and other mitigating factors.

(10) A CWMU permit entitles the holder to hunt the species and sex of big game or turkey specified on the permit and only in accordance with the certificate of registration and the rules and proclamations of the Wildlife Board.

(11) Vouchers for antlerless permits may be designated by a landowner association member to any eligible person as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, and Rule R657-42.

[~~(12)(a) If a landowner association has a CWMU voucher that is not redeemed during the previous year, a landowner association may donate that voucher to a 501(c)(3) tax exempt organization, provided the following conditions are satisfied:~~
~~(i) the voucher donation is approved by the director before transfer;~~
~~(ii) the voucher is donated for a charitable cause, and the landowner association does not receive compensation or consideration of any kind other than tax benefit; and~~
~~(iii) the recipient of the voucher is identified before obtaining the director's approval for the donation.~~
~~(b) A CWMU voucher approved for donation under this section may be extended no more than one year.~~
~~(c) The division must be notified in writing and the donation completed before August 1st the year the CWMU voucher is to be redeemed.~~
~~(d) Vouchers may be used in reciprocal hunting agreements in accordance with Subsection R657-7-(2)(b).~~]

(13)(a) A complete list of the current CWMUs, and number of big game or turkey permits available for public drawing shall be published in the respective proclamations of the Wildlife Board for taking big game or turkey.

(b) The division reserves the[~~ exclusive~~] right to list approved CWMUs in the proclamations of the Wildlife Board for taking big game or turkey. The division may unilaterally decline to list a CWMU in the proclamation where the unit is under investigation for wildlife violations, a portion of the property comprising the CWMU is transferred to a new owner, or any other condition or circumstance that calls into question the CWMUs ability or willingness to allow a meaningful hunting opportunity to the public permit holders that would otherwise draw out on the public permits.

(c) CWMUs will ensure the information on the hunt planner is accurate by March 1 before the opening of the public draw.

R657-37-10. CWMU's On Units Exceeding Population Objectives.

(1) If a wildlife management unit is over objective by 10% or more over a continuous three year period, the division may recommend that CWMUs on that unit participate in the following strategies:

(a) antlerless elk hunters will have the ability to purchase one additional antlerless permit. This additional permit would be issued in addition to the previously approved base number of antlerless permits on the CWMU;

(b) public and private buck/bull hunters of any species will have the ability to purchase an antlerless permit. These antlerless permits would be issued in addition to the previously approved base number of antlerless permits;

(c) CWMUs will be encouraged to participate in the antlerless reciprocal permit program;

(d) the division may call a depredation hunt using public hunters;

(e) the division may issue private vouchers to the CWMU operator, which cannot be sold, to use if it is not feasible to call a public hunt; and

(f) call an emergency hunt at the end of the season.

(2) Fulfilling a "harvest objective" requirement for CWMUs in over objective units;

(a) the division will set a harvest objective of antlerless animals that need to be harvested annually;

(b) if the prescribed hunts fail to meet the desired harvest, additional harvest will take place in February after public hunts are over;

(c) CWMUs are responsible for the additional harvest, making up the difference between what was harvested during the season and the harvest objective;

(d) all meat shall be donated to food banks with CWMUs paying for at least 50% of the processing costs; and

(e) CWMUs operating under the "harvest objective" requirement shall report to the CWMU advisory committee annually on additional efforts made to help the public hunters successfully harvest, examples if additional effort include;

(i) extra days above the minimum;

(ii) guided hunts.

(3) CWMUs in an over objective unit will report to the CWMU advisory committee to present a plan of how they will help the unit get back to objective.

R657-37-11. Permit Cost.

The fee for permits allocated to any CWMU is the same as the applicable:

([~~a~~]1) limited entry permit fee for elk and pronghorn;

([~~b~~]2) general season, limited entry or premium limited entry permit fee for deer or turkey; and

([~~c~~]3) once-in-a-lifetime permit fee for moose.

R657-37-[~~11~~]12. Possession of Permits and License by Hunters - Restrictions.

(1) A person may not hunt in a CWMU without having in [~~his~~]their possession:

(a) a valid CWMU permit; and

(b) the necessary hunting licenses, permits, and tags.

(2) A CWMU permit:

(a) entitles the holder to hunt only on the CWMU specified on the permit pursuant to the rules of the Wildlife Board and does not entitle the holder to hunt on any other public or private land, except as provided under [~~Subsection~~]Section R657-37-[~~7(2)(a);~~]18; and

(b) constitutes written permission for trespass as required under Section 23A-5-317.

(3) [~~Prior to~~]Before hunting on a CWMU each permittee must:

(a) contact the relevant landowner association member or landowner association operator and request the CWMU rules and requirements; and

(b) make arrangements with the landowner association member or landowner association operator for the hunt.

(4) CWMUs will provide one day for public hunters to access and get oriented with the CWMU before their hunt.

R657-37-[~~12~~]13. Season Lengths.

(1) A landowner association member or landowner association operator may arrange for permittees to hunt on the CWMU during the following dates:

(a) an archery buck deer season may be established beginning with the opening of the general archery deer season through August 31 and during the 61 consecutive day buck deer season;

(b) an archery bull elk season may be established beginning with the opening of the general archery elk season through October 31 and during a bull elk season variance;

(c) an archery buck pronghorn season may be established beginning with the opening of the statewide limited entry archery buck pronghorn season through October 31;

(d) general season bull elk, buck pronghorn, and moose seasons may be established September 1 through October 31, unless a season variance is approved;

(e)(i) general buck deer seasons may be established for no longer than 61 consecutive days from September 1 through November 10;

(ii) a landowner association member or landowner association operator that provides less than one buck deer permit per every 640 acres may select the following season dates:

(A) beginning September 1 and ending on October 31; or

(B) beginning on September 11 and ending on November 10.

(iii) A landowner association or landowner operator that provides more than one buck deer permit per every 640 acres may only have season dates beginning September 1 and ending October 31.

(iv) A CWMU that elects for season dates extending into November under Subsection (1)(e)(ii)(B) must allow all public hunters the option to hunt 5 full days in November;

(f) muzzleloader bull elk seasons may be established September 1 through October 31 annually, and during a bull elk season variance;

(g) antlerless elk seasons may be established August 1 through January 31;

(h) antlerless deer seasons may be established August 1 through December 31;

(i) doe pronghorn seasons may be established August 1 through October 31; and

(j) turkey seasons may be established the second Saturday in April through May 31.

(2)(a) The Wildlife Board may authorize bull elk hunting season variances only if the CWMU landowner association member or landowner association operator clearly demonstrates that November hunting is necessary on the CWMU, and if the Wildlife Board has received a recommendation from the CWMU advisory committee supportive of the variance.

(b) If a bull elk hunting season variance is authorized, the public hunters must be provided [~~comparable hunting~~]an opportunity [~~as private hunters~~]to hunt 5 full days during the extension.

(3) Notwithstanding the season length provisions in this section, any season described in Subsection (1) that begins on a Sunday will begin the Saturday before.

R657-37-[~~13~~]14. Rights-of-Way.

A landowner association member may not restrict established public access to public land enclosed by the CWMU.

R657-37-[~~14~~]15. Violations and Suspension.

(1) The Wildlife Board may refuse to issue, renew, or amend a certificate of registration to an applicant, or may revoke, restrict, place on probation, change permits or allocations or otherwise act upon a certificate of registration where the landowner association member has:

(a) violated [~~any provision of~~]this rule, Title 23A, the Wildlife Resources [~~Code~~]Act, the certificate of registration, or the CWMU Management Plan; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship to the operator's or applicant's ability to safely and responsibly operate a CWMU.

[~~(2) The procedures and rules governing any adverse~~] (2) The division may suspend a CWMUs certificate of registration to participate in the CWMU program under Section 23A-4-1106 and Rule R657-26 if a principal or agent of a participating CWMU:

(a) violated this rule, Title 23A, the Wildlife Resources Act, the certificate of registration, or the CWMU Management Plan; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a CWMU operator bears a reasonable relationship to the operator's or applicant's ability to responsibly operate a CWMU

R657-37-16. Agency Action and Administrative Appeals.

(1) Notwithstanding Section R657-37-15, the procedures and rules governing agency action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

(2) An aggrieved party to a final division action under this rule may file a request for agency action with the division under Rule R657-2.

(3) The director or a designee appointed by the director shall be the presiding officer for any adjudicative proceedings initiated under this section.

R657-37-[~~15~~]17. Cooperative Wildlife Management Unit Advisory Committee.

(1) A CWMU Advisory Committee shall be created consisting of [~~eight~~]seven members nominated by the director and approved by the Wildlife Board.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two CWMU representatives;

(c) one agricultural representative;

(d) one at-large public representative; and

[~~(e) one elected official; and~~

~~(f~~] (e) one Regional Advisory Council chairperson or Regional Advisory Council member.

(3) The committee shall be chaired by the Wildlife Section Chief, who [~~shall be~~]is a non-voting member.

(4) The committee shall:

(a) hear complaints dealing with fair and equitable treatment of hunters on CWMUs;

(b) review the operation of the CWMU program;

(c) review failure to meet antlerless objectives;

(i) if the CWMU does not meet the 3-year minimum;

(ii) harvest or harvest fewer cows than bulls;

(iii) are unlikely to meet the 3-year harvest;

(iv) do not maintain the same or better antlerless harvest percentage as comparable surrounding units.

(d) hear complaints from adjacent landowners;

[~~(e) review changes in acreage totals for CWMUs that are under standard minimum acreage or parcel configuration requirements and evaluate the appropriateness of their continued participation in the program; and~~]

(e) review variance requests for elk season date extensions; and

(f) make advisory recommendations to the director and Wildlife Board on the matters [~~in Subsections (a), (b), (c), (d), and (e).~~]listed in this subsection.

(5)(a) The committee may[~~, after hearing evidence of complaints or violations, place~~] recommend to the director and Wildlife Board:

(i) different hunt dates;

(ii) a change in permit splits must be a [~~CWMU on~~]split listed in Section R657-37-9

(iii) a change in operator;

(iv) probation[~~.~~]; and

(v) termination of a certificate of registration.

(b) A CWMU placed [~~upon~~]in probationary status must provide the CWMU Advisory Committee a plan of corrective action to address concerns regarding operation of the CWMU, and report annually to the Advisory Committee during the probationary period regarding their progress in addressing such concerns.

(c) The division shall report the recommendations of the CWMU Advisory Committee [~~shall report~~]to the Wildlife Board [~~any CWMU that remains on probation during a certificate of registration~~]before the renewal [~~process~~]deadline.

(6) The Wildlife Section Chief shall determine the agenda, [~~and~~]time, and location of the CWMU Advisory Committee meetings.

(7) The director shall set staggered terms [~~of~~]for appointment of CWMU Advisory Committee members [~~such that there is~~]to ensure rotating representation and that all committee members' terms shall expire after four years.

(8) Meetings will be advertised similar to Regional Advisory Council meetings and there will be a venue for public comment.

R657-37-18. Reciprocal Program.

(1)(a) A landowner association president or landowner association operator may enter into reciprocal agreements with other landowner association presidents or landowner association operators to allow hunters who have obtained a CWMU permit to hunt within each other's CWMUs as provided in Subsection R657-37-4(3)(a)(xiii).

(b) Reciprocal hunting agreements may be approved only to:

(i) raise funds to address joint habitat improvement projects;

(ii) address emergency situations limiting hunting opportunity on a CWMU;

(iii) raise funds to aid in essential management practices for the benefit of CWMU species, including obtaining age or species population data as recommended by regional division personnel and approved by the division's Wildlife Section Chief;

(iv) be used with unused vouchers as provided in Subsection R657-37-9(18)(2); or

(v) be used to achieve antlerless harvest objectives for big game populations that may migrate across different CWMUs.

(c) If a person is authorized to hunt in one or more CWMUs as provided in Subsection (a), written permission from the landowner association member or landowner association operator and written authorization from the division must be in the person's possession while hunting.

(d) The division may identify an individual to administer and coordinate reciprocal agreements and each expenditure of funds generated therefrom.

(e) The division must provide written approval before any expenditure of funds generated from reciprocal agreement permits.

(f) The administrator of the reciprocal agreement program must provide an annual accounting of proceeds generated from reciprocal agreement permits and how those funds were spent or administered.

(2)(a) If a landowner association has a CWMU voucher that is not redeemed during the previous year, a landowner association may donate that voucher to a 501(c)(3) tax exempt organization, provided the following conditions are satisfied:

(i) the voucher donation is approved by the director before transfer;
(ii) the voucher is donated for a charitable cause;
(iii) the landowner association does not receive compensation or consideration of any kind other than tax benefit; and
(iv) the recipient of the voucher is identified before obtaining the director's approval for the donation.
(b) A CWMU voucher approved for donation under this section may be extended no more than one year.
(c) The division must be notified in writing and the donation completed before August 1st the year the CWMU voucher is to be redeemed.
(d) Vouchers may be used in reciprocal hunting agreements in accordance with Subsection R657-18-(1)(a).

KEY: wildlife, cooperative wildlife management unit
Date of Last Change: 2024[~~October 1, 2023~~]
Notice of Continuation: March 15, 2023
Authorizing, and Implemented or Interpreted Law: 23A-7-102

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-38**	**Filing ID: 56599**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-38. Dedicated Hunter Program
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to the Dedicated Hunter Program.
4. Summary of the new rule or change:
The proposed amendments to this rule place the rule in line with H.B. 382, Wildlife Amendments, passed in the 2024 General Session which clarifies an invalid license/permit.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-38 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:
Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The proposed rule amendments will not directly impact small businesses because a service is not required of them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The proposed rule amendments do not have the potential to impact other persons that participate in the Dedicated Hunter program in Utah, nor is a service required of them.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The DWR gas determined that this amendment may not create additional costs for those individuals wishing to participate in the Dedicated Hunter program in Utah because it simply clarifies what an invalid license/permit is.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-305		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-38. Dedicated Hunter Program.
R657-38-1. Purpose and Authority.

(1) Under the authority of Section 23A-2-305, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program is a program that:

(a) provides expanded hunting opportunities;

(b) requires participation in wildlife conservation projects; and

(c) provides educational training in hunter ethics and wildlife management principles.

R657-38-12. Dedicated Hunter Permits.

(1)(a) Pursuant to Sections 23A-4-706 and 23A-4-707 a person must have a valid Utah hunting or combination license to apply for or obtain a big game permit.

(b) Except as provided in Subsection (c), a permit may not be issued if the participant does not have a valid hunting or combination license at the time of permit issuance.

(c) A valid hunting or combination license is not required to obtain a permit in the first year of the enrollment period, provided the participant possessed a valid license when applying for the Dedicated Hunter certificate of registration.

(2) The participant must have a valid Dedicated Hunter permit in possession while hunting.

(3) Upon completion of the minimum annual requirements, a Dedicated Hunter permit may be issued as published on the division's website.

(4)(a) The division may issue a duplicate Dedicated Hunter permit pursuant to Section 23A-4-208.

(b) If a participant's unused Dedicated Hunter permit and tag is destroyed, lost, or stolen before, or during the hunting season in which the permit is valid, a participant may obtain a duplicate after paying the associated handling fee.

(c) A duplicate Dedicated Hunter permit may not be issued after the closing date of the general buck deer season.

(d) Upon issuance of a duplicate Dedicated Hunter permit, the original Dedicated Hunter permit is invalid.

(5)(a) A participant may surrender a Dedicated Hunter permit in accordance with Rule R657-42.

(b) A participant may not surrender a Dedicated Hunter permit after the earliest season allowed by the permit has begun, unless the division can verify that the permit was never in the participant's possession.

(6)(a) Lifetime license holders may participate in the program.

(b) A lifetime license holder shall apply for a certificate of registration in the same manner as all other prospective participants.

(c) A lifetime license holder participating in the program agrees to forgo any rights to receive a lifetime license buck deer permit as provided in Section 23A-4-402 while enrolled in the program and until all outstanding service hours owed from a period of enrollment are complete.

(d) A refund or credit is not issued for a forgone lifetime license permit.

KEY: wildlife, hunting, recreation, wildlife conservation
Date of Last Change: [~~February 7,~~] 2024
Notice of Continuation: September 8, 2020
Authorizing, and Implemented or Interpreted Law: 23A-2-305

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-41**	**Filing ID: 56610**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R657-41. Conservation and Sportsman Permits

3. Purpose of the new rule or reason for the change:

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking Big Game with Conservation and Sportsman Permits.

4. Summary of the new rule or change:

The proposed amendments to this rule:
1) remove cougar as a conservation permit species;
2) clean up the definitions section and removal of items that are not true definitions;
3) change the season type and draft order for elk and deer conservation permits;
4) clarify the process DWR will notify the Wildlife Board as to the results of the conservation permit distribution post conservation permit draft;
5) require the Conservation Groups to have both a COR issued by the DWR and a contract with the DWR in order to sell conservation permits;
6) allow Conservation organizations to sell a permit to the runner-up bidder when the winning bidder defaults as long as the original high bid price is met;
7) clarify that retained revenue must be spent in a manner according to the DWR's strategic plan and or consistent with a conservation species management plan; and
8) extend unit conservation Bighorn permits through December 31, this was previously done through a variance; and 9) technical corrections.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendments to Rule R657-41 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Local governments are not directly or indirectly impacted by these proposed amendments because theisrule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This amendment clarifies an existing Conservation and Sportsmen permit program, the Conservation Organization's are not regulated as a non-small business nor do they have an employer/employee relationship therefore, this rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small-businesses because this rule does not create a situation requiring services from them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The proposed rule amendments do not have the potential to impact other persons that hunt big game in Utah, nor is a service required of them.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The DWR has determined that this amendment may not create additional costs for those individuals wishing to participate in hunting with Conservation or Sportsman permits in Utah because it simply clarifies regulations already in place with the program.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	Date:	07/01/2024

R657. Natural Resources, Wildlife Resources.
R657-41. Conservation and Sportsman Permits.
R657-41-1. Purpose and Authority.

(1) Under the authority of Sections 23A-2-304 and 23A-2-305, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for auction to the highest bidder at fund[-]raising events;

(b) sportsman permits;

(c) Special Antelope Island State Park Conservation Permits to a conservation organization for auction to the highest bidder at the annual wildlife exposition held pursuant to Rule R657-55; and

(d) Special Antelope Island State Park Limited Entry Permits to successful applicants through a general drawing conducted by the division.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-9(4) and R657-41-9(5)(b) for the benefit of species for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23A-1-101.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit, subunit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season.

[~~(i) Area conservation permits issued for limited entry units are not valid on cooperative wildlife management units authorized for the same species of wildlife as the area conservation permit.~~

~~(ii) Notwithstanding Subsection (2)(a), area conservation permits issued for turkey are not valid during the youth general season hunt unless the holder qualifies as a youth.~~
] (b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded and operated for [~~the purpose of~~]promoting the protection, preservation, and recreational hunting of one or more conservation permit species and has established tax exempt status under 26 U.S.C. Section 501(c)(3), as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, [~~cougar,~~]and black bear.

(e) "Retained Revenue" means 60% of the revenue raised by a conservation organization from auctioning conservation permits that the organization retains for eligible projects, including interest earned thereon less standard banking fees assessed on the account.

(f) "Special Antelope Island State Park Conservation Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued pursuant to [~~Rule~~]Section R657-41-12.

(g) "Special Antelope Island State Park Limited Entry Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(h) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (i), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(i) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game guidebooks for the unit beginning before September 1[~~, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer, elk from September 1 through January 15, and bison from August 1 through January 31~~];

(ii) big game species on any open unit during the following dates:

(A) bison from August 1 through January 31;

(B) pronghorn and moose from September 1 through November 15;

(C) bighorn sheep and mountain goats from September 1 through December 31; and

(D) deer and elk from September 1 through January 15;

(iii) two turkeys on any open unit from April 1 through May 31;

([~~iii~~]iv) bear on any open unit during the season authorized by the Wildlife Board for that unit[~~;~~].

[~~(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective;~~

~~(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permits and the Special Antelope Island State Park Limited Entry Permits; and~~

~~(vi) Rocky Mountain bighorn sheep on any open unit, excluding the Box Elder, Pilot Mountain sheep unit, which is closed to both the Sportsman permit holder and the Statewide conservation permit holder every year.~~

[~~(j~~] (v) "Permit voucher" or "voucher" means an authorization issued by the division that entitles the designated holder to purchase the hunting permit specified in the authorization.

R657-41-3. Determining the Number of Conservation and Sportsman Permits.

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, distribution, and long-term health;

(b) the hunting and viewing opportunity for the general public, both short and long term;

(c) the potential revenue that will support protection and enhancement of the species; and

(d) the total number of public draw permits available by species on a unit, subunit, or hunt area.

(2) One statewide conservation permit may be authorized for each conservation permit species.

(3) A limited number of area conservation permits may be authorized as follows:

(a) the potential number of conservation permits available for Rocky Mountain bighorn sheep and desert bighorn sheep, assigned to a hunt area or combination of hunt areas, will be calculated based on the number of public draw permits issued the year [~~prior to~~]before the permits being awarded using the following rule: [

~~(i)~~]5-14 public permits = 1 conservation permit, 15-24 public permits = 2 conservation permits, 25-34 public permits = 3 conservation permits, 35-44 public permits = 4 conservation permits, 45-54 public permits = 5 conservation permits, 55-64 public permits = 6 conservation permits, 65-74 public permits = 7 conservation permits and >75 public permits = 8 conservation permits.

(b) the potential number of conservation permits available for the remaining conservation permit species, for any unit, sub[-]unit or hunt area, will be calculated based on the number of public draw permits issued the year prior to the permits being awarded using the following rule:[

~~(i)~~] 11-30 public permits = 1 conservation permit, 31-50 public permits = 2 conservation permits, 51-70 public permits = 3 conservation permits, 71-90 public permits = 4 conservation permits, 91-110 public permits = 5 conservation permits, 111-130 = 6 conservation permits, 131-150 public permits = 7 conservation permits and >150 public permits = 8 conservation permits.

(4) The number of conservation permits may be reduced if the number of public permits declines during the time period for which conservation permits were awarded.

(5) The actual number of conservation and sportsman permits available for use will be determined by the Wildlife Board.

(6) Area conservation permits shall be approved by the Wildlife Board in a separate process from approving the number of public drawing permits.

(7) One sportsman permit shall be authorized for each statewide conservation permit authorized.

R657-41-4. Eligibility for Conservation Permits.

(1) Statewide and area conservation permits may be awarded to eligible conservation organizations for auction to the highest bidder at fund[-]raising events and through other authorized means of sale.

(2) To be eligible for conservation permits, a conservation organization must:

(a) satisfy the definition of a qualifying conservation organization;

(b) complete the application requirements in Section R657-41-5; and

(c) remain in good standing during the previous three-year term of participation and not subject to any suspension or revocation proceeding under Section R657-41-13.

(3) Conservation organizations applying for conservation permits may not[

] apply for or obtain conservation permits if any [~~employee, agent,~~]officer[~~,~~] or board of directors member of the conservation organization is an [~~employee, agent,~~]officer[~~,~~] or board of directors member of any other conservation organization that is[

] also applying to participate in the program.

R657-41-5. Applying for Conservation Permits.

(1)(a) Applications to participate in the conservation permit program will be accepted on a three-year application cycle uniformly applicable to all conservation organizations.

(b) A conservation organization wishing to apply for conservation permits must submit a complete application to the division by August 15 of the third year of the application cycle.

(c) Only one application per conservation organization may be submitted.

(d) Multiple chapters of the same conservation organization may not apply individually.

(2) Each application must include:

(a) the name, address and telephone number of the conservation organization;

(b) a copy of the conservation organization's mission statement;

(c) verification of the conservation organization's tax -exempt status under 26 U.S.C. Section 501(c)(3), as amended;[~~ and~~]

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(e) evidence that the application and bid has been approved by the board of directors or other necessary authority from the bidding conservation organization; and

(f) a certification from the applicant that they have not consulted with any other participating conservation organization regarding the conservation permits they intend to acquire.

(3) An application that is incomplete or completed incorrectly may be rejected.

(4) The application of a conservation organization for conservation permits may be denied by the division for:

(a) failing to fully and accurately report on the preceding year's conservation permits;

(b) violating [~~any provision of~~]this rule, Title 23A, the Wildlife Resources [~~Code of Utah,~~,]Act, Title R657, a division guidebook, or an order of the Wildlife Board; or

(c) violating any other law that bears a reasonable relationship to the applicant's ability to responsibly and lawfully handle conservation permits pursuant to this rule.

(5) Application denials may be appealed [~~to the division director prior to the permit selection process~~]as described in Section R657-41-[~~7~~]15.

R657-41-6. Approving New Conservation Organizations for the Program.

(1)(a) New applicants to the conservation permit program shall follow the same three-year application cycle established in Subsection R657-41-5(1).

(b) If multiple new conservation organizations submit valid applications during a single three-year application cycle:

(i) a maximum of two new organizations will be selected; and

(ii) conservation organizations will be selected based upon an evaluation of their historical contributions to conservation permit species in Utah.

(2)(a) Conservation organizations accepted into the conservation permit program for the first time will be awarded 0.5% in market share, as determined in Section R657-41-7.

(b) Market share awarded to new applicants will be drawn from each participating conservation organizations' market share in proportion to that organization's total market share.

(c) Newly accepted conservation organizations shall participate in the first three-year term on a probationary status.

(d) During their probationary term, a conservation organization must:

(i) sell all conservation permits each year at a hunt-related banquet or through an online auction with prior division approval;

(ii) diligently advertise and market each permit opportunity;

(iii) maintain a minimum of 75% or the originally awarded market share at the end of the three-year term; and

(iv) complete all mandatory reporting for auditing purposes.

(e) The division may deny an application from a conservation organization based upon their failure to meet the probationary requirements.

(f) Application denials may be appealed [~~to the Division Director prior to the permit selection process~~]as described in Section R657-41-[~~7~~]15.

(3)(a) A conservation organization that was once a program participant, but left the program while in good standing, may be reinstated during the three-year permitting cycle immediately following their departure from the program with the full market share the conservation permit organization had [~~at the time~~]when they left the program.

(b) A conservation organization[
] reentering the program under the [~~provisions of~~](3)(a):

(i) will receive market share drawn from each participating conservation organization in proportion to that organization's market share; and

(ii) may reenter the program regardless of the number of applications accepted from new conservation organizations under Subsection R657-41-6(1[~~(~~])(b).

R657-41-7. Awarding Conservation Permits.

(1)(a) Distribution of conservation permits will be based on a sequential selection process where each eligible conservation organization is assigned a position or positions in the selection order among the other participating organizations and awarded credits with which to purchase permits at an assigned value.

(b) Conservation organizations may not consult or coordinate with other conservation organizations regarding which conservation permits they intend to acquire [~~prior to~~]before the permit selection process.

(2) Permits will be awarded to eligible conservation organizations for no more than three years.

(3) The division will determine the number of permits available.

(a) Season types for area conservation permits for elk on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- multi-season;

(ii) second permit -- [~~any-weapon~~]hunter's choice of season;

(iii) third permit -- any-weapon[~~;~~], late season;

(iv) fourth permit -- archery;

(v) fifth permit -- [~~muzzleloader;~~] any-weapon, mid season;

(vi) sixth permit -- [~~multi-season~~]muzzleloader;

(vii) seventh permit -- [~~any-weapon~~]multi-season; and

(viii) eighth permit -- [~~any-weapon~~]hunter's choice of season.

(b) Season types for area conservation permits for deer on any given hunt unit will be designated and assigned in the following order:

(i) first permit -- [~~hunter's choice of~~]multi-season;

(ii) second permit -- hunter's choice of season;
(iii) third permit -- muzzleloader;
(iv) fourth permit -- archery;
(v) fifth permit -- [~~any weapon~~]multi-season;
(vi) sixth permit -- [~~any weapon~~]hunter's choice of season;
(vii) seventh permit -- muzzleloader; and
(viii) eighth permit -- archery.

[~~(c)~~] (c) If a unit is missing any of the season types listed in Subsection (3)(a) or (3)(b), that season type will be skipped and the next available season type will be assigned to the permit.

(d) Notwithstanding the availability of multiple seasons, an any-weapon permit opportunity offered in Subsections (3)(a) and (3)(b) is restricted to a single season, which the recipient of the permit must designate [~~prior to~~]before receiving the permit.

(4) The division will assign a credit amount for each permit based on the average return for the permit during the previous three-year period. [-]If a history is not available, the value will be estimated.

(5) The division will calculate the market total for the permit draft by summing all credit amounts from available conservation permits.

(6)(a) The division will calculate a market share for each eligible conservation organization applying for permits.
(b) Market share will be calculated and determined based on:
(i) the conservation organization's previous three years performance;
(ii) all conservation permits issued to a conservation organization; and
(iii) the percent of conservation permit revenue raised by a conservation organization during the three-year period relative to all conservation permit revenue raised during the same period by all conservation organizations applying for conservation permits.

(7) The division will determine the credits available to spend by each group in the selection process based on their market share multiplied by the market total.

(8)(a) If substantial changes to a hunt boundary or season date of a conservation permit occur during its three-year term, the division may cancel the permit for the remainder of the three-year term and assign an average sales price using prices from prior years within its three-year term.
(b) If minor changes to a hunt boundary or season date of a conservation permit occur during its three-year term, the division may:
(i) cancel the permit for the remainder of the three-year term and assign a sales price under Subsection (8)(a); or
(ii) allow the conservation organization to sell the permit for the remainder of the three-year term.

(9) The division will establish a selection order for the participating conservation organizations based on the relative value of each groups market share as follows:
(a) groups will be ordered based on their percent of market share;
(b) each selection position will cost a group 10% of the total market share except the last selection by a group will cost whatever percent a group has remaining;
(c) no group can have more than three positions in the selection order; and
(d) the selection order will be established as follows:
(i) the group with the highest market share will be assigned the first position and 10% will be subtracted from their total market share;
(ii) the group with the highest remaining market share will be assigned the second position and 10% will be subtracted from their market share; and
(iii) this procedure will continue until all groups have three positions or their market share is exhausted.

(10) At least one week [~~prior to~~]before the permit selection meeting, the division will provide each conservation organization applying for permits the following items:
(a) a list of permits available with assigned value;
(b) documentation of the calculation of market share;
(c) credits available to each conservation group to use in the selection process;
(d) the selection order; and
(e) date, time and location of the selection meeting.

(11) At the selection meeting, conservation organizations will select permits from the available pool according to their respective positions in the selection order. [-]For each permit selected, the value of that permit will be deducted from the conservation organization's available credits. The selection order will repeat itself until all available credits are used or all available permits are selected.

(12) Conservation organizations may continue to select a single permit each time their turn comes up in the selection order until all available credits are used or all available permits are selected.

(13) A conservation organization may not exceed its available credits, except a group may select their last permit for up to 10% of the permit credit amount above their remaining credits.

(14) [~~Variances for an extended season or legal weapon choice may be obtained only on area conservation permits and must be presented to the Wildlife Board prior to the final assignment of the permit to the conservation organization.~~
~~(15)~~]Conservation organizations may not trade or transfer permits[~~ to other organizations once assigned by the Wildlife Board~~].

(15) The division will notify the Wildlife Board as to the results of the conservation permit distribution.

(16) Conservation organizations failing to comply with the reporting requirements in any given year during the period may lose the conservation permits for the balance of the award period.

(17) If a conservation organization [~~is unable to~~]cannot complete the terms of auctioning or otherwise selling assigned permits, the permits will be returned to the regular public drawing process for the duration of the allocation period.

R657-41-8. Distributing Conservation Permits.

(1) [~~The~~]Conservation organizations shall obtain a certificate of registration and contract with the division [~~and~~]to receive conservation [~~organization receiving~~]permits [~~shall enter into a contract~~]and authorize the sale of those conservation permits.

(2)(a) Conservation organizations receiving the opportunity to distribute permits must ensure the permit opportunities are marketed, auctioned, and distributed by lawful means.

(b) Conservation permit vouchers may not be purchased or redeemed by officers, agents, directors or employees of a conservation permit organization unless:

(i) the voucher was sold at an in-person banquet or fundraiser hosted by the conservation organization;

(ii) the sale was administered by an auctioneer; and

(iii) the sales process was administered in a manner so as to secure fair market value for the voucher.

(3)(a) The conservation organization must:

(i) obtain the following information at the time of sale:

(A) full name of the successful bidder;

(B) date the permit opportunity is auctioned; and

(C) winning bid amount for that permit opportunity;

(ii) submit the information required in Subsection (3)(a)(i) to the division within 10 days of the event where the permit opportunity is auctioned to the highest bidder; and

(iii) identify the individual who is authorized to redeem the conservation permit voucher and submit it to the division [~~prior to~~]before the individual attempting to [~~redeeming~~]redeem the voucher.

(b) The division will not issue a conservation permit unless required information about the winning bidder and authorized recipient of the voucher is first received by the division.

(c)(i) [~~an~~] An absentee bidder may only use an agent or representative to bid on a conservation permit opportunity on their behalf if authorized by the conservation organization.

(ii) A winning bid offered by an agent or representative on behalf of an absentee bidder legally obligates the absentee bidder to satisfy the bid obligation submitted by the representative.

(iii) For the purposes of this rule, an absentee bidder is considered the successful bidder when the winning bid is offered by their agent or representative.

(4)(a) If the successful bidder or a person designated by the successful bidder to receive a conservation permit voucher fails to pay the conservation organization the winning bid amount that secured the permit opportunity, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the permit opportunity.

(b) Conservation Organization may award the conservation permit voucher to the runner-up bidder if:

(i) the runner-up bidder information is available:

(ii) the original value is collected by the conservation organization:

(A) receiving the difference between the runner-up bid from the original winning bidder; or

(B) the runner-up bidder is willing to match the original high bid.

(5)(a) If, for any reason, the successful bidder elects not to personally use a conservation permit opportunity, they may assign that opportunity to another person, provided:

(i) the conservation organization is notified of the assignment;

(ii) the original winning bid amount for the permit opportunity is received in full by the conservation organization and not decreased;

(iii) the conservation organization handles and otherwise uses the entire winning bid amount consistent with the requirements in Section R657-41-9;

(iv) the successful bidder executes an affidavit verifying they are not profiting from the assignment; and

(v) the successful bidder separates all fees for guiding services from any transaction associated with assigning the permit opportunity.

(b) If a person assigned a permit opportunity by the successful bidder or a person possessing a permit voucher [~~is unable to~~]cannot use the permit opportunity for any reason, including obtaining another Utah permit for the same species, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the opportunity, provided:

(i) the conservation organization selects the new recipient of the permit opportunity;

(ii) the amount of money received by the division for the permit opportunity is not decreased;

(iii) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the re-designated permit opportunity consistent with the requirements in Section R657-41-9;

(iv) the conservation organization and the holder of the permit opportunity execute an affidavit verifying neither is profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(6[~~)(a~~]) Except as otherwise provided under Subsections (4) and (5), neither the conservation organization, successful bidder, successful bidder's assignee, nor the holder of a conservation permit voucher may offer for sale, sell, or transfer the rights to that designation to any other person.

(7) A person cannot obtain more than one conservation permit for a single conservation permit species per year, except[-]:

(a) two elk permits may be obtained, provided one or both are antlerless permits; and

(b) turkey.

(c) A person may obtain both a desert bighorn ram permit and [~~r~~]Rocky [~~m~~]Mountain bighorn ram conservation permit in a single year.

(8) The person designated on a conservation permit voucher must possess or obtain a current Utah hunting or combination license to redeem the voucher for the corresponding conservation permit.

R657-41-9. Conservation Permit Funds and Reporting.

(1) All permits must be auctioned or distributed by August 15, annually.

(2) Within 30 days of the last event, but no later than August 15 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of permits;

(b) the total funds raised on each permit; and

(c) the funds due to the division.

(3)(a) Conservation permits [~~shall~~]may not be issued to a person possessing a conservation permit voucher unless the person redeeming the voucher:

(i) possesses a valid Utah hunting or combination license;

(ii) remits to the division the applicable permit fee; and

(iii) is otherwise legally eligible to possess the particular hunting permit.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by August 15 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before August 15 of each year.

(d) The permit revenue payable to the division under this subsection [~~shall~~]may not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the division by the August 15 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4, [~~Theft,~~]and may further disqualify the conservation organization from obtaining any future conservation permits.

(5) A conservation organization may retain 70% of the permit revenue generated from auctioning conservation permits, as follows:

(a) 10% of the permit revenue may be withheld and used by the conservation organization for administrative expenses.

(b) 60% of the permit revenue and accrued interest, excluding standard banking fees assessed on the account where the permit revenue is deposited, may be retained and used by the conservation organization only for eligible projects, as provided in Subsections (i) through (xii).

(i) Eligible projects include habitat improvement, habitat acquisition, transplants, targeted education efforts and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

(ii) Retained revenue [~~shall~~]may not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iii) Retained revenue [~~shall~~]may not be used on any project that does not provide a substantial and direct benefit to conservation permit species or other protected wildlife located in Utah.

(iv) For direct purchases, the division may require conservation organizations to engage in a competitive bid process or otherwise document benefits to a conservation permit species as a prerequisite to division approval.

(v) Cash donations to the Wildlife Habitat Account created under Section 23A-3-207, Division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

(vi) Funds committed to approved[~~,~~] division projects will be transferred to the division within 60 days of being invoiced by the division.

(vii) If the division-approved project to which funds are committed is completed under projected budget or is canceled, funds committed to the project that are not used will be kept by the division and credited back to the conservation organization but will be made available for the group to use on other approved projects during the current or subsequent year.

(viii) Retained revenue shall [~~not~~]be [~~used on any project~~]spent in a manner that is [~~inconsistent~~]consistent with [~~division policy, including feeding programs, depredation~~]the division's strategic plan and or consistent with a management[~~, or predator control.~~] plan for a conservation permit species.

(ix) Retained revenue under this subsection must be placed in a federally insured account. All interest revenue earned thereon must be accounted for and used consistent with the requirements of this subsection.

(x) Retained revenue [~~shall~~]may not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

(xi) Retained revenue must be completely expended on approved eligible projects or transferred to the division by August 15, two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to expend or transfer to the division retained revenue by the August 15 deadline will disqualify the conservation organization from obtaining any future conservation permits until the unspent retained revenue is expended on an approved eligible project or transferred to the division.

(xii) All records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall perform annual audits on project expenditures and conservation permit accounts.

R657-41-10. Obtaining Sportsman Permits.

(1) One sportsman permit is offered to residents through a drawing for each of the following species:

(a) desert bighorn (ram);

(b) bison (hunter's choice);

(c) buck deer;

(d) bull elk;

(e) Rocky Mountain bighorn (ram);

(f) mountain goat (hunter's choice);

(g) bull moose;

(h) buck pronghorn;

(i) black bear; and

(j[~~) cougar; and~~

~~(k~~]) wild turkey.

(2) The following information on sportsman permits is provided in the guidebooks of the Wildlife Board for taking protected wildlife:

(a) hunt dates;

(b) open units or hunt areas;

(c) application procedures;

(d) fees; and

(e) deadlines.

(3) A person must possess or obtain a current Utah hunting or combination license to apply for or obtain a sportsman permit.

R657-41-11. Using a Conservation or Sportsman Permit.

(1)(a) A conservation or sportsman permit allows the recipient to take only one individual of the species for which the permit is issued, except a statewide turkey conservation or sportsman permit allows the holder to take two turkeys.

(b) The species that may be taken shall be printed on the permit.

(c) The species may be taken in the area and during the season specified on the permit.

(d) The species may be taken only with the weapon specified on the permit.

(2) The recipient of a conservation or sportsman permit is subject to [~~all the provisions~~]of Title 23A, the Wildlife Resources [~~Code~~]Act, and the rules and guidebooks of the Wildlife Board for taking and pursuing wildlife.

(3) Bonus points [~~shall~~]may not be awarded or utilized:

(a) when applying for conservation or sportsman permits; or

(b) in obtaining conservation or sportsman permits.

(4) Any person who obtains a conservation or sportsman permit is subject to applicable waiting periods for purposes of obtaining a permit for the same species through a division drawing, as provided in [~~Rules~~]Rule R657-62.

R657-41-12. Miscellaneous Area Conservation Permit Provisions.

(1) Area conservation permits issued for limited entry units are not valid on cooperative wildlife management units authorized for the same species of wildlife as the area conservation permit.

(2) Notwithstanding Subsection R657-41-2(2)(a), area conservation permits issued for turkey are not valid during the youth general season hunt unless the holder qualifies as a youth.

(3) Area conservation permits for bighorn sheep will end on December 31st.

(4) The Box Elder, Pilot Mountain Rocky Mountain bighorn sheep unit, is closed to both the Sportsman permit holder and the Statewide conservation permit holder.

R657-41-13. Special Antelope Island State Park Hunting Permits.

(1)(a) The Wildlife Board may authorize a hunt for bighorn sheep and buck mule deer on Antelope Island State Park, with one or more permits made available for each species and designated as Special Antelope Island State Park Conservation Permits and an equal number of permits for each species made available as Special Antelope Island State Park Limited Entry Permits.

(b) The division and the Division of State Parks[~~ and Recreation~~], through their respective policy boards, will enter into a cooperative agreement for purposes of establishing:

(i) the number of permits issued annually for bighorn sheep and buck mule deer hunts on Antelope Island;

(ii) season dates for each hunt;

(iii) procedures and regulations applicable to hunting on Antelope Island;

(iv) protocols for issuing permits and conducting hunts for antlerless deer on Antelope Island when populations require management; and

(v) procedures and conditions for transferring Special Antelope Island State Park Conservation Permit revenue to the Division of State Parks[~~ and Recreation~~].

(c) The cooperative agreement governing bighorn sheep and mule deer hunting on Antelope Island, and any subsequent amendment thereto, shall be presented to the Wildlife Board and the Utah State Parks Board for approval [~~prior to~~]before holding a drawing or issuing hunting permits.

(2)(a) Special Antelope Island State Park Limited Entry Permits will be issued by the division through its annual bucks, bulls, and once-in-a-lifetime drawing.

(i) The mule deer Special Antelope Island State Park Limited Entry Permit is a premium limited entry buck deer permit and subject to the regulations governing such permits, as provided in this rule, Rule R657-5, and Rule R657-62.

(ii) The bighorn sheep Special Antelope Island State Park Limited Entry Permit is a once-in-a-lifetime Rocky Mountain bighorn sheep permit and subject to the regulations governing such permits, as provided in this rule, Rule R657-5, and Rule R657-62.

(b) To apply for a Special Antelope Island State Park Limited Entry Permit, the applicant must:

(i) pay the prescribed application handling fee;

(ii) possess a current Utah hunting license or combination license;

(iii) not be subject to a waiting period under Rule R657-62 for the species of wildlife applied for; and

(iv) otherwise be eligible to hunt the species of wildlife designated on the application;

(c) A person that obtains a Special Antelope Island State Park Limited Entry Permit:

(i) must pay the applicable permit fee;

(ii) may take only one animal of the species and [~~gender~~]sex designated on the permit;

(iii) may hunt only with the weapon and during the season prescribed on the permit;

(iv) may hunt the specified species within the areas of Antelope Island designated open by the Wildlife Board and the rules [~~and regulations~~]of the Division of State Parks[~~ and Recreation~~]; and

(v) is subject to the:

(A) [~~provisions of~~]Title 23A, the Wildlife Resources [~~Code~~]Act, and the rules and guidebooks of the Wildlife Board for taking and pursuing wildlife; and

(B) statutes[~~,~~] and rules[~~, and regulations~~] of the Division of State Parks[~~ and Recreation~~] for hunting on Antelope Island.

(d) Bonus points are awarded and utilized in applying for and obtaining a Special Antelope Island State Park Limited Entry Permit.

(e) A person who has obtained a Special Antelope Island State Park Limited Entry Permit is subject to all waiting periods applicable to the particular species, as provided in Rule R657-62.

(f) A person cannot obtain a Special Antelope Island State Park Limited Entry Permit for a Rocky Mountain bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(3) Special Antelope Island State Park Conservation Permits will be provided to the conservation group awarded the wildlife expo permit series, as provided in Rule R657-55, for auction to the highest bidder at the wildlife exposition.

(a) [~~The~~]Conservation organizations shall obtain a certificate of registration and contract with the division [~~and conservation organization receiving authority~~]to receive authorization to auction Special Antelope Island State Park Conservation Permits[~~ shall enter into a contract~~].

(b) The conservation organization receiving authority to auction the opportunity for Special Antelope Island State Park Conservation Permits must [~~insure~~]ensure the permits are marketed and distributed by lawful means.

(4)(a) When auctioning the Special Antelope Island State Park Conservation Permits, the conservation organization must:

(i) obtain the following information:

(A) full name of the successful bidder;

(B) date of the event where the permit opportunity is auctioned; and

(C) winning bid amount for that permit opportunity;[~~ and~~]

(ii) submit the information required in Subsection (4)(a)(i) to the division within 10 days of the event where the permit opportunity is auctioned to the highest bidder; and

(iii) identify the individual who is authorized to redeem the conservation permit voucher and submit it to the division [~~prior to~~]before the individual attempting to [~~redeeming~~]redeem the voucher.

(b) The division will not issue a Special Antelope Island State Park Conservation Permit unless information on the winning bidder and authorized recipient of the voucher is first received by the division.

(c)(i) an absentee bidder may only use an agent or representative to bid on a conservation permit opportunity on their behalf if authorized by the conservation organization.

(ii) A winning bid offered by an agent or representative on behalf of an absentee bidder legally obligates the absentee bidder to satisfy the bid obligation submitted by the representative.

(iii) For the purposes of this rule, an absentee bidder is considered the successful bidder when the winning bid is offered by their agent or representative.

(5)(a) If the successful bidder or the person designated by a successful bidder to receive a Special Antelope Island State Park Conservation Permit fails to pay the conservation organization the winning bid amount, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the permit opportunity.

(b) Conservation Organization may award the conservation permit voucher to the runner-up bidder if:

(i) the runner-up bidder information is available:

(ii) the original value is collected by the conservation organization:
(A) receiving the difference between the runner-up bid from the original winning bidder; or
(B) the runner-up bidder is willing to match the original high bid

(6)(a) If, for any reason, the successful bidder elects not to personally use a Special Antelope Island State Park Permit opportunity, they may assign that opportunity to another person, provided:

(i) the conservation organization is notified of the assignment;

(ii) the original winning bid amount for the permit opportunity is received in full by the conservation organization and not decreased;

(iii) the conservation organization handles and otherwise uses the entire winning bid amount consistent with the requirements in Subsection (9); and

(iv) the successful bidder executes an affidavit verifying they are not profiting from the assignment.

(A) For purposes of Subsection (iv), [~~"~~]profiting[~~"~~] does not include a reasonable fee for guiding services provided in conjunction with the assigned permit opportunity.

(b) If a person assigned a Special Antelope Island State Park Conservation Permit opportunity by the successful bidder or a person possessing the permit voucher [~~is unable to~~]cannot use the permit opportunity for any reason, including obtaining another Utah permit for the same species, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the opportunity, provided:

(i) the conservation organization selects the new recipient of the permit opportunity;

(ii) the amount of money received by the division for the permit opportunity is not decreased;

(iii) the conservation organization relinquishes to the division all proceeds generated from the re-designated permit, as provided in Subsection (9);

(iv) the conservation organization and the holder of the permit opportunity execute an affidavit verifying neither is profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(7) Within 30 days of the exposition, but no later than May 1 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of the Special Antelope Island State Park Conservation Permits;

(b) the total funds raised on each permit; and

(c) the funds due to the division.

(8)(a) Permits [~~shall~~]may not be issued until the applicable permit fees are paid to the division.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (9)(b).

(9)(a)(i) Conservation organizations shall remit to the division 90% of the total revenue generated by the Special Antelope Island State Park Conservation Permit sales in that year.

(ii) Failure to remit 90% of the total permit revenue to the division by the August 15 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4, Theft[~~ of the Utah Code~~].

(b) A conservation organization may retain 10% of the revenue generated by the permits for administrative expenses.

(c) Special Antelope Island State Park Conservation Permits will be issued under this section and will not be limited by the requirements of Sections R657-41-3 through R657-41-8.

(d) Upon receipt of the permit revenue from the conservation organization, the division will transfer the revenue to the Division of State Parks[~~ and Recreation~~], as provided in the cooperative agreement under Subsection (1)(b) between the two divisions.

(10)(a) Except as otherwise provided under Subsections (5) and (6), neither the conservation organization, successful bidder, successful bidder's assignee, nor the holder of a Special Antelope Island State Park Conservation Permit voucher may offer for sale, sell, or transfer the rights to that designation to any other person.

(b) A person cannot obtain a Special Antelope Island State Park Conservation Permit for a Rocky Mountain bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(c) The person designated to receive a Special Antelope Island State Park Conservation Permit must possess or obtain a current Utah hunting or combination license before being issued the permit.

(11) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permits and the Special Antelope Island State Park Limited Entry Permits.

R657-41-[~~13. Failure to Comply~~]14. Violations and Suspension.

(1) The division or the Wildlife Board may suspend [~~or revoke~~]a conservation organization's [~~participation~~]certificate of registration to participate in the [~~C~~]conservation [~~P~~]permit [~~P~~]program under Section 23A-4-1106 and Rule R657-26 if a principal or agent of a participating conservation organization:

(a) violated [~~any provision of~~]this rule or [~~a provision of the Utah Criminal Code cited herein~~]Title 76, Chapter 6, Part 4, Theft; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a participating conservation organization bears a reasonable relationship to their participation in the program.

[~~(2) The~~]

R657-14-15. Agency Action and Administrative Appeals.

(1) Notwithstanding Section R657-41-14, the procedures [~~and rules~~]governing [~~any adverse~~]agency action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

(2) An aggrieved party to a final division action under this rule may file a request for agency action with the division under Rule R657-2.

(3) The director or a designee appointed by the director shall be the presiding officer for any adjudicative proceedings initiated under this section.

KEY: wildlife, wildlife permits
Date of Last Change: 2024[~~October 2, 2023~~]
Notice of Continuation: September 8, 2020
Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-42**	**Filing ID: 56600**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-42. Fees, Exchanges, Surrenders, Refunds, and Reallocation of Wildlife Documents
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to administrative processes.
4. Summary of the new rule or change:
The proposed amendments to this rule place this rule in line with H.B. 382, Wildlife Amendments, passed in the 2024 General Session which clarifies an invalid license/permit.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Ruel R657-42 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**	
The proposed rule amendments will not directly impact small businesses because a service is not required of them.	
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**	
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.	
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**	
The proposed rule amendments do not have the potential to impact other persons that participate in activities in Utah, nor is a service required of them.	
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**	
The DWR has determined that this amendment may not create additional costs for those individuals wishing to participate in activities in Utah because it simply clarifies what an invalid license/permit is.	
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)	

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-4-201	Section 23A-4-207	Section 23A-4-301

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-42. Fees, Exchanges, Surrenders, Refunds, and Reallocation of Wildlife Documents.
R657-42-1. Purpose and Authority.

(1) Under the authority of Sections 23A-4-201 and 23A-4-207 the division may issue wildlife documents in accordance with the rules of the Wildlife Board.

(2) This rule provides the standards and procedures for the:
(a) exchange of permits;
(b) surrender of wildlife documents;
(c) refund of wildlife documents;
(d) reallocation of permits; and
(e) assessment of late fees.

R657-42-10. Duplicates.

(1) If an unexpired wildlife document is destroyed, lost, or stolen, a person may obtain a duplicate from a division office or online license agent[~~,~~] for a duplicate fee as provided in the fee schedule.

(2) The division may waive the fee for a duplicate unexpired wildlife document, provided the person did not receive the original wildlife document.

(3) To obtain [~~the~~]a duplicate wildlife document, the applicant may be required to complete an affidavit testifying to such loss, destruction, or theft.

(4) Upon issuance of a wildlife document, the original wildlife document is invalid.

KEY: wildlife, permits
Date of Last Change: [~~February 7,~~] 2024
Notice of Continuation: March 15, 2023
Authorizing, and Implemented or Interpreted Law: 23A-4-201; 23A-4-207; 23A-4-301

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-43**	**Filing ID: 56595**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-43. Landowner Permits

3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to Landowner Association Program

4. Summary of the new rule or change:
The proposed amendments to this rule: 1) clarify 640 acre minimum for General Season Private Land Landowner Buck Deer Vouchers; 2) amend the allocation of additional permits from 10% to 7%; 3) clarify the issuance of General Season Private Land Landowner Buck Deer Vouchers; and 4) require one permit per unit in the Limited Entry Landowner Program.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-43 are program changes that are administrative in nature for the DWR, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget
B) Local governments:
Since the proposed amendments clarify existing program requirements and restrictions this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This amendment clarifies an existing Landowner program, the LOA's are not regulated as a small business therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because the rule does not create a situation requiring services from them
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This amendment clarifies an existing Landowner program, the LOA's are not regulated as a non-small business nor do they have an employer/employee relationship therefore, this rule does not impose any additional financial requirements on small non-businesses, nor generate a cost or saving impact to small non-businesses because the rule does not create a situation requiring services from them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The rule amendments do have the potential to affect the number of vouchers being issued to each LOA. Because the vouchers are based on the market the LOA's that may decrease in permit numbers may actually see an increase in the tag price and may not have a financial loss. A majority of the LOA's were receiving vouchers recommended at the same rate and will see no change. There has always been potential for the vouchers to increase or decrease each year however, some of the vouchers consistently sell for more than $40,000. The DWR has determined that with the market flexibility the decrease in the percentage of vouchers issued could be off-set with the purchasing demand, therefore the cost impact could remain the same.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
The DWR has determined that there will be no change in cost for those wishing to participate as a Landowner Association in the program.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-43. Landowner Permits.
R657-43-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-304 and 23A-2-305, this rule provides the standards and procedures for landowners to qualify for and obtain big game hunting opportunities in recognition of the benefits their private properties provide to wildlife resources in Utah.

(2) The Private Landowners may apply for and obtain Vouchers from the division through one of the following three programs, and as further outlined in this rule:

(a) The division may provide one of the following permits to individual landowners for the General Season Landowner Permit Program:

(i) A General Season Landowner - Private Land - Buck Deer Permit may be provided for Landowners to use only on their private land; or

(ii) A General Season Landowner - Unit Wide - Buck Deer Permit that Landowners can seek through a draw process and is usable throughout the general season unit.

(b) The division may provide permits to individual Landowners on limited entry units with eligible lands that are not enrolled in a Landowner Association to hunt Buck Deer, Bull Elk, and Buck Pronghorn on their own private land.

(c) The division may provide Buck Deer, Bull Elk, and Buck Pronghorn permits to Landowner Associations through the Limited Entry Landowner Association Program that can be:

(i) used unit wide for a Landowner Association that allow public access; or

(ii) used only on private land within the Landowner Association if no public access is allowed.

(3) The Landowner permit programs are intended to:

(a) provide an incentive for private landowners to manage their lands as quality habitat for public wildlife;

(b) assist and support the division in managing big game populations;

(c) increase private Landowner tolerance of big game on their Private Lands;

(d) increase big game hunting opportunities;

(e) increase and secure public hunting access on participating Landowners' Private Lands;

(f) reduce the division's obligations in responding to and compensating for depredation events occurring on participating Private Lands;

(g) use objective criteria to determine how hunting opportunities are allocated under the programs; and

(h) allocate hunting opportunities in a manner that fluctuates in proportion to variations in public draw permit numbers.

R657-43-2. Definitions.

(1) Terms used in this rule are defined in Section 23A-1-101.

(2) In addition:

(a) "Applicant" means a Landowner applying to participate in the General Season Buck Deer Landowner Permit program, the Limited Entry Landowner Association Permit program, or the program for Landowners on limited entry units with eligible land that is not enrolled in a Limited Entry Landowner Association.

(b) "Cropland" means agricultural Private Land that is cultivated and mechanically harvested and upon which the division has determined that migratory deer rely to meet herd management objectives.

(c) "Draw Application" means an application for Permits submitted to the division after the Applicant has been approved to participate in the program.

(d) "Eligible Property" means Private Land that:

(i)(A) provides habitat for deer, elk or pronghorn as determined by the division;

(B) is not used in the operation of a Cooperative Wildlife Management Unit for the same species;

(C) is not used in the operation of an elk farm or elk hunting park; and

(D) is in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504.

(ii) In addition to [~~s~~]Subsection (d)(i), Eligible Property must have one or more of the following attributes:

[~~(A) for receiving General Season Private Land Landowner Buck Deer Vouchers or~~] (A) for General Season Unit Wide Landowner Buck Deer Permits, a minimum of 100 acres of Cropland, or a minimum of 640 acres of other Private Land meeting the criteria in Subsections (d)(i) through ([~~iv~~]ii) that is owned or leased by one Landowner or leased by one landowner within the general season unit hunt boundary; or

[~~(B)~~] (B) for General Season Private Land Landowner Buck Deer Vouchers a minimum of 640 acres of Private Land owned or leased within a general season unit hunt boundary; or

(C) for [~~the purposes of receiving~~]a Limited Entry Landowner Permit Voucher, Private Land owned or leased within a limited entry elk, deer or pronghorn unit for land that is enrolled in a Limited Entry Landowners Association.

([~~C~~]D) for [~~the purposes of receiving~~]a Limited Entry Landowner Permit Voucher for Private Land owned or leased within a limited entry elk, deer or pronghorn unit for land that is not enrolled in a Limited Entry Landowners Association, a minimum of 640 acres of Private Land meeting the criteria in Subsections (d)(i)(A) through (D) that is owned or leased by one Landowner or leased by one landowner within the limited entry unit hunt boundary.

(e) "Governing Documents" mean the legal documents executed by a Legal Entity Owners that govern the formation, operation, management, rules, duties, responsibilities, decision-making and dissolution of said Legal Entity.

(f) "Immediate Family" means a Landowner's, a Lessee's, or a Legal Entity Owner's spouse, children, sons-in-law, daughters-in-law, father, mother, father-in-law, mother-in-law, brothers, sisters, brothers-in-law, sisters-in-law, stepchildren, and grandchildren.

(g) "Landowner" means, for the purposes of this rule, any person or Legal Entity which:

(i) owns Private Land in Utah as evidenced by such deeds vesting title in such Landowner;

(ii) is the purchaser of Private Land pursuant to a recorded contract of sale; or

(iii) is an agricultural Lessee of Private Land, being any person or legal entity with a written lease whose terms permit the lessee to be in physical control of such Private Land.

(h) "Landowner Association" means a Legal Entity created by Landowners who own Eligible Property within a limited entry unit, which Legal Entity is organized for[-] working with the division as outlined in this rule.

(i) "Legal Entity" means an entity such as a corporation, partnership, limited liability company, or trust that is organized under the laws of the state and otherwise qualified to do business within Utah.

(j) "Legal Entity Owner" means a person or other Legal Entity which has ownership in a Legal Entity, such as a shareholder of a corporation, a member of a limited liability company, a partner in a partnership, or trustee or beneficiary of a trust.

(k) "Permit" means a hunting authorization obtained through a draw or purchased from the division by a person who is the holder of a Voucher, pursuant to the terms and authorizations contained in such Voucher.

(l) "Private Land" means, for the purposes of this rule, any real property owned or leased by a Landowner, excluding:

(i) land owned by the state or federal government;

(ii) land owned by a county or municipality;

(iii) land owned by an Indian tribe;

(iv) land enrolled in a Cooperative Wildlife Management Unit for the same species under Rule R657-37; and

(v) land where public access for big game hunting has been secured.

(m) "Qualifier Application" means the initial application submitted to the division to determine if a Landowner meets the necessary requirements to participate in the landowner permit program.

(n) "Voucher" means an authorization issued by the division to a Landowner that entitles such Landowner or its permitted transferees, if allowed pursuant to this rule, to purchase a Permit from the division.

TABLE
Landowner Permit Programs Table

Permit/ Voucher Type	Hunt Boundary	Species	Requirements	Stipulations	Public Access	Permit Quantity
General Season	Private Lands Only	Deer	640 acres of Agricultural Land or Range Land	Can be sold	Not required	Up to 10% above total unit permits
General Season	Unit Wide	Deer	100 acres Agricultural Land, or 640 acres of Range Land	Owner or immediate family only - cannot be sold	Not required	Up to 3% above total
Limited Entry - Non-LOA	Owners Private Lands Only	Deer, Elk, Pronghorn	640 acres of Agricultural Land or Range Land	For anyone - cannot be sold	Not required	Up to 5% above total unit permits
Limited Entry - LOA 1	Unit Wide	Deer, Elk, Pronghorn	>50% of eligible land enrolled	Can be sold	Required	Percentage of habitat = percentage of LOA permits
Limited Entry - LOA 2	Private Lands Only	Deer, Elk, Pronghorn	>50% of eligible land enrolled	Can be sold	Not required	Percentage of habitat = percentage of LOA permits

R657-43-3. General Season Landowner Program - Private Land Only Buck Deer Vouchers -- Availability and Eligibility.

(1) The division shall establish the maximum number of General Season Landowner - Private Land Only Buck Deer Vouchers annually by:

(a) identifying the number of public draw permits available in a hunting unit; and

(b) allocating up to an additional [~~10~~]7% of that number to the General Season Landowner - Private Land Only Buck Deer program.

(2) An Applicant must meet the following eligibility criteria to apply for or obtain vouchers under the General Season Landowner Program for a Private Land Buck Deer Voucher:

(a) own the minimum quantity of Eligible Property in the proper general season unit boundaries as identified in this rule;

(b) be able to lawfully obtain and use a hunting license and big game permit;

(c) submit a complete application by the deadline; and

(d) pay necessary fees.

(3) An Applicant may apply for General Season Landowner - Private Land Only Buck Deer Vouchers according to the following limitations:

(a) one General Season Landowner - Private Land Only Buck Deer Voucher may be issued for 640 acres of Eligible Property owned or leased by the Applicant;

(b) one additional General Season Landowner - Private Land Only Buck Deer Voucher may be issued for each additional 640 acres of Eligible Property owned or leased by the Applicant.

(4) General Season Landowner - Private Land Only Buck Deer Vouchers may be transferred or sold.

(5) [~~Any remaining~~]All permits for the General Season Landowner - Private Land Only Buck Deer Vouchers [~~may~~]will be issued to qualifying landowners over-the-counter at the same time the other over-the-counter big game permits go on sale.

R657-43-4. General Season Landowner Program - Private Land Buck Deer Vouchers -- Applications and Permit Use.

(1) Qualifier Applications for General Season Landowner - Private Land Only Buck Deer Vouchers are available from division offices and on the division website before the draw.

(2)(a) Only one Applicant may submit a Qualifier Application for a parcel of Private Land.

(b) The division may reject all Qualifier Applications if more than one application is received for the same parcel of Private Land.

(c) A Landowner may only submit one Qualifier Application, regardless of whether there are:

(i) multiple individual persons owning the Eligible Property;

(ii) multiple Legal Entity Owners in the Legal Entity owning the Eligible Property; or

(iii) similar instances of split ownership of the Eligible Property.

(3) Qualifier Applications for General Season Landowner - Private Land Only Buck Deer Vouchers must include:

(a) total acres of Eligible Property within the respective general season unit hunt boundary area;

(b) the signature of all Landowners having an interest in the Eligible Property; and

(c) a digital map of the Eligible Property indicating the parcel numbers, county, and general season hunt unit within which it is located.

(4) Qualifier Applications must be submitted to the regional division office with management responsibilities where the Eligible Property is located.

(5) Vouchers will be issued on a first come, first serve basis when over-the-counter permits go on sale.

(6) The Applicant will select the season and weapon type when issued the voucher.

(7) Any person issued a General Season Landowner - Private Land Only Buck Deer Permit under this rule is subject to all season dates, weapon restrictions, and any other rules, specifically Rule R657-5, and fees as provided in the guidebook of the Wildlife Board for taking big game.

(8) General Season Landowner - Private Land Only Buck Deer Permits are only valid on private property in the unit in accordance with Sections 23A-5-310 and 23A-5-317.

(9) A General Season Landowner - Private Land Only Buck Deer Permit may be used to hunt the entirety of the Landowner's adjoining Private Land even when the Landowner's Private Land is in more than one general unit hunt boundary area.

R657-43-5. General Season Landowner Program - Unit Wide Buck Deer Permits -- Availability and Eligibility.

(1)(a) The division will establish the number of General Season Landowner - Unit Wide Buck Deer Permits annually by identifying the number of public draw permits available in a unit and allocate an additional 3% of that number to the program.

(b) Vouchers for General Season Landowner - Unit Wide Buck Deer Permits will be issued through the General Season Landowner Permit draw.

(c) Vouchers for General Season Landowner - Unit Wide Buck Deer Permits may only be redeemed by the Landowner or Immediate Family members.

(2) An Applicant must meet the following eligibility criteria to apply for or obtain permits under the General Season Landowner - Unit Wide Buck Deer Permit program:

(a) own the minimum quantity of Eligible Property in the proper general season unit boundaries as identified in this rule;

(b) be able to lawfully obtain and use a hunting license and big game permit;

(c) submit a complete application by the deadline;

(d) participate in the General Season Landowner - Unit Wide Buck Deer Permit drawing; and

(e) pay necessary fees.

(3)(a) An Applicant may apply for General Season Landowner - Unit Wide Buck Deer Permits according to the following limitations:

(i) One General Season Landowner - Unit Wide Buck Deer Permit may be issued for 640 acres of Eligible Property owned or leased, for agricultural purposes, by the Applicant; or

(ii) One General Season Landowner - Unit Wide Buck Deer Permit may be issued for 100 acres or more of Cropland owned or leased, for agricultural purposes, by the Applicant.

(b)(i) One additional General Season Landowner - Unit Wide Buck Deer Permit may be issued for each additional 640 acres of Eligible Property owned or leased, for agricultural purposes, by the Applicant; and

(ii) Only one General Season Landowner - Unit Wide Buck Deer Permit may be issued to a Landowner based on Cropland acreage, regardless of whether that Applicant owns or leases for agricultural purposes more than 100 acres of Cropland.

(d) General Season Landowner - Unit Wide Buck Deer Permits cannot be sold and may only be transferred to Immediate Family members.

(e) An Applicant may apply for and receive a maximum of five General Season Landowner - Unit Wide Buck Deer Permits in a single hunt year.

(4) Vouchers for General Season Landowner - Unit Wide Buck Deer Permits will be issued following the draw and may only be claimed by the Landowners and their Immediate Family members.

(5) Remaining General Season Landowner - Unit Wide Buck Deer Permits may be issued to qualifying landowners over-the-counter at the same time the other over-the-counter big game permits go on sale.

R657-43-6. General Season Landowner Program - Unit Wide Buck Deer Permits -- Applications, Drawing, and Permit Use.

(1) Qualifier Applications for General Season Landowner - Unit Wide Buck Deer Permits are available from division offices and on the division website before the draw.

(2)(a) Only one Applicant may submit a Qualifier Application for a parcel of Private Land.

(b) The division may reject all Qualifier Applications if more than one application is received for the same parcel of Private Land.

(c) Where the Landowner's Private Land is in more than one general unit hunt boundary area, the Landowner may select only one of those units from which to receive the Permit.

(d) A Landowner may only submit one Qualifier Application, regardless of whether there are:

(i) multiple individual persons owning the Eligible Property;

(ii) multiple Legal Entity Owners in the Legal Entity owning the Eligible Property; or

(iii) similar instances of split ownership of the Eligible Property.

(3) Qualifier Applications for General Season Landowner Permits must include:

(a) total acres of Eligible Property within the respective general season unit hunt boundary area;

(b) the signature of all Landowners having an interest in the Eligible Property; and

(c) a digital map of the Eligible Property indicating the parcel numbers, county, and general season hunt unit within which it is located.

(4) Qualifier Applications must be submitted to the regional division office with management responsibilities where the Eligible Property is located.

(5) The signatures of the Landowners on the Draw Application serve as an affidavit by such Landowner certifying ownership of the Eligible Property enrolled.

(6) After Qualifier Applications are reviewed and approved, Draw Applications will be submitted pursuant to Section R657-62-27.

(7) Any person issued a General Season Landowner - Unit Wide Buck Deer Permit under this rule is subject to all season dates, weapon restrictions, and any other rules, specifically Rule R657-5, and fees as provided in the guidebook of the Wildlife Board for taking big game.

(8) A General Season Landowner - Unit Wide Buck Deer Permit is valid unit wide under the same season dates and unit boundary as a general draw buck deer permit would be.

(9) Individuals that obtain a General Season Landowner - Unit Wide Buck Deer Permit must choose a weapon type with season for their permit when redeeming a General Season Landowner - Unit Wide Buck Deer Permit.

R657-43-7. Limited Entry Landowner Program - Permit Vouchers for Lands not Participating in a Landowner Association -- Availability and Eligibility.

(1) The division shall establish the number of Limited Entry Landowner Program Permit Vouchers for private lands not enrolled in a Landowner Association for buck deer, bull elk, and buck pronghorn annually by:

(a) identifying the total number of [~~public draw~~]limited entry permits available in a unit; and

(b) allocating up to an additional 5%, with at least one permit per unit, by weapon type, of that number to the program.

(2) Vouchers for Limited Entry Landowner Program Permits for lands not participating in a Landowner Association will be issued through the Limited Entry Landowner Program Permit Voucher draw.

(3) An Applicant must meet the following eligibility criteria to apply for or obtain permits under the Limited Entry Landowner Program:

(a) own the minimum quantity of Eligible Property in the proper Limited Entry unit boundaries as identified in this rule;

(b) be able to lawfully obtain and use a hunting license and big game permit;

(c) submit a complete application by the deadline;

(d) participate in the Limited Entry Landowner Permit drawing; and

(e) pay necessary fees.

(4) An Applicant may apply for Limited Entry Landowner Permit Vouchers according to the following limitations:

(a) A minimum of 640 acres of Eligible Property is required to submit an application;

(b) Only one Limited Entry Landowner Program Permit may be issued per parcel of Eligible Property; and

(c) An Applicant may apply for and receive a maximum of one Limited Entry Landowner Program Permit Vouchers in a single hunt year.

(5) A landowner or lessee transferring a permit voucher to another individual may not receive any form of compensation or remuneration for the transfer or for allowing access to the private land for hunting on a permit redeemed with that voucher on the landowner or lessee's eligible property.

R657-43-8. Limited Entry Landowner Program - Permit Vouchers for Lands not Participating in a Landowner Association, -- Drawing, and Permit Use.

(1) Qualifier Applications for Limited Entry Landowner Program Permit Vouchers are available from division offices and on the division website before the draw.

(2)(a) Only one Applicant may submit a Qualifier Application for a parcel of Private Land.

(b) The division may reject all Qualifier Applications if more than one application is received for the same parcel of Private Land.

(c) A Landowner may only submit one Qualifier Application, regardless of whether there are:

(i) multiple individual persons owning the Eligible Property;

(ii) multiple Legal Entity Owners in the Legal Entity owning the Eligible Property; or

(iii) similar instances of split ownership of the Eligible Property.

(3) Qualifier Applications for Limited Entry Landowner Permits must include:

(a) total acres of Eligible Property within the respective Limited Entry unit hunt boundary area;

(b) the signature of all Landowners having an interest in the Eligible Property; and

(c) a digital map of the Eligible Property indicating the parcel numbers, county, and limited entry hunt unit within which it is located.

(4) Qualifier Applications must be submitted to the regional division office with management responsibilities where the Eligible Property is located.

(5) The signatures of the Landowners on the Draw Application serve as an affidavit by such Landowner certifying ownership of the Eligible Property in the Qualifier Application.

(6) After Qualifier Applications are reviewed and approved, Draw Applications will be submitted pursuant to Section R657-62-27.

(7) Any person issued a Limited Entry Landowner Program Permit under this rule is subject to all season dates, weapon restrictions, and any other rules, specifically Rule R657-5, and fees as provided in the guidebook of the Wildlife Board for taking big game.

(8) Limited Entry Landowner Program Permit Vouchers are not valid for:

(a) multi-season hunting opportunities;

(b) public land;

(c) private land outside of the property for which the application was submitted for; and

(d) late season limited entry buck deer permits on a general season unit.

R657-43-9. Limited Entry Landowner Association Program Permit Vouchers -- Availability and Eligibility.

(1)(a) Landowners in a limited entry unit may join together to form a Landowner Association for participation in the Limited Entry Landowner Association Permit program.

(b) To qualify as a Landowner Association, participating Landowners must:

(i) own more than 50% of the Private Lands that are Eligible Property within the limited entry herd unit;

(ii) form a Landowner Association;

(iii) limit participation to Private Lands within a limited entry hunt unit serving as habitat for that species; and

(iv) the president of the Landowner Association must participate in a division training annually.

(2) The division will establish the number of Limited Entry Landowner Association Program Permits available on an annual basis by:

(a) identifying the number of [~~public draw~~]total permits in a unit for the previous hunt year;

(b) identifying the total acreage of Private Land in a unit enrolled in the Landowner Association;

(c) calculating the percentage of habitat in the unit represented by the Landowner Association by dividing the habitat acreage represented by the Landowner Association by the habitat acreage in the whole unit;

(d) applying that percentage to the total number of available public draw permits from the previous year to determine the number of Limited Entry Landowner Association Program Permit Vouchers to be allocated to the Landowner Association;

(e) applying standard rounding will be practiced when determining permit numbers - .49 rounds down and .5 rounds up; and

(f) an approved Landowner Association that qualifies for less than one permit voucher every year will receive one permit voucher the first year after approval.

(3) To form a Landowner Association, Landowners must:

(a) elect a president;

(b) enter into Governing Documents signed by all participating Landowners that:

(i) agree to the formation of a Landowner Association for the purposes of participating in the program;

(ii) establish membership qualifications;

(iii) identify any yearly dues, if any, necessary to participate and how those funds will be utilized;

(iv) establish a distribution plan for allocating Vouchers or revenue from Vouchers to members;

(v) describe the process for adding and removing members in a fair and impartial process;

(vi) describe how the Landowner Association will provide notice of upcoming meetings and how members can participate;

(vii) establish how voting and decisions on behalf of the Landowner Association will be made;

(viii) establish rules and guidelines outlining permit holder conduct on Landowner Association property;

(ix) describe how the Landowner Association will complete compliance requirements for the program;

(x) describe how the members will elect a president to represent the landowner association and the president's length of term;

(xi) include a written waiver from each participating Landowner of all depredation claims due to big game damage during the term of such Landowner's membership in the Landowner Association;

(xii) if option 1, Subsection R657-43-9(5)(a)[~~,~~] is chosen include a written agreement from each participating member to allow free public access onto all participating Landowner's Private Lands as required by Subsections R657-43-5(5) and R657-43-5(6); and

(xiii) other items deemed necessary and appropriate to administer the Landowner Association.

(4) Limitations on the eligibility of Private Lands in Landowner Associations:

(a) Private Lands enrolled in a Cooperative Wildlife Management Unit for the same species are not eligible to participate in a Landowner Association under this rule;

(b) Public and state lands are not eligible to be included in a Landowner Association;

(c) Only Private Lands that qualify as Eligible Property will be considered for Limited Entry Landowner Permits;

(d) Only one Landowner Association, per species, may be formed for each limited entry unit; and

(e) A Landowner or Landowner Association may not restrict legally established passage through Private Land to access public lands for hunting.

(5) A Landowner Association may choose one of two Voucher options during the term of its certificate of registration:

(a) Option 1:

(i) The Landowner Association will be issued Vouchers valid for the entire limited entry hunting unit;

(ii) an equivalent number of public hunters to the number of Vouchers received by the Landowner Association shall be provided complete access to hunt all Landowner Association's Private Lands at no charge for the species during the season dates identified on the Limited Entry Landowner Association Permit; and

(iii) the division will notify the lowest draw numbers of public hunters in that unit who will be given access to the Landowner Association's Private Lands pursuant to this section.

(b) Option 2:

(i) The Landowner Association will be issued Vouchers valid only for Private Lands enrolled in the Landowner Association;

(ii) the number of Vouchers allocated to a Landowner Association will be calculated using the formula in Subsection (2), rounded up to the nearest whole number.

(c) Limited Entry Landowner Association Program Permit Vouchers are not valid for:

(i) multi-season hunting opportunities;

(ii) private land not enrolled in the Landowner Association; or

(iii) late season limited entry buck deer permits on a general season unit.

(6)(a) Public draw permit holders specified in Subsection (5)(a) will have access to all enrolled Landowner Association lands for the entirety of the hunt.

(b)(i) The Landowner Association will be responsible for ensuring those public draw permit holders identified in Subsection (5)(a) are given access to all private lands; and

(ii) Landowner Associations may determine how to disperse public hunters by seasons. If all public hunters are in one season it will be the any-weapon season.

(c) The Landowner Association must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the Landowner Association land. These guidelines will go through the RAC and Wildlife Board process to ensure they are fair and reasonable.

(7) Performance metrics will be established by the division, with recommendations from the Landowner Association Advisory Committee, to determine if the purposes of the program are being met.

R657-43-10. Limited Entry Landowner Association Program Permits -- Application.

(1) Applications for a limited entry Landowner Association certificate of registration are available at division offices and on the division website.

(2) Applications must include:

(a) total acres providing habitat for the species in question that are participating in the Landowner Association;

(b) signature of each of the Landowners within the Landowner Association including acres owned, with said signature serving as an affidavit certifying ownership;

(c) a copy of the Landowner Association's Governing Documents;

(d) a digital map of the Private Lands participating in the Landowner Association and indicating the Private Lands which serve as habitat for the species in question; and

(e) a non-refundable handling fee.

(3) The division may aid the Landowner Association in preparing the application, but the division is not responsible for errors in the application or a failure to properly or completely submit an application.

(4) Applications must be completed and submitted to the regional division office managing the limited entry hunting unit where the Landowner Association is located by September 1 of the year before the hunting is to occur.

(5) The division shall review the application and determine its completeness and formulate a recommendation:

(a) the division may reject any application that is incomplete or completed incorrectly; and

(b) Applicants must notify the division in writing regarding any changes to the substance of their application while it is under consideration, or it may be considered incomplete or incorrect.

(6) After evaluating the application, the Wildlife Board shall consider:

(a) the contents of the application;

(b) the division's recommendation; and

(c) any violations of[-] Title 23A, the Wildlife Resources Act, by the Landowner Association, its operator, its president, or any of its members that would reasonably influence whether the Applicant should be approved to participate in the program.

(7) Upon receiving the application and recommendation from the division, the Wildlife Board may:

(a) authorize the issuance of a three-year certificate of registration allowing the Landowner Association to operate; or

(b) deny or partially deny the application and provide the Landowner Association with reasons for the decision.

(8)(a) The certificate of registration for a Landowner Association must be renewed every three years through the process outlined in this rule.

(b) In evaluating a certificate of registration renewal application, the Wildlife Board shall consider:

(i) the Landowner Association's fulfillment of public access requirements, if applicable, during the term of the prior certificate of registration;

(ii) the Landowner Association's fulfillment of antlerless harvest access and success, if a condition of its prior certificate of registration;

(iii) the contents of its renewal application; and

(iv) a recommendation provided by the division.

(9) The Wildlife Board may deny a certificate of registration application or renewal application if:

(a) the Landowner Association has failed to supply the necessary documentation specified in Section R657-43-6;

(b) a member of the Landowner Association has been convicted of a wildlife violation;

(c) the president of the Landowner Association has engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a Landowner Association president bears a reasonable relationship to their ability to responsibly operate a Landowner Association;

(d) the Landowner Association has failed to abide by the terms of their Governing Documents in a manner that undermines the purposes of the program; or

(e) the Landowner Association's president or its designee fails to complete mandatory annual training.

(10)(a) An Applicant may appeal a denial of an application, renewal application, or request for certificate of registration amendment by submitting an appeal to the division director.

(b) An appeal must be submitted to the division within 30 days of receiving the notice of denial.

(11)(a) If a Landowner Association is cited for violating this rule, Title 23A, the Wildlife Resources Act, or any other proclamation or guidebook by the Wildlife Board, the division may suspend or revoke the Landowner Association certificate of registration pursuant to Rule R657-26; and

(b) if an individual landowner who is part of a Landowner Association violates this rule, Title 23A, the Wildlife Resources Act, or any other proclamation or guidebook by the Wildlife Board, the division may remove the individual landowner from the Landowner Association's certificate of registration pursuant to Rule R657-26.

(12)(a) The division shall annually review the permit types, numbers, and seasons authorized by a certificate of registration issued under this section and implement modifications for the following hunt season.

(b) Landowner Associations and the division will work cooperatively to achieve desired management directives, including antlerless management objectives.

(13)(a) A Landowner Association may petition to amend a certificate of registration upon submitting a written request to the regional division office where the Landowner Association's Private Land is located; and

(b) A Landowner Association shall submit an application to amend their certificate of registration for changes in:

(i) the Landowner Association's Governing Documents; or

(ii) acreage;

(A) If during a term of its certificate of registration, a Landowner Association's Eligible Property decreases but remains at least equal to [-]50% of the Eligible Property in the limited entry unit, such Landowner Association shall submit an amendment outlining the new acreage to update their current certificate of registration; or

(B) if during a term of its certificate of registration, a Landowner Association's Eligible Property decreases and equals less than 50% of the Eligible Property in the limited entry unit, such Landowner Association's certificate of registration shall be deemed non-compliant and shall terminate at the end of the certificate of registration's term; provided, however, such Landowner Association may reapply for a certificate of registration as a new application.

(iii) Private Land ownership; or

(iv) any other matter related to the management and operation of the Landowner Association not originally included in the certificate of registration.

(c) If approved, an amendment to the certificate of registration shall be issued in writing.

(14)(a) Upon approval of the certificate of registration, Limited Entry Landowner Association Program Permit Vouchers may be issued and redeemed to purchase Limited Entry Landowner Permits from division offices.

(b) The fee for any Limited Entry Landowner Association Program Permit is the same as the cost of similar limited entry buck deer, bull elk, or buck pronghorn limited entry permits.

(c) A Landowner receiving a Voucher for a Limited Entry Landowner Permit may sell or otherwise transfer such Voucher to any legal hunter so long as that person possesses or obtains a Utah hunting or combination license.

(d) Any recipient of a Limited Entry Landowner Association Program Permit must follow the season dates, weapon restrictions, and any other regulation governing the taking of big game as specified in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(e) Nothing in this rule permits the take of more than one buck deer, one bull elk, or one buck pronghorn during any one year.

R657-43-11. Landowner Association Advisory Committee.

(1) A Landowner Association Advisory Committee shall be created consisting of seven members nominated by the director and approved by the Wildlife Board.

(2) The committee shall include:

(a) two sportsmen representatives;

(b) two landowner representatives;

(c) one agriculture representative;

(d) one at large public representative; and

(e) one Regional Advisory Council chair or member.

(3) The committee shall be chaired by the Wildlife Section Chief, or their designee, and shall be a non-voting member.
(4) The committee shall:
(a) hear complaints dealing with fair and equitable treatment of hunters on Landowner Association lands;
(b) review the operation of the Landowner Association program; and
(c) make advisory recommendations to the director and Wildlife Board on the matters in Subsections (a) and (b).
(5)(a) The committee may, after hearing evidence of complaints or violations, place a Landowner Association on probation.
(b) A Landowner Association placed on probation status must provide the Landowner Association Advisory Committee a plan of corrective action to address concerns regarding operation of the Landowner Association, and report annually to the Landowner Association Committee during the probationary period regarding their progress in addressing such concerns.
(c) The Landowner Association Advisory Committee shall report to the Wildlife Board any Landowner Association that remains on probation during a certificate of registration renewal process.
(6) The Wildlife Section Chief shall determine the agenda, time, and location of the meetings.
(7) The director shall set staggered terms of appointment of members such that there is rotating representation and that all committee members' terms shall expire after four years.

KEY: wildlife, landowner permits, big game seasons
Date of Last Change: [~~February 7,~~] 2024
Notice of Continuation: February 1, 2022
Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R657-44**	**Filing ID: 56601**

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-44. Big Game Depredation
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Ewsources' (DWR) rule pursuant to big game depredation.
4. Summary of the new rule or change:
The proposed amendments to this rule place this rule in line with H.B. 382, Wildlife Amendments, passed in the 2024 General Session which amended Section 23A-1-206, New development, and Subsection 23-A-2-201(4), Division of Wildlife Resources – Limits on authority of political subdivisions.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The amendments to Rule R657-44 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR does not believe that these amendments would create a cost or savings impact to the state budget or the DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Local governments are not directly or indirectly impacted by these proposed amendments because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed rule amendments do not have the potential to impact other persons that participate in activities in Utah, nor is a service required of them.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The WR has determined that this amendment may not create additional costs for those individuals wishing to participate in activities in Utah because it simply aligns with the Utah Code.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses. The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-1-206	Section 23A-2-201	Section 23A-8-401
Section 23A-8-402		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	J. Shirley, Division Director	**Date:**	06/19/2024

R657. Natural Resources, Wildlife Resources.
R657-44. Big Game Depredation.
R657-44-1. Purpose and Authority.

Under authority of Section 23A-1-206, 23A-8-401, 23A-8-402, 23A-8-403, 23A-8-404,[~~ and~~] 23A-8-405 and Subsection 23A-2-201(4), this rule provides:

(1) the procedures, standards, requirements, and limits for assessing big game depredation; and

(2) mitigation procedures for big game depredation.

R657-44-3. Damage to Cultivated Crops, Fences, or Irrigation Equipment by Big Game Animals.

[~~(1) If~~] (1) Except as provided in Sections 23A-1-206 and Subsection 23A-23-201(4), if big game animals are damaging cultivated crops on cleared and planted land, or fences or irrigation equipment on private land, the landowner or lessee shall immediately, upon discovery of big game damage, request that the division take action by notifying a division representative in the appropriate regional office pursuant to Subsection 23A-8-402(1).

(2) Notification may be made:

(a) orally to expedite a field investigation; or

(b) in writing to a division representative in the appropriate division regional office.

(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours after receiving notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected during the damage incident period.

(b) The division shall consider the big game population management objectives as established in the wildlife unit management plan approved by the Wildlife Board.

(c) Division action shall include:

(i) removing the big game animals causing depredation; or

(ii) implementing a depredation mitigation plan pursuant to Subsections 23A-8-402(2)(b) through 23A-8-402(2)(f) and approved in writing by the landowner or lessee.

(4)(a) The division mitigation plan may incorporate any of the following measures:

(i) sending a division representative onto the premises to control or remove the big game animals, including:

(A) herding;

(B) capture and relocation;

(C) temporary or permanent fencing; or

(D) removal, as authorized by the division director or the division director's designee;

(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

(iii) scheduling a depredation hunter pool hunt in accordance with Section[~~s~~] R657-44-7, R657-44-8, or R657-44-9;

(iv) issuing mitigation permits to the landowner or lessee for the harvest of big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board, of which:

(A) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the lands where depredation is occurring;

(B) the landowner or lessee may designate an immediate family member or employee to receive mitigation permits;

(C) a person may receive no more than five antlerless deer permits, five doe pronghorn permits, and two antlerless elk permits per mitigation plan;

(D) each qualified recipient of a mitigation permit will receive from the division a Mitigation Permit Hunting License that satisfies the hunting license requirements in Section R657-44-11[~~(c)~~] to obtain the mitigation permit.

(E) the Mitigation Permit Hunting License does not authorize the holder to hunt small game; nor does it qualify the holder to apply for or obtain a cougar, bear, turkey, or other big game permit.

(v) issuing big game mitigation permit vouchers for use on the landowner's or lessee's private land during a general or special hunt authorized by the Wildlife Board of which:

(A) mitigation permit vouchers for antlerless deer may authorize the take of one or two deer as determined by the division;

(B) mitigation permit vouchers for pronghorn may authorize the take of one or two doe pronghorn as determined by the division;

(C) the division may not issue mitigation permit vouchers for moose, bison, bighorn sheep, or mountain goat; and

(D) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the landowner's or lessee's private lands where depredation is occurring.

(b) The mitigation plan may describe how the division will assess and compensate for damage pursuant to Section 23A-8-405.

(c) The landowner or lessee and the division may agree upon a combination of mitigation measures to be used pursuant to Subsections (4)(a)(i) through (4)(a)(v), including a damage payment or a description of how the division will assess and compensate the landowner or lessee under Section 23A-8-405 for damage to cultivated crops, fences, or irrigation equipment.

(d) The agreement pursuant to Subsection (4)(c) must be made before a claim for damage is filed and the mitigation measures are taken.

(5) Vouchers may be issued in accordance with Subsection (4)(a)(v) to:

(a) the landowner or lessee; or

(b) a landowner association that:

(i) applies in writing to the division;

(ii) provides a map of the association lands;

(iii) provides signatures of the landowners in the association; and

(iv) designates an association representative to act as liaison with the division.

(6) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23A-8-402(2)(f) and 23A-8-405(3)(b).

(7) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, the Wildlife Resources Code, or are otherwise ineligible to receive a permit.

(8)(a) The options provided in Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.

(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.

(9)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.

(b) A mitigation permit may be issued to the landowner or lessee or a qualifying individual designated by the landowner or lessee to take big game for personal use, provided the division and the landowner or lessee desires the animals to be permanently removed.

(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:

(i)(A) the division determines that the big game animals in the geographic area significantly contribute to the wildlife management units;

(B) the landowner or lessee agrees to perpetuate the animals on their land; and

(C) the damage, or expected damage, to the landowner's or lessee's cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit; or

(ii)(A) the big game damage occurs on the landowner's or lessee's cleared and planted land;

(B) the division and the affected landowner or lessee desire the animals to be permanently removed; and

(C) the damage, or expected damage, to the cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit.

(d) The hunting area for a mitigation permit or permit voucher issued under this subsection includes the landowner's or lessee's cleared and planted land where the depredation occurs and may include a buffer zone established by the division that surrounds, or is adjacent to, that land.

(10)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23A-8-405(3)(d).

(b) Additional compensation may be paid above the value of any mitigation permits or vouchers granted to the landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

(11)(a) The landowner or lessee may revoke approval of the mitigation plan agreed to pursuant to Subsection (4)(c).

(b) If the landowner or lessee revokes the mitigation plan, the landowner or lessee must request that the division take action pursuant to Subsection 23A-8-402(1)(a).

(c) Any subsequent request for action shall start a new 72-hour time limit as specified in Subsection 23A-8-402(2)(a).

(12) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

(13) The division may enter into a conservation lease with the landowner or lessee of private land pursuant to Subsection 23A-8-402(5).

R657-44-4. Landowner or Lessee Authorized to Kill Big Game Animals.

[~~(1) The~~] (1) Except as provided in Section 23A-1-206 and Subsection 23A-23-201(4), the landowner or lessee is authorized to kill big game animals damaging cultivated crops on cleared and planted land pursuant to Section 23A-8-403.

(2) The division director may prohibit the killing of big game animals under Subsection (1) if, within 72 hours after a landowner or lessee has requested that the division take action to remove depredating animals, the division determines the criteria in Subsection 23A-8-403 (2)(a) are satisfied and the landowner or lessee is offered a depredation mitigation plan.

(3) A landowner or lessee who is offered a depredation mitigation plan may:

(a) accept the plan in writing; or

(b) refuse to accept the plan and appeal it, in writing, to the division director and mitigation review panel as provided in Subsections 23A-8-403(2)(b) and 23A-8-404(3).

(4)(a) A depredation mitigation plan accepted by the landowner or lessee shall remain effective during the entire damage incident period, unless otherwise revoked by the landowner or lessee pursuant to Subsections 23A-8-402(4) and R657-44-3(11).

(b) A depredation mitigation plan approved or modified by the mitigation review panel pursuant to Subsection 23A-8-404(3)(b) shall remain effective during the entire damage incident period unless earlier modified by the mitigation review panel upon petition and showing by the landowner or lessee that a substantial change in the nature and extent of the big game damage or the method of calculating damages necessitates further review and modification to the plan.

(i) A petition to amend an existing depredation mitigation plan approved or modified by the mitigation review panel shall be directed to the director of the division.

(c) Nothing in this section shall be construed to prevent the division and the landowner or lessee from mutually agreeing to alter or amend an existing depredation mitigation plan [~~in order~~]to better address big game damage.

(i) If the parties cannot reach agreement on amending the plan, the landowner or lessee may petition the mitigation review panel for relief as provided in Subsection (4)(b).

(5) The division director's order under Subsection (2) prohibiting the killing of big game animals shall remain in [~~full force and~~]effect during the same time period that the original or amended depredation mitigation plan associated with the big game damage incident remains effective.

(6) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

R657-44-5. Compensation for Damage to Crops, Fences, or Irrigation Equipment on Private Land.

[~~(1) The~~] (1) Except as provided in Section 23A-1-206 and Subsection 23A-23-201(4), the division may provide compensation to landowners or lessees for damage to cultivated crops on cleared and planted land, or fences or irrigation equipment on private land caused by big game animals pursuant to Sections 23A-1-102 and 23A-8-405.

(2) For purposes of compensation, all depredation incidents end on June 30 annually, but may be reinstated July 1.

R657-44-6. Damage to Livestock Forage on Private Land.

[~~(1)(a) If~~] (1)(a) Except as provided in Section 23A-1-206 and Subsection 23A-23-201(4), if big game animals are damaging livestock forage on private land, the landowner or lessee shall immediately, upon discovery of big game damage, request that the division take action to alleviate the depredation problem pursuant to Section 23A-8-402, and as provided in Subsections R657-44-3(1) through R657-44-3(4)(a)(v), and R657-44-3(5) and R657-44-3(8)(a).

(b) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23A-8-402(2)(f) and 23A-8-405(3)(b).

(c) Damage to livestock forage is not eligible for monetary compensation from the division.

(2)(a) Antlerless deer and doe pronghorn hunts may occur August 1 through December 31, and antlerless elk hunts may occur August 1 through January 31.

(b) Antlerless permits [~~shall~~]may not exceed [~~ten percent~~]10% of the animals on the private land, with a maximum of [~~twenty~~]20 permits per landowner or lessee, except where the estimated population for the management unit is significantly over objective.

(c) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, the Wildlife Resources Code, or are otherwise ineligible to receive a permit.

(3) The division may enter into a conservation lease with the landowner or lessee of private land pursuant to Subsection 23A-8-402(5).

(4) Permits and vouchers for antlered animals using livestock forage on private land are issued only through the provisions provided in Rule R657-43.

KEY: wildlife, big game, depredation
Date of Last Change: 2024[~~October 2, 2023~~]
Notice of Continuation: April 4, 2022
Authorizing, and Implemented or Interpreted Law: 23A-1-206; 23A-2-201; 23A-8-401; 23A-8-402

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R926-17**	**Filing ID: 56608**

Agency Information

1. Title catchline:	Transportation, Program Development	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact persons:		
Name:	**Phone:**	**Email:**
Leif Elder	801-580-8296	lelder@utah.gov
James Godin	801-965-4026	Mgalindo1@utah.gov
Lori Edwards	801-573-7181	jamesjgodin@agutah.gov
Marlene Galindo	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R926-17. Road Usage Charge Program
3. Purpose of the new rule or reason for the change:
The Department of Transportation submits this amendment for the purposes of clarifying the existing rule language, adding new rule language, and making various clerical edits.
4. Summary of the new rule or change:
This amendment: 1) adds subsections to Section R926-17-2 by adding new definitions; 2) cleans up the language in Sections R926-17-3, R926-17-4, R926-17-5 and R926-17-6, lessening the amount of subsections needed to convey those sections' provisions; 3) adds more language to Sections R926-17-7 and R926-17-8 to clarify requirements set forth in those sections; and 4) reorganizes the subsection ordering of Section R926-17-9.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget, as this rule is clerical in nature and will not affect how the state operates or conducts its business under this rule.
B) Local governments:
There is no anticipated cost or savings to local governments, as this rule is clerical in nature and will not affect how local governments operate or conduct business under this rule.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
There is no anticipated cost or savings to small businesses, as this rule is clerical in nature and will not affect how small businesses operate or conduct business under this rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
There is no anticipated cost or savings to non-small businesses, as this rule is clerical in nature and will not affect how non-small businesses operate or conduct business under this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
There is no anticipated cost or savings to persons, as this rule is clerical in nature and will not affect how persons operate or conduct business under this rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There are no compliance costs for affected persons because this rule change will not affect how persons operate or conduct business under this rule.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2025**	**FY2026**	**FY2027**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 72-1-213.1		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2024

9. This rule change MAY become effective on:	08/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	**Date:**	06/28/2024

R926. Transportation, Program Development.
R926-17. Road Usage Charge Program.
R926-17-1. Purpose and Authority.

(1) [~~Purpose.~~]This rule is to administer the State's Road Usage Charge Program.

(2) [~~Authority.~~]Section 72-1-213.1 grants the [~~Department~~]department authority to make this rule.

R926-17-2. Definitions.

(1) "Account manager" means an entity under contract with the [~~Department~~]department to operate and manage the road usage charge program on the [~~Department's~~]department's behalf.

(2) "Alternative fuel vehicle" means the same as that term [~~is~~]defined in Section [~~72-1-203.1~~]72-1-213.1.

(3) "Alternative fuel vehicle fee" means the additional registration fee applied to alternative fuel vehicles as described in Subsection[~~s~~] 41-1a-1206(1)(h)[~~ and 41-1a-1206(2)(b)~~].

[~~(4) "Chargeable miles" means the number of miles for which a RUC participant shall be charged under the program parameters in place when the miles are driven.~~]

[~~(5)~~](4) "Department" means the Utah Department of Transportation.

[~~(6)~~](5) "DMV" means the Utah Division of Motor Vehicles.

[~~(7) "Fully activated" means a vehicle owned or leased by a RUC participant where the RUC participant has completed necessary steps required for the vehicle to report miles driven to the account manager.~~

~~(8) "Payment period" means the interval during which a RUC participant is required to report mileage and pay the appropriate RUC fee according to the terms of the program.~~]

(6) "Owner or lessee" means an owner or lessee of an alternative fuel vehicle.

[~~(9)~~](7) "Program" means the RUC program established and described in this section.

[~~(10)~~](8) "RUC" means "road usage charge."

(9) "RUC cap" means the road usage charge cap defined in Section 72-1-213.1.

[~~(11)~~](10) "RUC fee" means the accrued amount owed to an account manager. The RUC fee is calculated as the number of the number of miles for which a RUC participant shall be charged under the program parameters[~~chargeable miles driven~~] multiplied by the RUC rate.

[~~(12)~~](11) "RUC participant" means the owner or lessee of an alternative fuel vehicle that is enrolled in the program.

[~~(13)~~](12) "RUC rate" means the amount of money per mile driven that RUC participants are required to pay as described in Section 72-1-213.1[~~72-1-203.1~~].

[~~(14)~~](13) "Value-added services" means amenities that an account manager may offer a RUC participant, but which are ancillary to the core RUC purpose of collecting and reporting miles driven.

R926-17-3. Enrollment, Voluntary Withdrawal, and Removal Processes and Terms.

(1) The [~~Department~~]department shall coordinate with the DMV and the account manager to notify owners or lessees of alternative fuel vehicles that they are eligible to enroll in the program as an alternative to paying the alternative fuel vehicle fee[~~ applicable to their vehicle~~].

(2) The [~~Department~~]department shall provide a means of directing owners or lessees who want to enroll in the program to an account manager[~~ under contract with the Department that shall manage enrollment in the program~~].

(3) An owner or lessee who wants to enroll in the program shall submit the information the account manager requires, including any information necessary to verify whether the owner's or lessee's vehicle is eligible for the program[~~vehicle information that includes the license plate number and vehicle identification number (VIN) to the account manager for verification that the participant's vehicle is eligible for enrollment in the program~~].

(4) The account manager shall charge a RUC participant a prorated amount of the alternative fuel vehicle fee for each month that the RUC participant does not provide the required information to establish the initial odometer value for an enrolled vehicle.

[~~(4)~~](5) A RUC participant may withdraw a vehicle from the program at any time.

(6) Before withdrawing from the program, a RUC participant shall:

(a) notify the account manager that the RUC participant intends to withdraw from the program;

(b) pay any outstanding RUC fees and penalties;

(c) if withdrawing before completing the RUC participant's full registration cycle, pay the difference between the alternative vehicle fuel fee and any RUC fees paid during the registration cycle; and

(d) fulfill the terms provided in the RUC participant's user agreement, including returning electronic mileage collection devices to the account manager.

[~~(5) A RUC participant who withdraws a vehicle from the program shall pay the alternative vehicle fuel fee amount applicable to that vehicle, less any RUC fees paid to date during that registration cycle.~~

~~(6) A RUC participant shall do the following to withdraw from the program before completing the RUC participant's full registration cycle:~~

~~(a) notify the account manager that the RUC participant intends to withdraw from the program; and~~

~~(b) fulfill terms in the RUC participant'suser agreement related to the return of electronic mileage collection devices.~~]

(7) A RUC participant who withdraws from the program shall revert to paying the alternative fuel vehicle fee to the DMV until the RUC participant enrolls in the RUC program again.

(8) Involuntary removal of a RUC participant from the program is addressed in Section R926-17-8.

[~~(9) The account manager shall charge each RUC participant a prorated amount of the alternative fuel vehicle fee for each month the RUC participant's vehicle is:~~

~~(a) past its registration expiration date at enrollment; or~~

~~(b) not fully activated and capable of reporting miles driven, unless the RUC participant has paid the alternative fuel vehicle fee for the current registration year.~~]

R926-17-4. RUC Participant Payment Methods, Periods, and Procedures.

(1) Each RUC participant shall provide electronic payment information and set up a prepaid wallet at enrollment and shall maintain a minimum balance in the prepaid wallet as described in the user agreement between the account manager and the RUC participant.

(2) RUC participants may only make electronic payments.

(3) [~~Account managers~~]The account manager shall send each RUC participant a statement, at least quarterly, that includes[~~monthly statement showing at a minimum~~] miles driven, RUC fees accrued, and amount of money added to the wallet during the previous month.

(4) For a given registration cycle, the maximum amount the account manager may charge in RUC fees to a RUC participant for an enrolled vehicle is equal to the amount of the alternative fuel vehicle fee in effect for that registration cycle. [~~Account managers~~]The account manager shall cease accruing RUC fees against [~~a~~]an enrolled vehicle once the cumulative amount accrued for the current registration cycle is equal to the alternative fuel vehicle fee applicable to that vehicle type. Fee accrual will resume at the beginning of the next registration cycle[~~ if the RUC participant remains in the program~~].

[~~(5) Once a RUC participant's total accrued RUC fee for the year is equal to the RUC participant's alternative fuel vehicle fee, the RUC participant shall no longer accrue additional RUC fees for that registration cycle. If the RUC participant remains in the program, RUC fees shall resume at the start of the next registration cycle.~~]

[~~(6) Penalties for violation~~](5) Notwithstanding Subsection (4), the account manager may still assess penalties against a RUC participant for a violation of terms and conditions, if applicable, [~~may still result in accrual of fees against a RUC participant's account~~]even after RUC fees charged are equal to the alternative fuel vehicle fee as described in Subsection (4)[~~the annual mileage cap has been reached~~].

R926-17-5. Mileage Reporting Mechanism Standards.

(1)(a) [~~If approved by the Department before being used, account managers~~]Subject to approval by the department, the account manager may offer various [~~reporting~~]mechanisms [~~to~~]for RUC participants [~~for collection of~~]to report mileage.

(b) Through the account manager contract terms, the department may require RUC participants to aggregate mileage and report mileage with a specified frequency.[~~The reporting mechanisms may include devices installed in cars, smartphone applications, embedded telematics, or odometer image capture.~~

~~(c) For reporting mechanisms such as OBD-II devices and embedded telematics that may be able to support mileage collection either through location tracking or a simple report of the odometer reading, the Department may dictate requirements through account manager contract terms.~~

~~(2) Account managers may only offer reporting mechanisms that are capable of automatically transmitting mileage data directly to an account manager through wireless means. Account managers may not provide for any manual reporting of mileage by RUC participants.~~

~~(3) The Department may dictate mileage aggregation and reporting frequency requirements through account manager contract terms.~~]

R926-17-6. Privacy and Data Sharing Processes and Procedures.

(1) The [~~Department and account managers~~]department and account manager shall comply with the privacy requirements described in Sections 63G-2-305 and 77-23c-102.

(2) The account manager may not enter into a user agreement with a RUC participant unless the agreement complies with the requirements of Section R926-17-8.

(3)(a) Before collecting and storing RUC participant data, the account manager shall:

(i) notify the RUC participant regarding what data the account manager would like to collect and store;

(ii) notify the RUC participant regarding the terms and conditions related to the data collection and storage; and

(iii) receive explicit consent from the RUC participant to allow the account manager to collect and store the RUC participant's data.

(b) Before changing the terms and conditions related to the collection of a RUC participant's data, the account manager shall again notify and receive consent as provided in Subsection (2)(b).

(c) An account manager shall allow a RUC participant to view any data the account manager has on file that is associated with the respective RUC participant.

[~~(2) An account manager shall explain activities involving collection and storage of location data to each RUC participant as part of the enrollment process.~~

~~(3) User agreements between account managers and RUC participants shall be approved by the Department before use and shall require explicit consent for collection and storage of RUC participants' location data.~~

~~(4) RUC participants may view their data being collected and stored by the account manager. They may also dispute mileage charges that they consider to be erroneous.~~]

[~~(5) RUC participants' location data and~~](4) A RUC participant's personal information is protected from public disclosure in accordance with the Government Records Access and Management Act (GRAMA).

(5) A RUC participant may dispute a RUC fee, including the amount of eligible program mileage.

R926-17-7. Security Processes and Procedures.

[~~The~~]If the account manager is required to directly process the electronic payments, the account manager shall process card payment data and transactions following the Payment Card Industry Data Security Standard (PCI DSS), which applies to the electronic payment card industry as a whole. Automated clearing house payment data and transactions shall be processed according to the rules published by the National Automated Clearing House Association (NACHA), which apply to the electronic payment card industry as a whole.

R926-17-8. User Agreements Between Account Managers and RUC Participants.

(1)(a) The account manager may not enter into a user agreement with a RUC participant unless the department has approved the agreement, including approval of any amendments to a previously approved agreement.

(b) The department shall review proposed user agreements for compliance with this rule and state statutes related to the program.

[~~(1) The Department shall approve user agreements used by account managers to enroll RUC participants before account managers may use the agreements.~~]

(2) The account manager and the department shall ensure that the user agreement [~~shall~~]clearly [~~explain location tracking,~~]explains data collection and retention[~~,~~] and privacy protection components of the program.[~~ The user agreement shall also require explicit consent by the participant to accept any terms related to tracking and retention.~~]

(3) The user agreement shall include the following components:

(a) a description of the mechanisms a RUC participant may use to report mileage[~~ reporting mechanism to be used~~] for the vehicle being enrolled[~~ and commitment from the RUC participant to keep the mechanism operable at all times so that no interruptions in data collection and transmission occur~~];

(b) a description of the electronic payment mechanism chosen by the RUC participant[~~,~~];

(c) a form for the RUC participant to give consent to have a bank account or credit card debited when the wallet balance drops below a defined minimum threshold, and commitment to keep payment information current while enrolled in the program;

[~~(c)~~](d) refund procedures for when a positive wallet balance exists when a RUC participant exits the program;

(e) a process for notifying the account manager when a RUC participant would like to withdraw from the program after meeting the requirements described in Section R926-17-3;

[~~(d) requirements, if any, for return of mileage reporting devices to the account manager after a RUC participant is no longer enrolled;~~

~~(e) length of time that raw location data shall be retained by the account manager;~~]

(f) information about how data may be aggregated, anonymized, or shared;

(g) a process for RUC participants to view their collected data and lodge a dispute if they believe charges have accrued to their accounts erroneously; and

(h) a processes and consequences of withdrawal from the program both before and after full completion of the current annual registration cycle applicable to the enrolled vehicle, as detailed in Section R926-17-3[~~; and~~].

(4) The user agreement shall explain penalties associated with violation of its terms including penalties for nonpayment of RUC fees, not providing the odometer in a timely manner, or intentional tampering with mileage reporting mechanisms.

(5) Failure to comply with user agreement terms [~~such as payment of RUC fees, return of devices, payment for lost devices, or intentional tampering with mileage reporting mechanisms~~]may result in the following enforcement actions:

(a) an initial warning about the violation and steps for becoming compliant;

(b) an automatic adjustment to a RUC participant's eligible program mileage to account for the time period in which the odometer value was not provided by the RUC participant;

[~~(b)~~](c) a penalty fee, [~~which shall be agreed to by the RUC participant and account manager and stated in the user agreement, shall be~~]assessed to the RUC participant's electronic wallet if a warning does not result in compliance;

[~~(c)~~](d) billing of the RUC participant's electronic wallet for outstanding fees owed; and[~~ and removal from the program if compliance is still not achieved after penalty assessment; or~~]

[~~(d)~~](e) notification by the account manager to the DMV that a [~~former~~]RUC participant has unpaid fees owed to the account manager, and subsequent placement of a registration hold by the DMV on the[~~ formerly~~] enrolled vehicle if the RUC participant's electronic payment information is invalid or does not have enough balance to successfully pay the total fees owed. [~~Former~~]RUC participants with registration holds assessed shall successfully settle their RUC account with the account manager before having the hold released by the DMV and being able to register the vehicle again.

R926-17-9. Contractual Terms Between the Department and Account Managers.

(1) The [~~Department~~]department shall provide account manager oversight through a contractual relationship governing what the account manager may do on behalf of the [~~Department~~]department.

(2) Each contract between the [~~Department~~]department and an account manager shall contain, at a minimum, guidelines for the following:

(a) RUC participant enrollment, withdrawal, and removal processes;

(b) structure and content of user agreements between account managers and RUC participants;

(c) [~~descriptions~~]acceptable of mileage reporting mechanisms that account managers may offer to RUC participants;

(d) payment collection, transaction processing, and revenue remittance protocols;

[~~(e) stipulation that any value-added services offered by an account manager shall be approved by the Department before use by RUC participants;~~]

[~~(f)~~](e) privacy and security protection processes, including parameters for data collection, retention, destruction, anonymization, aggregation, and sharing;

[~~(g)~~](f) system testing and certification approach;

[~~(h)~~](g) customer service level expectations and performance standards;

[~~(i)~~](h) requirements for coordination and interfacing with the DMV;

[~~(j)~~](i) reporting of data collected through the program;

[~~(k)~~](j) audit procedures for verifying account manager performance in areas such as privacy protection, data destruction, data collection accuracy, and, if applicable, remittance of funds to the State; and

[~~(l)~~](k) remedies available to the [~~Department~~]department if an account manager fails to fulfill contractual terms.

KEY: road usage charge (RUC), alternative fuel vehicles, RUC program
Date of Last Change: 2024[~~January 24, 2023~~]
Authorizing, and Implemented or Interpreted Law: 72-1-213.1

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R70-960**	**Filing ID: 50181**
Effective Date:	**06/28/2024**	

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services	
Building:	Taylorsville State Office Building, South Bldg., Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Travis Waller	801-982-2200	Twaller@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R70-960. Weights and Measures Fee Registration
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Per Section 4-9-118, the Department of Agriculture and Food (Department) is authorized to create rules to determine if a Weight and Measure device is accurate and being used correctly. This rule provides specific guidelines for the inspection and testing of Weights and Measures devices used across the state through a process that requires an establishment to register Weights and Measures devices with the Department. This process promotes fair business practices and safeguards consumers when purchasing commodities sold by weight, ensuring accurate and reliable measurements, and maintaining compliance with Section 4-9-118.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received public comments regarding the Weights and Measures Program, specifically about this rule during the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Weights and Measures inspections ensure accurate commercial transactions. Regular inspections by the Department guarantee the accuracy of measuring instruments like scales and meters. This rule aims to protect consumers, promote fair competition, and uphold fairness in economic exchanges through inspections and testing reports. Therefore, this rule should be continued. However, this rule has not been revised in almost 20 years. The Department is currently drafting an amendment and will file it after this five-year review is complete.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R392-104**	**Filing ID: 55887**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Population Health, Environmental Health	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 142102	
City, state and zip:	Salt Lake City, UT 84114-2102	
Contact persons:		
Name:	**Phone:**	**Email:**
Karl Hartman	801-538-6191	khartman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R392-104. Feeding Disadvantaged Groups
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsections 26B-1-202(1), 26B-1-202(26), 26B-7-413(14)(b) and 26B-7-411(3) authorize the Department of Health and Human Services (Department) to establish additional requirements for charitable organizations providing food for free.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments supporting or opposing this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule requires adherence to uniform statewide standards for feeding a disadvantaged group at an event in a manner that safeguards public health. It also establishes exemptions and certain requirements as required by Subsection 26B-7-411(3). Therefore, this rule should be continued. As there were no comments in opposition to this rule, the Department did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R398-5**	**Filing ID: 55685**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Family Health, Children with Special Health Care Needs	
Building:	Multi Agency State Office Building (MASOB), Room 2025	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Stephanie Pocius	801-419-6006	stephaniepocius@utah.gov
Alexis Weight	801-273-2956	abweight@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R398-5. Birth Defects and Critical Congenital Heart Disease Reporting
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R398-5 establishes reporting requirements for birth defects and related test results. Authority for this rule is found in Section 26B-1-202 and is enacted through Sections 26B-4-318, 26B-4-319, and 26B-1-229. These statutory provisions allow for the Utah Birth Defect Network within the Utah Department of Health and Human Services (Department) to execute Department duties and conduct surveillance under the state agency; participate in strategies and activities benefiting women, children, and children with special health care needs; implement the newborn screening program; and provide data to designated facilities.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments in support or opposition to this rule have been received by the Department since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary for compliance with statute requiring the Department to provide services and oversight of birth defects, critical congenital heart disease (CCHD), and stillbirths, as well as monitor emerging threats against women and children. Therefore, this rule should be continued. As the Department has not received comments in opposition to this rule, there is no response to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R414-61**	**Filing ID: 55935**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R414-61. Home and Community-Based Services Waivers
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and 42 U.S.C. 1396n(c) authorizes payment for home and community-based services (HCBS) under an HCBS waiver.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments in support or opposition to this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for compliance with state and federal statute allowing the Department to administer HCBS waivers for Medicaid members. Therefore, this rule should be continued. As there have been no comments in opposition to this rule, the agency has not responded to such comments.

Agency Authorization Information

Agency head or	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

designee and title:			

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R414-522**	**Filing ID: 55616**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R414-522. Electronic Visit Verification Requirements for Personal Care and Home Health Care Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 26B-3-108 requires the Department to of Health and Human Services (Department) implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.

Additionally, Section 12006(a) of the 21st Century Cures Act of 2016, Pub. L. No. 114 255, 130 Stat. 1275 mandates that states implement electronic visit verification (EVV) for Medicaid personal care services and home health services that require an in-home visit by a provider.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

After the initial filing of this rule, the Department received public comments that expressed concern for increased costs in personal care and consumer-directed services, as well as concern for individual autonomy, privacy, security, and access.

None of the comments, however, oppose this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department has determined this rule is necessary because it implements EVV to ensure that required in-home visits for personal care and home health services are occurring, as mandated by federal law. Therefore, this rule should be continued.

The Department does not disagree with comments expressing concerns about this rule but maintains that this rule provides maximum flexibility under federal law for individual autonomy while offering federal protections of privacy, security, and access.

The Department also maintains that current legislative appropriations offset price increases for personal care and consumer-directed services.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R428-15**	**Filing ID: 55902**
Effective Date:	**07/01/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 144004	
City, state and zip:	Salt Lake City, UT 84114-4004	
Contact persons:		
Name:	**Phone:**	**Email:**
Lori Savoie	385-242-6404	lsavoie@utah.gov
Bri Murphy	385-501-9347	brilmurphy@utah.gov
Mike Martin	801-538-9205	mikemartin@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R428-15. Health Data Authority Health Insurance Claims Reporting

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by Subsection 26B-8-501.1(b) to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.

The current Utah Code, effective 05/01/2024, is cited within this section. A request for amendment of the rule text will be submitted to align with the current applicable statute.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Health Care Statistics Program has not received any written comments about this rule since the last five-year review from interested persons supporting or opposing the rule.

Only general inquiries have been made and responded to by the Program.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule establishes requirements for certain entities that pay for health care to submit data to the Department of Health and Human Services (Department) . This data is needed to develop and maintain an All Payer Claims Database (APCD), which assists in the comparison of health care cost efficiencies and effectiveness statewide from a cross-sectional as well as from a more longitudinally-based, disease progression perspective. Analytic reports will continue to be released over the next several years that will help monitor trends in claims, costs, and quality of care for the people in Utah. The use of data and reports are justifications for this rule. Therefore, this rule should be continued.
As there were no comments in opposition to this rule, the Department did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	07/01/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R539-3**	**Filing ID: 55879**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Services for People with Disabilities	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 145145	
City, state and zip:	Salt Lake City, UT 84114-5145	
Contact persons:		
Name:	**Phone:**	**Email:**
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R539-3. Rights and Protections

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 26B-6-402(6), 26B-6-403(2)(b), 26B-6-403(2)(l), and 26B-6-403(2)(q) authorize and establish the Division pf Services for People with Disabilities' (Division) responsibilities related to rulemaking and determining appropriate services for applicants and people receiving services.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Health and Human Services (Department) has not received any written comments in support of or opposition to this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to establish procedure to protect the rights and freedoms of individuals in services with the Division, as authorized by statute and Medicaid State Implementation Plans (SIPs). The Division plans to significantly amend this rule within the first part of the continuation period to account for recent changes to federal guidance. These changes are required by 42 CFR 430 through 42 CFR 431, 42 CFR 435 through 42 CFR 436, 42 CFR 440 through 42 CFR 441, and 42 CFR 447 (2024). Therefore, this rule should be continued.

As there were no comments in opposition to this rule. The Department did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R539-4**	**Filing ID: 55880**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Services for People with Disabilities	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 145145	
City, state and zip:	Salt Lake City, UT 84114-5145	
Contact persons:		
Name:	**Phone:**	**Email:**
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R539-4. Behavior Interventions

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 26B-6-402(6), 26B-6-403(2)(b), 26B-6-403(2)(l), and 26B-6-403(2)(q) authorize and establish the Division pf Services for People with Disabilities' (Division) responsibilities related to rulemaking and determining appropriate services for applicants and people receiving services.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Health and Human Services (Department) has not received written comments in support of or opposition to this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to establish procedure for behavior interventions and to set a standard that protects a person's rights from infringement, as authorized by statute. The Division plans to significantly amend this rule within the first part of the continuation period to account for recent changes to federal guidance. These changes are required by 42 CFR 430 through 42 CFR 431, 42 CFR 435 through 42 CFR 436, 42 CFR 440 through 42 CFR 441, and 42 CFR 447 (2024). Therefore, this rule should be continued.

As there were no comments in opposition to this rule, the Department did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R539-5**	**Filing ID: 56297**
Effective Date:	**06/24/2024**	

Agency Information

1. Title catchline:	Health and Human Services, Services for People with Disabilities	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, Utah	
Mailing address:	PO Box 145145	
City, state and zip:	Salt Lake City, UT 84114-5145	
Contact persons:		
Name:	**Phone:**	**Email:**
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R539-5. Self-Administered Services

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Sections 26B-6-402 and 26B-6-403 authorize the Division pf Services for People with Disabilities' (Division) to administer services and supports for persons with disabilities and their families, with Subsection 26B-6-403(2)(b) providing direct rulemaking authority.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Health and Human Services (Department) has not received any written comments in support of or opposition to this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary to establish standards and procedure for eligibility and administration of the self-administered services program. The Division is in the process of drafting significant amendments, with input from another agency that is drafting a similar filing, for a planned repeal and reenact of this rule, but the current rule is necessary to be in place to ensure that proper administration and enforcement continues in the interim. Therefore, this rule should be continued.

As there were no comments in opposition to this rule, the Department did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/24/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-254**	**Filing ID: 55092**
Effective Date:	**06/25/2024**	

Agency Information

1. Title catchline:	Insurance, Administration
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state	Taylorsville, UT

Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R590-254. Annual Financial Reporting Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-2-203 authorizes the insurance commissioner to write rules pertaining to annual financial reporting requirements. Section 31A-5-412 authorizes the insurance commissioner to write rules pertaining to audit committee requirements.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is critical in maintaining oversight of the financial condition of insurers licensed in Utah, which is one of the Department's major responsibilities. One way this is done is by requiring insurers to submit annual reports and documents relating to their financial stability, as specified in this rule. Ensuring the financial strength of insurers doing business in Utah is important to maintaining the optimal operation of the market, so policyholders can be made whole when they file covered claims. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/25/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-100**	**Filing ID: 51575**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-100. Administrative: Introduction
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-100 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-100 explains the program, responsibilities of the Division, lists relevant definitions, and availability of records. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-101**	**Filing ID: 51572**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-101. Restrictions on State Employees
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-101 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-101 explains restrictions on employees of the Division, including responsibilities, penalties, filing of financial reports, resolving prohibited interests, and the appeals procedure. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-102**	**Filing ID: 51569**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-102. Exemptions for Coal Extraction Incident to Government-Financed Highway or Other Construction
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-102 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-102 establishes procedures for determining which coal mining and reclamation operations are exempt from the OSMRE Act, the applicability, and the information to be maintained on site. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-103**	**Filing ID: 51570**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-103. Areas Unsuitable for Coal Mining and Reclamation Operations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-103 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-103 establishes procedures for designating lands unsuitable for all or certain types of coal mining, including areas designated by Congress and Utah's criteria for designation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-104**	**Filing ID: 51574**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-104. Protection of Employees
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-104 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-104 establishes protection of state employees from being fired or discriminated against because of any proceeding under the R645 Coal Program Rules. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-105**	**Filing ID: 51571**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	
R645-105. Blaster Training, Examination and Certification	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining)Division).	
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	
No written comments have been received on this rule.	
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	
Rule R645-105 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-105 establishes requirements for blaster training, examination and certification at coal mining operations, with the objective to minimize duplicative certifying, licensing, and training efforts. Therefore, this rule should be continued.	

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-106**	**Filing ID: 51579**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-106. Exemption for Coal Extracted Incidental to the Extraction of Other Minerals
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-106 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-106 implements the exemption of other minerals where coal does not exceed 16-2/3 percent of the total tonnage removed for purposes of commercial use or sale. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-200**	**Filing ID: 51573**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-200. Coal Exploration: Introduction
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-200 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-200 establishes the scope and responsibilities of any person seeking to conduct coal exploration. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-201**	**Filing ID: 51580**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R645-201. Coal Exploration: Requirements for Exploration Approval

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R645-201 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program.

Rule R645-201 explains the requirements for conducting coal exploration projects in the state, including notices of intention and permits. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-202**	**Filing ID: 51576**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal
Building:	Department of Natural Resources

Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-202. Coal Exploration: Compliance Duties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-202 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-202 explains the compliance duties and performance standards for coal mining operations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-203**	**Filing ID: 51577**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R645-203. Coal Exploration: Public Availability of Information
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-203 is necessary to continue as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-203 explains that all information submitted to the Division will be made available to the public, unless marked confidential by the operator. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-300**	**Filing ID: 51578**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-300. Coal Mine Permitting: Administrative Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-300 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-300 establishes the internal administrative review process, adjudicative hearings, and judicial review. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-301**	**Filing ID: 51592**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-301. Coal Mine Permitting: Permit Application Requirements
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-301 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-301 establishes the requirements for a coal mine permit, including explanations on soil, biology, land and air quality, and bonding and insurance. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or	Mick Thomas; Director	**Date:**	06/27/2024

designee and title:			

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-302**	**Filing ID: 51581**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R645-302. Coal Mine Permitting: Special Categories and Areas of Mining

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R645-302 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program.

Rule R645-302 establishes the minimum requirements to receive approval on a coal mining operation and presents special categories of mining. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-303**	**Filing ID: 51586**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal
Building:	Department of Natural Resources
Street address:	1594 W North Temple

City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-303. Coal Mine Permitting: Change, Renewal, and Transfer, Assignment, or Sale of Permit Rights
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-303 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-303 provides procedures for the Division to review, change, and renew permits under the regulatory program and provides procedures for the transfer, sale, or assignment of rights grants in permits under the state program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-400**	**Filing ID: 51582**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R645-400. Inspection and Enforcement: Division Authority and Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-400 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-400 explains the Division's authority, such as enforcement authority and aerial inspections, and the associated procedures. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-401**	**Filing ID: 51584**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-401. Inspection and Enforcement: Civil Penalties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-401 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-401 explains the procedures for civil penalties, such as when penalties will be assessed, the point system, and requests for formal hearings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-402**	**Filing ID: 51589**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R645-402. Inspection and Enforcement: Individual Civil Penalties
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R645-402 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program. Rule R645-402 explains the procedures for individual civil penalties, such as when penalties will be assessed, the amounts, and how to pay a penalty. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R645-403**	**Filing ID: 51583**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Coal	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R645-403. Alternative Enforcement

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R645-403 is necessary as it is required by the Office of Surface Mining Reclamation and Enforcement (OSMRE) to retain our primacy over our Coal Program.

Rule R645-403 provides guidance to exercise alternative enforcement through criminal penalties and civil actions. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R649-10**	**Filing ID: 53306**
Effective Date:	**06/27/2024**	

Agency Information

1. Title catchline:	Natural Resources; Oil, Gas and Mining; Oil and Gas
Building:	Department of Natural Resources
Street address:	1594 W North Temple

City, state	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Natasha Ballif	801-589-5486	natashaballif@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R649-10. Administrative Procedures
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 40-6-2 gives the Board of Oil, Gas and Mining the jurisdiction to make rules necessary to administer the programs within the Division of Oil, Gas and Mining (Division).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R649-10 is necessary as it describes Informal Adjudicative Proceedings including the commencement, procedures, and appeals, which allows operators an alternative avenue outside of a Formal Board Hearing. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mick Thomas; Director	**Date:**	06/27/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R651-635**	**Filing ID: 55261**
Effective Date:	**06/25/2024**	

Agency Information

1. Department:	Natural Resources, State Parks	
Street address:	1594 W North Temple, Suite 116	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146001	
City, state and zip:	Salt Lake City, UT 84114-6001	
Contact persons:		
Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R651-635. Commercial, Privileged, and Special Uses of Division Manage Park Areas

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 79-4-304 (2)(a) provides the parks board with rulemaking authority to (i) govern the use of the state park system; (ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and (iii) to provide for public safety and preserve the peace within state parks. To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that: (i) close or partially close state parks; or (ii) establish use or access restrictions within state parks, facilitates governance of the use of the state park system. This rule provides for public safety and preserving the peace within state parks and allows the Division of State Parks (Division) to protect state parks against misuse or damage.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments on this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule furthers the Division's statutory obligation to provide for resource protection and public safety within state parks. his rule is needed to provide visitors and commercial users the procedure for special uses within the parks. This rule also helps protect the Division, permittees, and visitors from liability. The Division has found that damage to facilities, damage to natural resources including watersheds and wildlife, and injuries to the public occur when permits are not in place or followed. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Scott Strong, Director	**Date:**	04/16/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R708-45**	**Filing ID: 53990**
Effective Date:	**06/25/2024**	

Agency Information

1. Title catchline:	Public Safety, Driver License	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact persons:		
Name:	**Phone:**	**Email:**
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R708-45. Renewal or Duplicate License for Utah Residents Unable to Appear at a Licensing Office
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Section 53-3-104, which states the Division of Driver License (Division) is required to examine applicants for a Utah driving privilege, and Section 53-3-205, which requires the Division to allow an active member or their dependents an option to add a motorcycle endorsement while out of state or country. Additionally, Section 53-3-214 allows for the extension of a driving privilege by mail, electronic means, or other means determined by the Division.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments for this rule in the last five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for the Division to be able to assist the citizens of Utah who may require a renewal or a duplicate driving privilege while they are temporarily residing out of state or country. This allows the citizen to maintain their driving privileges without expiration, which may be detrimental while out of state or country. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Director	**Date:**	06/25/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R994-309**	**Filing ID: 52231**
Effective Date:	**06/17/2024**	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	**Phone:**	**Email:**
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-309. Nonprofit Organizations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule provides information to a nonprofit organization about becoming a reimbursable employer, how benefits are paid as a reimbursable employer, and which nonprofit organizations can become reimbursable employers as provided in Section 35A-4-309. This rule sets forth criteria for addressing more specific situations related to benefit payments in lieu of contributions that are not squarely addressed by statute. The statute does not provide a structure for the means by which a nonprofit organization may elect reimbursable employer status, liability when an employer changes its status, or the method of determining a reimbursable employer's liability for benefits paid. This rule, therefore, provides a mechanism for making such elections and determinations. This rule also establishes the time frame the Department of Workforce Services will maintain records of benefits paid to former employees of reimbursable employers and the information to be provided in monthly billing to reimbursable employers.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during the last five years or since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to help nonprofit organizations determine if they may become reimbursable and how a reimbursable nonprofit organization will pay for benefit costs. This rule also assists nonprofit organizations to understand the responsibilities and benefits under the unemployment insurance benefits program. This rule further explains how a reimbursable employer may change to a contributory employer and the impact of such a change including potential liability. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	06/17/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R994-310**	**Filing ID: 52232**
Effective Date:	**06/17/2024**	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	**Phone:**	**Email:**
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R994-310. Coverage
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 35A-4-310 provides which employing units are subject to the Employment Security Act. This rule explains when an employer must activate an account and when the account will become inactive.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during the last five years or since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it assists subject employment units to understand when they need to activate an employer account with the Department of Workforce Services and when they may inactivate the account. This rule is essential to provide necessary information to employers to help them comply with the act. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	06/17/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R994-311**	**Filing ID: 52234**
Effective Date:	**06/17/2024**	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	**Phone:**	**Email:**
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-311. Governmental Units and Indian Tribes
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule identifies which entities are governmental units or Indian tribe units under Section 35A-4-311 and the responsibilities and liabilities of those units.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during the last five years or since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule explains how governmental units and Indian tribes may elect reimbursable employer status, how to change that election, and the consequences for changing. This rule also explains how the Department of Workforce Services will bill for benefits and how benefits are paid. Finally, this rule provides that a charter school may be covered under this rule as a reimbursable employer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	06/17/2024

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R994-312**	**Filing ID: 52235**
Effective Date:	**06/17/2024**	

Agency Information

1. Title catchline:	Workforce Services, Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact persons:		
Name:	**Phone:**	**Email:**
Robert Andreasen	801-517-4722	randreasen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R994-312. Employing Units Records
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule describes the recordkeeping requirements of the Department of Workforce Services (Department), as well as the Department's confidentiality rules pursuant to Section 35A-4- 312 which sets forth the requirement that employers keep records and that those records be available to the Department. The statutory provision also provides when those records may be disclosed.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during the last five years or since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is essential to inform employers what records must be kept, and that the Department is authorized to inspect those records. This rule also provides when and under what circumstances any records will be available and to whom. Most employer records are private but may be used for limited purposes when necessary for the administration of the unemployment insurance benefit program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	06/17/2024

End of the Five-Year Notices of Review and Statements of Continuation Section

ction

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **Proposed Rules** or **Changes in Proposed Rules** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **Changes in Proposed Rules** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **Notice of Effective Date** within 120 days from the publication of a **Proposed Rule** or a related **Change in Proposed Rule** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

Notices of Effective Date are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

<u>Agriculture and Food</u>
Conservation Commission
No. 56444 (New Rule) R64-6: Agriculture Voluntary Incentives Program
Published: 05/15/2024
Effective: 06/24/2024

Plant Industry
No. 56449 (Amendment) R68-9: Utah Noxious Weed Act
Published: 05/15/2024
Effective: 06/28/2024

<u>Commerce</u>
Consumer Protection
No. 56470 (Repeal and Reenact) R152-22: Charitable Solicitations Act Rule
Published: 05/15/2024
Effective: 06/21/2024

No. 56477 (Amendment) R152-34: Utah Postsecondary School and State Authorization Act Rule
Published: 05/15/2024
Effective: 06/21/2024

Artificial Intelligence Policy
No. 56528 (New Rule) R166-72: Artificial Intelligence Learning Laboratory Program
Published: 06/01/2024
Effective: 7/09/2024

<u>Education</u>
Administration
No. 56513 (Amendment) R277-115: LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts
Published: 06/01/2024
Effective: 07/09/2024

No. 56514 (Amendment) R277-301: Educator Licensing
Published: 06/01/2024
Effective: 07/09/2024

No. 56515 (Amendment) R277-303: Educator Preparation Programs
Published: 06/01/2024
Effective: 07/09/2024

No. 56516 (New Rule) R277-323: Public Educator Evaluation
Published: 06/01/2024
Effective: 07/09/2024

No. 56517 (Amendment) R277-469: Instructional Materials Commission Operating Procedures
Published: 06/01/2024
Effective: 07/09/2024

No. 56518 (Amendment) R277-480: Charter School Revolving Account
Published: 06/01/2024
Effective: 07/09/2024

No. 56519 (Amendment) R277-490: Beverley Taylor Sorenson Elementary Arts Learning Program (BTS Arts)
Published: 06/01/2024
Effective: 07/09/2024

No. 56520 (Repeal) R277-531: Public Educator Evaluation Requirements (PEER)
Published: 06/01/2024
Effective: 07/09/2024

No. 56521 (Repeal) R277-533: Educator Evaluation Systems
Published: 06/01/2024
Effective: 07/09/2024

No. 56522 (Amendment) R277-602: Carson Smith Scholarships -- Funding and Procedures
Published: 06/01/2024
Effective: 07/09/2024

No. 56523 (Amendment) R277-626: Special Needs Opportunity Scholarship Program
Published: 06/01/2024
Effective: 07/09/2024

No. 56524 (Amendment) R277-733: Adult Education Programs
Published: 06/01/2024
Effective: 07/09/2024

No. 56525 (Amendment) R277-929: State Council on Military Children
Published: 06/01/2024
Effective: 07/09/2024

No. 56526 (New Rule) R277-932: Information on Public School Options
Published: 06/01/2024
Effective: 07/09/2024

<u>Environmental Quality</u>
Administration
No. 56443 (Amendment) R305-10: Local Health Department Minimum Performance Standards
Published: 05/15/2024
Effective: 06/21/2024

Drinking Water
No. 56380 (Amendment) R309-515: Facility Design and Operation: Source Development
Published: 04/01/2024
Effective: 06/26/2024

No. 56379 (Repeal and Reenact) R309-540: Facility Design and Operation: Pump Stations
Published: 04/01/2024
Effective: 06/26/2024

No. 56381 (Amendment) R309-600: Source Protection: Drinking Water Source Protection For Ground-Water Sources
Published: 04/01/2024
Effective: 06/26/2024

Environmental Response and Remediation
No. 56497 (Amendment) R311-203: Petroleum Storage Tanks: Technical Standards
Published: 06/01/2024
Effective: 07/12/2024

No. 56499 (Amendment) R311-206: Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms
Published: 06/01/2024
Effective: 07/12/2024

Waste Management and Radiation Control, Radiation
No. 56501 (Amendment) R313-17: Administrative Procedures
Published: 06/01/2024
Effective: 07/15/2024

No. 56502 (Amendment) R313-24: Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements
Published: 06/01/2024
Effective: 07/15/2024

<u>Government Operations</u>
Human Resource Management
No. 56473 (Amendment) R477-1: Definitions
Published: 05/15/2024
Effective: 07/03/2024

No. 56474 (Amendment) R477-6: Compensation
Published: 05/15/2024
Effective: 07/03/2024

No. 56475 (Amendment) R477-7: Leave
Published: 05/15/2024
Effective: 07/03/2024

No. 56476 (Amendment) R477-8: Working Conditions
Published: 05/15/2024
Effective: 07/03/2024

No. 56478 (Amendment) R477-9: Employee Conduct
Published: 05/15/2024
Effective: 07/03/2024

No. 56479 (Amendment) R477-10: Employee Development
Published: 05/15/2024
Effective: 07/03/2024

No. 56480 (Amendment) R477-11: Discipline
Published: 05/15/2024
Effective: 07/03/2024

Governor
Economic Opportunity
No. 56482 (Amendment) R357-22: Rural Employment Expansion Program
Published: 05/15/2024
Effective: 06/27/2024

Health and Human Services
Children's Health Insurance Program
No. 56472 (Amendment) R382-10: Eligibility
Published: 05/15/2024
Effective: 07/01/2024

Integrated Healthcare
No. 56445 (Amendment) R414-307-3: General Requirements for Home and Community-Based Services Waivers
Published: 05/15/2024
Effective: 07/01/2024

No. 56446 (Amendment) R414-320-16: Benefits
Published: 05/15/2024
Effective: 07/01/2024

No. 56447 (Amendment) R414-401-5: Penalties and Interest
Published: 05/15/2024
Effective: 07/01/2024

No. 56459 (Amendment) R414-516-3: Quality Improvement Program Requirements of Participation
Published: 05/15/2024
Effective: 07/01/2024

No. 56067 (New Rule) R414-526: Quality Standards for Inpatient and Outpatient Hospitals
Published: 11/15/2023
Effective: 06/24/2024

No. 56067 (Change in Proposed Rule) R414-526: Quality Standards for Inpatient and Outpatient Hospitals
Published: 05/01/2024
Effective: 06/24/2024

Population Health, Emergency Medical Services
No. 56460 (Repeal) R426-1: General Definitions
Published: 05/15/2024
Effective: 07/01/2024

No. 56461 (Repeal) R426-2: Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews
Published: 05/15/2024
Effective: 07/01/2024

No. 56462 (Repeal) R426-3: Licensure
Published: 05/15/2024
Effective: 07/01/2024

No. 56463 (Repeal) R426-4: Operations
Published: 05/15/2024
Effective: 07/01/2024

No. 56430 (Amendment) R426-5: Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
Published: 05/01/2024
Effective: 06/24/2024

No. 56464 (Repeal) R426-5: Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
Published: 05/15/2024
Effective: 07/01/2024

No. 56465 (Repeal) R426-6: Emergency Medical Services Per Capita Grants and Competitive Grants Program
Published: 05/15/2024
Effective: 07/01/2024

No. 56466 (Repeal) R426-7: Emergency Medical Services Prehospital Data System Rules
Published: 05/15/2024
Effective: 07/01/2024

No. 56431 (Amendment) R426-8: Emergency Medical Services Ground Ambulance Rates and Charges
Published: 05/01/2024
Effective: 07/01/2024

No. 56467 (Repeal) R426-8: Emergency Medical Services Ground Ambulance Rates and Charges
Published: 05/15/2024
Effective: 07/01/2024

No. 56468 (Repeal) R426-9: Specialty Care Systems Facility Designations
Published: 05/15/2024
Effective: 07/01/2024

No. 56397 (Repeal and Reenact) R426-10: Air Ambulance Licensure and Operations
Published: 04/15/2024
Effective: 06/24/2024

No. 56469 (Repeal) R426-10: Air Ambulance Licensure and Operations
Published: 05/15/2024
Effective: 07/01/2024

Juvenile Justice and Youth Services
No. 56432 (Amendment) R547-13: Guidelines for Admission to Secure Youth Detention Facilities
Published: 05/01/2024
Effective: 06/24/2024

<u>Insurance</u>
Administration
No. 56471 (Repeal) R590-102: Insurance Department Fee Payment Rule
Published: 05/15/2024
Effective: 07/01/2024

<u>Labor Commission</u>
Occupational Safety and Health
No. 56435 (Amendment) R614-1: Incorporation of Federal Standards
Published: 05/15/2024
Effective: 06/21/2024

<u>Money Management Council</u>
Administration
No. 56450 (New Rule) R628-23: Requirements for the Use of Investment Advisers by Public Treasurers
Published: 05/15/2024
Effective: 06/21/2024

No. 56451 (New Rule) R628-24: Foreign Deposits for Higher Education Institutions
Published: 05/15/2024
Effective: 06/21/2024

No. 56452 (New Rule) R628-25: Conditions and Procedures for the Use of Reciprocal Deposits
Published: 05/15/2024
Effective: 06/21/2024

Natural Resources
Outdoor Recreation
No. 56439 (New Rule) R650-414: Nonresident OHV User Decals and Fees
Published: 05/15/2024
Effective: 06/21/2024

State Parks
No. 56448 (Repeal and Reenact) R651-101: Adjudicative Proceedings
Published: 05/15/2024
Effective: 06/21/2024

No. 56440 (Repeal) R651-634: Nonresident OHV User Permits and Fees
Published: 05/15/2024
Effective: 06/21/2024

Forestry, Fire and State Lands
No. 56438 (Amendment) R652-122: Cooperative Agreements
Published: 05/15/2024
Effective: 06/21/2024

Water Resources
No. 56404 (Amendment) R653-11: Water Conservation Requirements and Incentives
Published: 05/15/2024
Effective: 06/21/2024

No. 56405 (New Rule) R653-15: 2024 Grant Funding for Water Infrastructure Projects
Published: 05/15/2024
Effective: 06/21/2024

Wildlife Resources
No. 56506 (Amendment) R657-5: Taking Big Game
Published: 06/01/2024
Effective: 07/09/2024

Public Safety
Emergency Medical Services
No. 56485 (New Rule) R911-1: General Definitions
Published: 05/15/2024
Effective: 07/01/2024

No. 56486 (New Rule) R911-2: Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews
Published: 05/15/2024
Effective: 07/01/2024

No. 56488 (New Rule) R911-3: Licensure
Published: 05/15/2024
Effective: 07/01/2024

No. 56489 (New Rule) R911-4: Operations
Published: 05/15/2024
Effective: 07/01/2024

No. 56490 (New Rule) R911-5: Emergency Medical Services Training, Endorsement, Certification, and Licensing Standards
Published: 05/15/2024
Effective: 07/01/2024

No. 56491 (New Rule) R911-6: Emergency Medical Services Per Capita Grants and Competitive Grants Program
Published: 05/15/2024
Effective: 07/01/2024

No. 56492 (New Rule) R911-7: Emergency Medical Services Prehospital Data System Rules
Published: 05/15/2024
Effective: 07/01/2024

No. 56493 (New Rule) R911-8: Emergency Medical Services Ground Ambulance Rates and Charges
Published: 05/15/2024
Effective: 07/01/2024

No. 56494 (New Rule) R911-9: Specialty Care Systems Facility Designations
Published: 05/15/2024
Effective: 07/01/2024

No. 56495 (New Rule) R911-10: Air Ambulance Licensure and Operations
Published: 05/15/2024
Effective: 07/01/2024

Public Service Commission
Administration
No. 56434 (Amendment) R746-8-301: Calculation and Application of UUSF Surcharge
Published: 05/01/2024
Effective: 07/01/2024

No. 56505 (Amendment) R746-409: Pipeline Safety
Published: 06/01/2024
Effective: 07/09/2024

Workforce Services
Housing and Community Development
No. 56283 (Amendment) R990-200: Applicant Qualifications
Published: 02/15/2024
Effective: 06/21/2024

No. 56283 (Change in Proposed Rule) R990-200: Applicant Qualifications
Published: 05/15/2024
Effective: 06/21/2024

End of the Notices of Rule Effective Dates Section